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Navigating Complexities in a Changing World

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FOREWORD

In an era of rapid change and global interconnectedness, the role of social sciences has never been more vital. As a multidisciplinary field, the social sciences offer powerful tools to understand, analyze, and address the complexities of contemporary society. At the heart of this endeavor is the pursuit of solutions to the pressing challenges of our time—be it governance in the digital age, sustainable development, or the quest for social equity and justice.

This volume of the Social Sciences Conference Proceedings reflects the mission of our scholarly society to foster collaboration across disciplines and nations, bridging diverse perspectives to tackle critical issues. By championing interdisciplinarity and inclusivity, we strive to empower researchers, practitioners, and policymakers to shape a better future, grounded in knowledge, empathy, and innovation.

The contributions in this volume span a diverse range of themes, underscoring the interconnectedness of disciplines in the pursuit of knowledge. In *Political Sciences and Digital Governance*, authors explore pressing issues such as the evolution of justice systems in a digital age, the role of communication in crisis management, and the intricacies of public administration and consumer protection within the European Union. These studies highlight the critical interplay between governance, policy, and technology in shaping modern society.

The section on *Law and Society* delves into the legal frameworks that underpin sustainable development, justice, and human rights. From air pollution accountability to combatting terrorism financing and from digital asset challenges to the evolving role of mediation in cross-border disputes, these works emphasize the importance of law as a cornerstone of equitable and sustainable societies.

The volume also features thought-provoking research in *Economics, Finance, and Sustainability*, examining the behavioral characteristics of tourism, the determinants of migration and trade, and the role of innovation in energy and sustainable development. These studies underscore the urgency of aligning economic strategies with sustainability goals.

Further, the sections on *Business, Management, and Digital Innovation and Anthropology, Ethnology, and Human Adaptation* provide insights into the transformative potential of digital technologies and the human capacity to adapt to changing environments. From entrepreneurial ecosystems to the representation of isolation in modern contexts, these studies illuminate the evolving relationship between individuals, societies, and the systems that support them.

Finally, the volume concludes with compelling contributions in *Psychology and Psychiatry*, addressing themes such as the psychological impact of parental migration, the intersection of creativity and mental health, and the long-term effects of family violence. These works remind us of the enduring importance of understanding and supporting human well-being.

This volume exemplifies our society's commitment to fostering interdisciplinary dialogue and advancing knowledge that bridges academic disciplines. **The research presented here not only contributes to theoretical advancements but also addresses real-world challenges, aligning with our shared vision of creating a more equitable, informed, and sustainable global community.**

We extend our deepest gratitude to the authors, reviewers, and organizers who have made this publication possible. Your dedication ensures that the Social Sciences Conference continues to be a platform for meaningful academic exchange and innovation.

May this collection **inspire further research, dialogue, and collaboration among scholars, policymakers, and practitioners.**

Sincerely,

Prof. Dr. habil Art OJARS SPARITIS

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Social Sciences Conference Proceedings ISCSS 2024

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**SECTION POLITICAL SCIENCES AND
DIGITAL GOVERNANCE**

CHALLENGES IN UNDERSTANDING HOW TO IDENTIFY THE PUBLIC DOMAIN AND THE PUBLIC CONTRACTS

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ABSTRACT

The paper analyses the juridical issues that are met in practice regarding the goods that must be included in the public domain, due to their special features. For identifying those goods, it is necessary to establish some criteria which have to be applied by the public administrative authorities that are empowered by the law to decide about the sphere of the public domain. This is also related to the comparison between public and private domain in Administrative Law and to the presentation of the enforce European and national regulations. On the other hand, regarding the nature of public contracts, we try to emphasize also certain deficiencies that are presented in the juridical practice. The delimitation between civil and public contracts is important in order to know how is the best way to protect the public interest and to spend public money. The differences generated from the specific of national law of EU member states and the correct transposition of European regulations are special aspects that must be analyzed for completing the shaping of these juridical institutions, by presenting some relevant practical cases on European and national level. The Romanian Administrative Code exemplifies the types of public goods as included in the public domain of national and local importance. But what about the natural resources is there a precise regulation on the Constitutional level that includes them in the public domain? What types of public contracts can be concluded and how we must delimitate them from the civil contracts? The paper tries to highlight these aspects and also determine some solutions in doing so.

Keywords: public domain, public contract, natural resources

INTRODUCTION

Administrative contracts are characterized by their specific legal nature, but, at the same time, they refer to interdisciplinary aspects, as they may have as their object rights that derive from the right of public property or goods belonging to the public domain, but also from the perspective of jurisdictional competence, disputed by the doctrine.

Difficulties have often been found in judicial practice regarding the correct establishment of the applicable legal regime of administrative contracts and implicitly their delimitation from civil contracts. Also, the multitude of types or names of contracts puts public contracting authorities in the sometimes difficult position of correctly identifying the legal act they want to conclude in the public interest.

For example, when does a public authority know whether, in a given context, it has to enter into a concession contract or a public-private partnership, a lease or a free-use contract?

Also, the establishment of the applicable legal framework can confront the contracting authority with difficulties, since certain administrative concession contracts are regulated by Law no. 100/2016, others by the Administrative Code, respectively by the Forestry Code, by Law no. 99/2016 or by Law no. 51/2006.

We can add to the list of possible controversies, issues related to the delimitation of the regulatory part and the contractual part of an administrative contract, respectively the legal nature of the property right exercised over the country's underground wealth.

The connection among national and European law, if not even the law of other countries, in a comparative law approach, is no longer a novelty for legal specialists, nor for future practitioners. Also, we cannot fail to briefly mention the importance of the fact that in European law there was a relevant evolution of legislation in the field of public contracts, which took both characteristics from the Anglo-Saxon legal system, but also from the Roman-Germanic legal system – this having a direct impact on the national law of the member states of the European Union, therefore also on the Romanian law in the field of administrative contracts.

Moreover, not only the European legislation must be taken into account, but also the judicial practice at the level of the European Union, the latter being in fact the promoter of a unified legislation regarding administrative contracts [1].

MATERIALS AND METHODS OF THE RESEARCH

Through the presented article, we try to highlight the legal aspects that are closely and directly related to the right to public property, through the methodology of information identification, interpretation, descriptive methods and research, explanatory methods and research, as well as comparative.

The research refers to the legal effects of the implementation of the national Romanian legislation regarding the public property and the right to private property. The analysis considers the identification of legal regulations in the matter, both at the European and national level, and the development of proposals for its improvement.

The purpose of this research is to emphasize the need to find solutions to respect the right to property, concretely, as an internationally recognized individual right, but above all, the fact that this is no longer a simple individual right, but we can discuss of the existence of a public interest regarding the property and of the existence of a direct relationship with the private property.

DISCUSSION

Similar to common law contracts, administrative contracts are also guided by the principle of contractual freedom, but the provisions of Article 8 paragraph (3) of Law no. 554/2004 of the administrative litigation states that the principle of contractual freedom is subordinated to the principle of the priority of the public interest, which is the consequence of the regime of public power in which the state and the administrative-territorial units act in the exercise of their duties of valuing their assets,

or providing to public services, a regime that requires the general interest to prevail over private interests.

In other words, if the principle of contractual freedom governs civil contracts, the same does not happen when it comes to administrative contracts, where the public interest and good administration are prioritized.

In the matter of the applicable legal regulations, the provisions of the special rules governing the field of administrative contracts are supplemented with the provisions of common law, to the extent that the special rules do not contain certain provisions included in the rules of common law. Consequently, in the case of administrative contracts, the special regulations are applied with priority, compared to the rules of common law, based on the *specialia generalibus derogant* principle.

In the case of administrative contracts, it is mandatory that one of the parties is a public authority that manages public property assets and that must capitalize on them in the interest of legal entities.

French jurisprudence decided that the existence of three conditions is necessary to be in the presence of an administrative contract, when:

- a) at least one of the contracting parties must be a legal entity under public law or both contracting parties are under private law, but one of them must act for the purpose of performing a public service;
- b) the object of the contract consists in the execution of a public service or a public work;
- c) contract clauses are always exorbitant clauses of common law [2].

Administrative contracts are assimilated to administrative acts, but they represent only one category in the scope of administrative acts, considered *lato sensu*. We note that, whether we will challenge a unilateral administrative act, a normative administrative act or an administrative contract, the preliminary procedure must be followed before going to court.

Compared to the individual administrative act, where the deadline is 30 days, in the case of the normative administrative act, the preliminary complaint can be filed at any time. According to Article 7, paragraph (6) from Law no. 554/2004, "the preliminary complaint in the case of actions that have administrative contracts as their object must be made within 6 months, which will begin to run:

- a) from the date of conclusion of the contract, in case of disputes related to its conclusion;
- b) starting the date when the plaintiff became aware of the cause of the cancellation, but no later than one year after the conclusion of the contract".

Table no.1. Comparison between individual and normative administrative acts

The preliminary procedure	The individual administrative act	The normative administrative act	The administrative contract
Term	30 days	anytime	6 months
Solid reasons	No later than 6 months from the communication of the act		

Public property was regulated at the constitutional level with the entry into force of the 1991 Constitution, and Article 135 paragraphs (4)-(5) bring the expression "public property" back to date. Thus, according to article 135 paragraph (5) from the Constitution of Romania, in its original form, "wealth of any kind in the subsoil, communication routes, air space, waters with exploitable energy potential and those that can be used in the public interest, beaches, territorial sea, natural resources of the area economic and of the continental shelf, as well as other assets established by law, are the exclusive object of public property".

After the revision of the Romanian Constitution in 2003, article 135 becomes article 136, which by paragraph (3) maintains the previous provisions regarding the exclusive object of public property, but narrows the scope of the goods expressly listed, and the phrase "wealth of any kind in the basement" is replaced by the phrase "wealth of public interest in the basement"[3].

The public interest is decisive for the conclusion of administrative contracts. If there is no public interest, we cannot qualify a contract as administrative.

For example, the exploitation of natural resources represents a form of valorisation by the state of some goods from the public domain, but the public interest is that of protecting the economic interests of the state and ensuring the budgetary resources necessary to pay pensions.

In Romania, mineral resources belong to the movable public domain (by anticipation), because the underground wealth becomes, through extraction, movable property. However, in order to reach the extraction, in most cases the real estate properties of third parties are affected, which are encumbered by the administrative servitude of passage, according to the Mining Law no. 85/2003 and the Law no. 238/2004 of oil. There is also a public real estate domain (by incorporation): the national oil transportation system, according to art. 2 point 37 of the Petroleum Law.

Moreover, the provisions of Law no. 213/1998 regulate the belonging to the public domain of national interest of the resources "in deposit state", which would lead, *per a contrario*, to the idea that the resources would no longer belong to the public domain after they are extracted, being decommissioned for public use and repealed.

A few cases are presented in the following part of the research, in order to reveal the difficulties that involve the border between public domain and private property.

According to a press article, "announced since 2016, the steps to take over the CET Road (Timișul Sec street) by Brașov City Hall from the National Road Infrastructure Administration Company have not been completed even now. The problem of this bridge, parts of which began to fall since 2017, was also discussed on Tuesday, January 31, in the plenary session of the Brașov Local Council (...) this is a public danger for pedestrians, and drivers are put in the situation to make a detour of approximately 10 km to get to the Customs Office, and a damaged part of the sidewalk has expanded"[4].

It is not clear whether the tabulation procedure has been completed, as regards the registration of the right of public ownership of the Romanian State and the registration of the right of administration in favour of the three entities: The Romanian National Roads Company, the Brasov Water Management System and the Brasov Regional Railway Branch.

Or, the transfer of property from the public domain of the Romanian State and the administration of the Ministry of Transport and Road Infrastructure, to the public domain of the Municipality of Brașov can only be carried out after the registration in the Land Register of the entire previously mentioned section.

Strictly regarding the "CET Bridge", this was registered in the land registers records, being registered the public ownership right of the Romanian State and the management right of Romanian National Roads Company and the Romanian National Water Administration, respectively the concession right of the Railway National Company.

After obtaining the land deed conclusions for the entire section, they will be sent to the regional authorities in order to carry out the legal formalities regarding the submission to the competent ministry of the necessary documentation for the promotion of the Government Decision on the transfer of ownership rights from the public domain of the Romanian State, to the public domain of Brasov municipality.

A case that came to the attention of the institution of the Romanian Ombudsman [5] was the one reported by a petitioner who complained that his property rights were violated by the City Hall of a rural locality in Brașov County over arable land registered in the Land registers, considering the fact that, in following the parcelling in 2015 carried out by the same town hall, the property limits were shifted, so that approximately 9000 square meters overlap flood defence dikes, owned by the Romanian state and managed by the Romanian National Water Administration, according to Annex 12 of the Decision of Government no. 1705/2006 regarding the inventory of goods in the public domain of the state [6]. But, according to article 40 paragraph (2) of the Water Law no. 107/1996 with subsequent amendments and additions, the width of the protection zones is established according to annex no. 2, and the right of ownership also extends to the protection zones - 4 m from the base of the dike towards the defended area, representing the area of 1182 sq m [7].

In another case, it was reported that a bulldozer-excavator belonging to the City Hall of a locality in Brasov county was caught on the private property of an individual, while carrying out work - an aspect considered an abuse.

The plaintiff indicated that the town hall does not allow him to exercise the right of private ownership over a 17 square meter plot of land registered in the land register - the remaining area after the expropriation of the 10 square meter surface and the demolition of the construction erected in 1985 - garage annex.

It was found that the area of investments carried out by the town hall is located next to the petitioner's land in an area of 17 square meters, and this is a pedestrian area, where car access is not allowed, as the protective elements have not yet been installed. However, although the land has certain deficiencies, the petitioner is its tabular owner, and the land was dismembered following the expropriation of the adjacent area [8].

In this sense, we mention that, both in doctrine and in judicial practice, it has been emphasized that the limitation of the exercise of the right to private property, even if it is generated by a public interest, imposes certain correlative obligations on the public authority in question [9] and in the absence of a provision laws that regulate public utility easements can in reality lead to a *de facto* expropriation of privately owned land, or, the European Court of Human Rights found that "certain restrictions, sometimes discretionary, of the public authority on property rights, can leads to real violations of the fundamental rights guaranteed at the European level" [10].

RESULTS

As a result, we appreciate that the interpretation according to which the natural resources (wealth) are and remain, even after extraction, in the public property of the Romanian state, can be substantiated, and, as a result, the grantor does not transfer the right of ownership over the resources subject to exploitation.

Also, we conclude that there are different aspects regarding the types of administrative acts that have to be respected. Administrative contracts are assimilated to administrative acts, but they represent only one category in the scope of administrative acts, considered *lato sensu*. We note that, whether we will challenge a unilateral administrative act, a normative administrative act or an administrative contract, the preliminary procedure must be followed before going to court.

The third result of the study is represented by the fact that we identified the implication of the Romanian Ombudsman in solving some cases that involve the public and private property, exercising its role of mediation between individuals and public authorities.

CONCLUSION

Regarding the position of the parties, administrative contracts, unlike civil contracts, are characterized by the legal inequality of the parties, which derives from the existence of the two categories of contractual clauses, namely negotiable clauses and regulatory clauses, the latter being imposed by virtue of the law by the contracting public authority and which are binding, regardless of the will of the contracting parties.

Difficulties have often been found in judicial practice regarding the correct establishment of the applicable legal regime of administrative contracts and implicitly their delimitation from civil contracts.

The boundaries between public and private property can be narrow, even if we refer to the natural resources juridical regime, or to the plots of lands. The implication of the competent administrative authorities is important in the identification of the most efficient solutions to ensure the respecting of these rights.

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COURTS IN A DIGITAL WORLD - THE CONCEPT OF "JUSTICE WITHOUT WALLS"

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ABSTRACT

Technological change is transforming traditional perceptions of judging. There is an interesting and complex dilemma: when will the era of online courts arrive, and firstly what consequences will it have for the interpretation of the right to a fair trial, including the requirement of publicity of court proceedings? There is no doubt that the emergence of online courts brings a new chapter in the concept of the "ideal space for justice". This novelty challenges the constitutional institutions and may require the creation of a new organisational and procedural model. This paper aims to concentrate on the new aspect of "justice without walls": online courts, online proceedings. To demonstrate their nature, the paper seeks to answer the question: how does online judging and online space shed light on the discourse of open justice? In order to answer this question, the paper first takes a cultural-historical approach to the relationship between the space for adjudication and the public sphere, and then formulates a legal-theoretical-constitutional-law explanation of the concepts of public sphere. Using all these insights, it seeks to point out the advantages of online adjudication and the important changes that are likely to occur in the future, which will have an impact on traditional perceptions of judging.

Keywords: online courts, right to a fair trial, publicity, „justice without walls”, law and technology

INTRODUCTION

Members of society have long had a need for control over the exercise of public power, and one of the most important means of control in the area of the judiciary is the publicity of the proceedings. The need for transparency in the functioning of the state is an inherent feature of the civil state, and it is the public sphere, which acts as a mediator between society and the public authorities, that meets this need. [1] What should be the ideal relationship between justice and society? The legitimacy of the judiciary ultimately derives from society, and members of society need to see that the judiciary is genuinely capable of performing its functions and that it is operating in accordance with the law. This requirement can be described as the idea of 'justice without walls'.

Today, when technological changes have and will have a huge impact on the world of law, the main question is not whether AI has a place in the world of law, and thus in the administration of justice, but when and to what extent will it transform the traditional understanding of justice? An integral part of this understanding is the requirement of publicity as part of the right to a fair trial. This paper seeks to answer the following question: if the technological revolution is moving judicial proceedings from the physical space to an online platform, how does this relate to considerations of open

justice? The hypothesis is that online courts are developing a new interpretation of the principle of publicity that extends the range of possible interpretations of public proceedings.

This paper will analyse the ambiguity and current meaning of "justice without walls" on two levels. Firstly, from a cultural-historical perspective, to highlight what were the "walls" of court buildings like and what functions did architecture serve in relation to the principle of publicity of judicial proceedings? Then comes a constitutional and legal-theoretical perspective which is the interpretative framework of public proceedings (and it emphasizes the practical and theoretical relevance of public trials). These analytical aspects help to understand the unique perspective of online adjudication as a "new concept of justice without walls", brought to life by the technological revolution.

It seems important to clarify a preliminary question: in what sense does this study refer to online courts? Here, online court refers to a dispute resolution solution in which judges settle disputes in an online platform, enabled by IT tools. [2] It is therefore not a question of judging by robot judges, but of online courts with the presence of human judges, and the service character of the courts is emphasised.

RESULTS

The paper explores the meanings of open justice to explain the relationship between the public sphere in physical (building) and non-physical (online) spaces. It articulates the benefits of online courts that are compatible with constitutional, philosophical and cultural-historical expectations and requirements of publicity. In doing so, the study shows that the tradition of "justice without walls" is and should be valid in the age of online courts under certain conditions - and this concept is not far from the ancient ideal of judicial processes.

DISCUSSION

I. A cultural-historical approach to the principle of publicity

It can be said that the justice system is currently a so-called "paper-based world", with the judiciary, lawyers, prosecutors, clients, procedural rules and the buildings that house them all. Over time, many interesting solutions have emerged as to the requirements of the ideal space for the judiciary. Buildings, physical space, are closely linked to the exercise of power, and architectural solutions reflect this. [2]

In Athens in the 5th and 4th centuries BC, trials were a real public event, attended by hundreds of spectators. This openness was closely linked to the operating principles of Athenian democracy, and served several interests: the search for truth, the elaboration of norms, the 'education' of citizens and accountability. [3] In the Middle Ages, the organisation of justice was quite simple, and this had an impact on the locations. The central location was still the marketplace, which was equipped with chairs and barriers for the duration of a trial. In early modern England, the 'multi-purpose' court buildings were lively and social places, and not at all quiet: crowds of people eager to see the trials clapped, chatted and hissed as the proceedings went on. The question of publicity and the behaviour of spectators in attendance was not really regulated; the trials of the

time were real emotionally-psychologically charged events, where the public often expressed their opinions. [4]

In the course of the Middle Ages, the reception of Roman law and the spread of canon law tipped the scales towards literacy, which in the long run meant that justice no longer attracted large crowds and trials were less of a public spectacle. Thus, decision-making turned to closed deliberation, which required separate rooms where unauthorised persons were not allowed to enter. The mixed system evolved from the two orders of trial (inquisitorial and accusatorial), and was dominated by the requirement of publicity, which can be divided into three levels: client publicity, confidential publicity and publicity by the people. Among the procedural principles that are still emphasised today, the principle of public trial was only established and extended by the Napoleonic codifications: the Code d'Instruction Criminelle of 1808 established public trial as the general rule for the trial phase of mixed criminal proceedings. [5]

So we can see how, by the end of the Middle Ages, justice had become (literally!) an activity surrounded by walls: the public trial solution that had dominated since antiquity was pushed into the background. With the Enlightenment, the achievements of the revolutions and the great reformers (Montesquieu, Beccaria), French procedural law codified the formal requirement of public trials based on immediacy, verbatim and free evidence. These instruments were of great value in the eyes of the emerging bourgeoisie, but the old court buildings did not seem suitable for the new procedural requirements. [5]

In several of his works, Bentham dealt with the transparency of the exercise of state power, and his point of view is well reflected in the following thought: "Without transparency there is no lasting good, under its protective wing no lasting evil." [6] Bentham was concerned with all aspects of the exercise of public power, producing a rich body of theoretical and practical writings as well as various building plans. In *Rationale of Judicial Evidence*, he analysed the courts and their procedure. Bentham was an advocate of verbatim in proceedings, and urged that, like all other aspects of public administration, the judiciary should be conducted in public. He believed that the public was the primary safeguard for the whole legal system, and that all other means of control were secondary. He believed that the publicity of proceedings served specific purposes: the discovery of the truth, the improvement of citizens' knowledge of the law and discipline as well. [7]

The new procedural approach required new architectural solutions. Public trials required large spaces to accommodate a large audience or even a jury. In Europe, in the 19th century, monumental buildings were erected to serve this purpose, as a symbol of the unity of the judicial system and the dignity of the judgement. The most characteristic new buildings of the period were the palaces of justice, whose appearance fully reflected the primacy of the modern rule of law. All this, of course, required the development of the administration and the consolidation of the judicial system. From the late 1800s onwards, court buildings were built almost exclusively to ensure that few people could attend court hearings. This is why some say that the court buildings of the late 19th century, with their monumentality, were symbols of control and repression. [4]

According to Foucault, the architecture of the building complex of an organisation is directly related to the organisation's management system. The new principles that have emerged from the reform of the judiciary (in particular the requirement of publicity)

have required that the building should reflect the dignity and authority of the judiciary, respect for law and justice, and quite simply meet the needs of day-to-day operations. Indeed, it is by adhering to these criteria that the space of court buildings can be structured in a way that consciously serves the smooth and unhindered functioning of the administration of justice. It has been a long road, but the 19th century has set the benchmark, and it seems that these criteria have proved to be quite timeless, practically only undermined by world wars and dictatorships. [5] "Discipline (...) creates complex spaces that are at once architectural, functional and hierarchical, that ensure spatiality and allow circulation; they create individual sections and establish operative relations between them, mark space and assign its value; they guarantee the obedience of the individual, but also a better use of time and movement. Mixed spaces: they are real in that they regulate the ordering of buildings, rooms and furniture, but they are also ideal in that they impose characterisations, valuations and hierarchies on this arrangement." [8] The dichotomy between real and ideal space draws attention to the fact that the physical space, those particular walls, which have been proven to an outside observer to give the organisation a definite structure, facilitate the transparent functioning of the court. The ideal space, which is revealed behind solid walls, is to be found in the activity of the judiciary, in the internal operating principles of the judiciary and, ultimately, in its ultimate goal: the duty to decide and the constant search for justice. The real or ideal space is fundamental to any body exercising public authority, since it is the physical manifestation of the power and hierarchy of the state. [4]

II. Practical and theoretical relevance of public proceedings

In the modern civil state, the requirement of a public trial - "justice without walls" - has become a particularly high legal value. Here, the public sphere can be defined as a space of information: it is not the physical space, the building, that is important, but a special channel through which citizens can gain insight into the functioning of the state and, as part of this, the judiciary, that becomes central. The public sphere creates a space that becomes a forum for the community, which is linked to the democratic functioning of the community, to the formation of public opinion and the formation of the will. [9] It thus becomes a space for the conduct of public affairs. Here, citizens are active members of the community, taking a stand and criticising public affairs, with the state providing them with all the information they need. What unfolds in this definition is nothing other than the democratic public sphere, as Habermas described it in his concept of the citizen's public sphere. Of all the conceptual variants of the public sphere, it is the normative concept that becomes relevant at this point, which limits the scope of social action and responsibility. It comes to the fore when members of society leave the private sphere and turn to public affairs, and it is here that political debates and debates on general information take shape, and it is here that the various normative values and principles emerge. [10]

The public proceeding has broken down the "walls" around the justice system and opened the doors of the courts to interested citizens. These gates have remained open ever since, because the fundamental requirement of the rule of law is to enforce the principle of legal certainty, which implies predictability and transparency in the decisions of public bodies - so that judges cannot be judged behind closed doors. Citizens could see that justice is done, that the courts are judging in accordance with the law, they apply the same rules consistently and equally. This is the basis of judicial power, the basis of public confidence in the court system and process, and ultimately the

basis of the legitimacy of the judiciary. [9] The same was emphasised by Hegel when he wrote about the foundations of civil society and the requirement of public access to justice: citizens must know the process of applying the law to individual cases, and although the specific case primarily concerns only the interests of the parties, the general content of the decision is also in the interest of society as a whole. For a long time, judges were reluctant to show this, because "(...) they are unwilling to sit in public and they regard themselves as a sanctuary of right which laymen are not to enter." [12]

The principle of public procedure has become one of the most important principles of modern procedural law at a universal level and is enshrined not only in national constitutions but also in a number of international legal instruments. The requirement of public trials is nowadays mostly understood as a component of due process. There are a number of arguments in favour of emphasising this principle: it allows the public to scrutinise the functioning of the courts, it can increase confidence in the judiciary, it encourages judges to work accurately and thoroughly, and it reduces the risk of arbitrary procedures. Is there a limit to public proceedings? Unrestricted publicity has not been declared a fundamental human right, and procedural laws leave it to the discretion of judges to decide whether it is necessary to set limits on publicity. As a general solution, the procedural laws allow for the exclusion of interested members of the public and the press from all or part of the hearing, often on the grounds of morality, public order, national security, the protection of minors or the privacy of the parties. [13]

The publicity of judicial proceedings has many functions. These include social control, ensuring impartiality, promoting the role of law in shaping society, legal certainty, legal unity and the development of jurisprudence. Social control' has made it possible to exclude arbitrary exercise of power; it was initially literally equivalent to courtroom publicity but has broadened over time. Law's role in shaping society is primarily through legislation but is also reflected in the application of the law. The public accessibility of procedures and judicial decisions contributes indirectly to legal socialisation and helps to increase individuals' knowledge of the law. Last but not least, publicity is a function of legal unity and the role of jurisprudence in the development of the law; if decisions are made public, national jurisprudence becomes predictable, but a uniform interpretation of the law by the judiciary can only be achieved if there is sufficient information. [9]

III. Online courts and the open court principle

The requirement of publicity is therefore part of the right to a fair trial, which can be seen as both a systemic principle and a super-principle. It occupies a special place in legal thought and practice, being situated at the interface of procedural law, constitutional law and legal philosophy. This is because it is a moral right, and therefore a human right, and a positive legal right, which is an essential condition for the justice of state and international and EU procedural law. It is important to stress that the majority of the principles have a structure that is around two centuries old, which can often hamper the effectiveness of procedures. [11] The principles mostly focus on the decision-making competence of the courts, leaving the service function in the background. [2] The emergence of online courts, however, emphasises precisely this service function in a world where technological challenges are already causing rapid change, and where legal relationships are accordingly diverse and changing, requiring flexibility on the part of the courts.

Sourdin distinguishes between 3 levels of technological change: 1. supportive technology (providing a higher level of orientation); 2. replacement technologies (specific activities are performed by programs); and 3. distributive technology (technology that changes the nature of judicial activity forever, as more data is available in less time to make judgements). The 2. and 3. levels in particular are likely to bring about changes in the role of the judiciary and in traditional procedures, but most reforms currently target the 1. and 2. levels, where the simplest forms of AI are put into practice. These developments are illustrated by the following good practices: electronic communication during the procedure, videoconferencing, telehearing, online dispute resolution in consumer disputes, etc. [14] In addition to this three-tiered approach, it is also important to note that IT has changed the nature of legal services: the so-called "disruptive technologies" are permeating everyday life and the legal sphere, changing legal services and affecting the legal profession. These technologies can also help the courts, for example through the use of litigation support systems, electronic filing or new types of courtroom technology (videoconferencing); these technologies can also be seen as the forerunner of online courts. [2]

The possibilities of online justice have benefited from the growth of alternative dispute resolution (ODR) techniques, especially in consumer disputes. This has also had an impact on national regulatory solutions, and many states have in recent years developed and introduced procedures that are now a good example of the era of "justice without walls" or online adjudication. Such practices, which can be described as online courts, can be seen, for example, in China; in England and Wales (Traffic Penalty Appeal Tribunal), or in the USA, in Michigan (Matterhorn) and Utah. One of the most advanced models is the Civil Resolution Tribunal in British Columbia, Canada. [11]

Susskind has been taking a stance for a number of years now, and its relevance is becoming increasingly apparent. He outlines two models for judicial reform: one model would place digital technology within the existing court organisation and procedural rules, while the other approach would set up a completely new organisational-procedural model. In the latter approach, online courts would play a major role, which, according to Susskind, would focus on the service character of the courts, moving the proceedings from the courtroom to an online platform. The public sphere has always been about transparency and justice (procedural and substantive), and on the other hand (as the cultural and historical perspective of the study has shown) it has been the 'human face' of the process, which serves not only legal interests but also psychological and emotional needs: justice is inherently human, [4] and the traditional way to resolve disputes is to meet in person, in a physical space. In this space, there is a physical presence and a dynamic between the parties, but often the legal interests are overshadowed by psychological and emotional needs. [2]

In fact, some of the elements of due process do not pose any problems, and their enforcement can be strengthened even more in the online space than in traditional proceedings. The only one of the elements that could be called into question in the online space is the requirement of publicity (public hearing). As the above analysis has shown, the principle means, on the one hand, that the parties to the litigation can participate in their own case (i.e. appear in the courtroom), and, on the other hand, that the court's gates are open to the public and that the litigation is open to the press. All of this is unhindered by the online space, but it seems logical to ask the following question: does publicity (and with it immediacy and verbatim) 'precede' the other sub-

legalities of the right to a fair trial in the online space, and indeed do they provide a framework of interpretation that precludes the transfer of the trial to the online space? On this point, Susskind's arguments should be reiterated, as he believes that the advantages and disadvantages of online dispute resolution need to be weighed against the question of whether the principle is infringed. It seems sensible to suggest that judges should be given the discretion to decide which disputes are inappropriate or insufficient to be dealt with online and which should be referred to the ordinary courts.[15] It is certainly easy to see that the so-called easy cases, at first instance, may be suitable for adjudication by human judges on an online platform.

What are the arguments in favour of creating an online court from the point of view of the publicity requirement? The following features (which may also be *de lege ferenda* suggestions) could undoubtedly be in its favour: the parties can request a traditional courtroom trial at any stage of the proceedings instead of an online court; the proceedings are open to the public, anyone can register to participate and follow the "trial" online; the decision of an online court can be appealed against, but is judged in a traditional court. A not negligible advantage is that on the online platform the judge is less influenced by subjective elements (e.g. skin colour) that affect the judgement - which, as we know, must be outside the problem to be decided, but the difficulty of overcoming them has long been a major dilemma in the analysis of judging.

CONCLUSION

Through three pillars of our analysis, it is clear that the hypothesis has been confirmed: judging on an online platform does indeed give a new interpretation to the requirement of open justice, but it is in fact a new reading that respects time-honoured traditions. We know very well that the various organisations that permeate the life of societies operate in precisely designed physical environments. This physical environment can most often be likened to a building, the features of which can be telltale signs of the activity taking place within its walls. The ideal physical environment for adjudication has always been determined by strong functional considerations (which are supported by constitutional requirements). Space (in the physical sense of the word) has always been intended to express the binding nature of the judiciary's decision and its constant search for justice, and to emphasise the authority of the courts. Space also carries these characteristics in a metaphorical sense, i.e. also on the online platform. However, the online world may require that in the internet, it is also possible to express - through symbols corresponding to the language-symbols of the internet - what the physical space also communicate to people seeking justice. As Katsch and Rabinovich argue, the emergence of online courts raises three important keywords: trust, expertise, convenience [11] - and the constitutional need to articulate and put into practice these key words is a priority for the lawyers of the present and the future.

The concepts of open justice (public trials, press and media coverage of trials, online publicity and online adjudication) are interdependent requirements, well adapted to the challenges of each era, and constitutionally and philosophically underpinned. The benefits of online courts are worthy of consideration by the legislator, as they can be integrated into the concept of public court proceedings without hindrance. It should be emphasised: all judicial proceedings are - in principle - conducted in public, or at least have the possibility of being so. It is a bit like being back at the beginning, back where Homer recorded in the *Iliad*: judgments are attended by the lively interest of the people,

trials are real public events, so everything takes place in full view of the masses, in the open air; there are no walls, either physical or metaphorical.

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EXPRESSION OF RELIGIOUS SENTIMENT DURING THE COMMUNIST REGIME IN ROMANIA

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ABSTRACT

The policy imposed by the authorities in Romania from the moment of transitioning to the communist regime (1947), followed the Soviet model, which was based on the materialist-atheist ideology, however adapted to Romanian society. The repercussions were multiple, among them including the suppression of free expression of religious sentiment. In this context were most of the cults in Romania, among which the Orthodox Church. Predominant in Romania, this Church suffered greatly from the communist regime, which persecuted not just the ecclesiastical hierarchy, but also its prominent followers. Situated in an irreducible antagonism that completely contradicts each other, Christianity, on one hand, as the religion of freedom, love, and life, and Communism, on the other hand, as anthropocentric and atheist ideology, imposing itself through hatred and terror, were permanently positioned in opposition. The persecution started by the communist regime made many victims, with people from all social categories and religious convictions, of different ages whether they were men or women, young or old. Although many of these people enjoyed societal prestige at that time, they were still declared “enemies of the people” and, consequently, endured tortures and persecutions with an inhuman intensity. In the process of communizing the society, the Orthodox Church was seen as an obstacle in the way of forming the “new man”, being subjected to a systematic campaign of intimidation and control by the authorities, through a series of repressive actions (control of the clergy, limiting worship practices, imprisonment, expulsion of monks from monasteries etc.). All these aspects have been presented in this study, making use of the following methods: analytical, comparative, historical and descriptive, in accordance with archival data and other related studies.

Keywords: Communist Regime, Orthodox Church, religious freedom, expulsion, prison, Romanian society.

HISTORICAL CONTEXT

To understand the situation and activity of the Romanian Orthodox Church, during the communist regime (1947-1989), it is imperative to outline, even briefly, the historical context in which Romania found itself, in those years. Since 1944, Central and Eastern Europe had come under the influence and the military and political control of the Soviet Union, which imposed itself as a totalitarian political power in all structures of

development of the occupied countries. During a meeting in 1944, the President of the Soviet Union, J. V. Stalin (1922-1953), declared to I. Br. Tito (1872-1980), the leader of the Yugoslav Communist Party, his conception of the conquered territories: "this war (World War II - n.n.) is not as in the past; whoever occupies a territory, also imposes on it his own social system. Everyone imposes his own system as far as his army has power to do so. It cannot be otherwise"[1]. Based on these principles, the Soviet Union sought to homogenize the religious and political space under the occupation of the Red Army, by adapting to the new Soviet-origin framework, which brought with it a drastic restriction of religious freedom.

Romania was no exception, entering the sphere of influence of Moscow, during World War II, in the autumn of 1944. At that time, King Michael I of Romania (1921-2017) decided to dismiss and arrest Marshal Ion Antonescu (1882-1946), the Prime Minister of Romania, and established the cessation of Romania's collaboration with the Axis Powers. As a result, Romania began collaborating with the Allies and establishing an armistice with the Soviet Union, shortly after the Red Army invaded northeastern Romania (March 1944). On March 6, 1945, the communist regime also took power in the political sphere, when the composition of the government led by Petru Groza (1884-1958) was announced. King Michael I, being considered by the Soviets as an obstacle in fulfilling the "ideal of restoration" of the country, was forced to abdicate from the royal throne, on December 30, 1947 (and later exiled), a date which, for Romania, meant the disappearance of the Monarchy and the definitive establishment of communist power, through the new form of state, the People's Republic.

CHRISTIANITY AND COMMUNISM

Christianity is eminently a religion of love towards God and neighbor, because God Himself is Love (*1 Jn 4:8*). The Lord Jesus Christ, the Son of God, incarnated precisely to highlight the value of man before God. Incontestably superior to animals, man is a friend of God (*Jn 15:15*), called to communion with his Creator and destined for perfection and eternity. The supreme testimony of Christian love is sacrifice out of love for one's neighbor (*Jn 15:13*), and in opposition to this sacrifice stands the persecution of man. If Christianity promotes the elevation of human dignity to communion with God, Communism declares itself, through all its actions, against human dignity, degrading it to the position of a slave. In communist ideology, the system was important, not people's lives. Contrary to this, God has shown that only through communion and love, through sacrificial service to our neighbor can we sanctify our lives. However, the depth of communist ideology has shown itself to be against the idea of God and the Church, against Christian love and mercy, proving to be an atheistic system. Between Christianity and Communism there is an irreducible antagonism, completely contradicting each other in convictions. During the communist regime, the Christian faith would be put in opposition to science reduced only to materialistic bases and principles. On such a science, communist doctrine builds its own system of knowledge. If Christianity preaches the reality of God in the world, implicitly the reality of eternity and beauty, Communism denies all these and excludes them, in order to subject man to the materialist system. Excluding the evidences related to God, the Creator, the soul and the happiness of a future life, the political system and, implicitly, the society, that the respective system propagates,

become an inhuman, unnatural and abnormal regime, which transforms man into a slave without love, without principles and without aspirations.

The gravity of communist ideology is seen in history as one of the cruelest persecutions against faith in God. Christianity, throughout history, has experienced various persecutions from pagans, Jews, Muslims, etc., who sought to constrain the change of faith and conversion to another faith, combating not the belief in God, but the faith different from theirs. Communism changed this paradigm, persecuting not another faith, but any faith in God, regardless of dogmas and religious practices[2].

PERSECUTION OF THE ROMANIAN ORTHODOX CHURCH BY THE COMMUNIST REGIME

During the communist regime in Romania (1947-1989), the Orthodox Church was the victim of many severe pressures and restrictions from the authorities, on their path to the heights of socialist (scientific) achievements, as the communist regime considered itself a complete view of life, an alternative to the Church's teaching[3]. Religion, called by the founder of communist ideology, K. Marx (1818-1883), as the "opium of the people" (phrase adopted, later, by Vl. Il. Lenin [1870-1924], the leader of the USSR)[4], had to be increasingly discredited and abolished from state structures, being seen as a barrier to achieving their goal. Therefore, the elimination of the Christian presence from the State was deemed necessary in the entire society: family, social environment, school, cultural institutions, army, hospitals, etc. In their ideological endeavor to impose their own form of religiosity, many churches were closed, demolished, relocated, used for other purposes or monitored by the Securitate, and believers were intimidated through fear and terror to stop practicing the Christian faith. Atheism represented the principle of communist propaganda, directed against any form of spirituality, in general, and the Orthodox Church, in particular, as the majority Church of Romanians, which became the primary subject of persecution and defamation campaigns. The practices of Romanian communism, originating in the Leninist-Stalinist model[5], followed the example of the USSR's policy towards the Orthodox Church in Russia, where, after a long period of intense persecution, a tactic of "tolerance" or limited autonomy towards the ecclesiastical institution was chosen[6]. In the process of communization (ideologically, of atheization) of society, the Orthodox Church was seen as an obstacle in the way of forming the new man. Faced with the Russian experience, the Romanian communist authorities were aware of the prestige and authority of the Orthodox Church, but especially of the difficulty of eliminating Christian faith from people's consciences. As a result, the Orthodox Church was subjected to a systematic campaign of intimidation and control by the authorities, of which we mention a few significant aspects for this study:

1. Control of the clergy. In the communist totalitarian regime, the promotion of atheism was an important means of controlling society[7], where religion was seen as an ideological adversary that could spread ideas and values contrary to the respective system. Aware of the power and influence of the two-thousand-year-old Church in Romanian society, the political authority tried to control the Church's influence by controlling the clergy. To implement the "re-education" program pursued by the atheist communist regime, the political authority restricted the freedom of religious expression by generating the method of "avoidance" or "secrecy", which led to fear of carrying out public ecclesiastical manifestations (e.g., services, pilgrimages, processions, etc.). Another

strategy, adopted by the same repressive organs to prevent the activity of the clergy, was to infiltrate informers, who would collaborate directly with the authorities and provide information about the conduct of church activities[8].

Through the Securitate and the Ministry (which became the Department from 1957) of Cults (through *the Authorized Representative for Cults*), which were the main elements of pressure on the Church[9], the communist system imposed permanent fear and interpersonal doubt. Thus, all those who were suspected of being enemies of the working people were monitored and investigated. The first enemies were considered to be intellectuals and clerics, regarded as a force of influence over the people. The most well-known victims of this repressive action, who became prominent figures of Romanian Orthodoxy, were members of the *Burning Bush* group from the Antim Monastery in Bucharest. This cultural-spiritual group focused on the hesychast experience of understanding and practicing the prayer of the heart or mind (Lord, Jesus Christ, have mercy on me, a sinner), being considered by the communists as having a "mystical hostile" activity. Through the great intellectual and spiritual personalities that composed the *Burning Bush* group, but also because of the multiple meanings that the gesture of the repressive organs had, it is the most well-known group of arrested people from among the clergy and faithful of the Romanian Orthodox Church, through which the communist system expressed its aversion to religious sentiment[10]. Recalling the moment of arrest, Father Arsenie Papacioc, as one of that lot, relates receiving the sentence of 40 years, of which 20 with execution, when a captain who was undressing and cutting his hair asked him: "«What did you do, man, to get so much?» «I did nothing», the Father replied. «Man, if you did nothing, they would have given you 10-15 years, but not 40!» This is where communist justice ended: 10-15 years for nothing"[11].

2. Limitation of religious practices. Atheist propaganda strived, through all its actions, to denigrate and discredit belief in God and in the people of the Church. Immediately after taking full power, the new party began limiting religious practices through the nationalization of private property, in June 1948, a measure that strongly affected the administrative functioning of the Church, as it was dispossessed of its most important sources of income. Another way in which the Church's activity in society was restricted was by limiting access to moral-religious education, through the prohibition of this education in schools and the nationalization of confessional schools (*Decree* No. 175/3 Aug. 1948). This educational reform brought with it the ostentatious removal of icons and religious symbols from schools, restricting, to the point of cancellation, the catechization actions for students and youth. At the same time, there was also a substantial reduction in the number of theological seminary and university educational institutions, with the dissolution of the Academies and Faculties of Theology in Cluj-Napoca, Arad, Oradea, Caransebeş, Bucharest and Suceava[12].

One of the most drastic measures taken against the Orthodox Church, as a factor of religious stability, in the regime's attempt to form the "new man" within the frameworks of Marxist ideology, was the confiscation, destruction, relocation or transformation of religious units into spaces for administrative storage. The wave of churches demolitions began with the demolition of the historical monument, Enei church in Bucharest (May 1, 1977), using the pretext of damage caused by the earthquake of March 4, 1977. During the years 1977-1989, under the dictatorial regime of Nicolae Ceauşescu (1967-1989), 20 churches were demolished in Bucharest alone, and another 8 were relocated[13].

3. Imprisonment. It is important to note that the communist regime in Romania did not publicly declare an explicit repression action against religious sentiment, but accused priests and monks of "counter-revolutionary" activity, to justify their arrest[9]. Some of the harshest actions of Communism against the ecclesiastical body were the methods of interrogation, very harsh detention, persecution, arrest, torture, and exile.

Those who were incriminated and targeted, under the watchful eye of the regime, were the great Spiritual Fathers, upright people with a strong spiritual structure, who were capable of understanding and translating the politics of the regime hostile to any form of spirituality. In communist ideology, a man free from the fear of death and any form of repression was a man who could not be controlled, therefore, a possible adversary of the system. One of the sanctified confessors of the communist prisons, Father Arsenie Papacioc, testified: "you had to accept death in order to survive the attacks designed to morally degrade you. You had to be prepared for death. The authorities would even place specially trained agents in your cell. They would insert them as prisoners, but they were actually paid, because many prisoners gave in and these were the most dangerous agents"[14].

According to the map of units in the concentration camp system, published in *Addenda*, compiled by the Civic Academy Foundation (International Center for the Study of Communism) for the Romanian edition of *The Black Book of Communism*, with reference to the period 1945-1989, 240 detention units are presented, of which 44 penitentiaries, 61 places of investigation, deposit and exile, 72 forced labor camps, 63 deportation centers and mandatory residences, 10 psychiatric asylums[5].

Prisons became re-education centers, where inmates had to assimilate the atheist communist ideology. Among the harshest penitentiaries, where the character of re-education, violence, and isolation reached frightening levels of terror, were those in Pitești and Aiud. The *Pitești Experiment* (1949-1952) stood out among Romanian prisons from the communist period, through inhuman attempts at "re-education" for the formation of the "new man," *Homo Sovieticus*, as had never existed in the entire communist penitentiary geography. It was considered by many historians and researchers the most aggressive brainwashing program, resulting in numerous martyrs of the Romanian nation. The respective *Experiment* meant for Romania an experience of grim originality, which aimed at the psychic destruction of the person, in terms of religious beliefs and social position. Through the dehumanizing methods used, this experiment goes beyond, in intensity, the Chinese-style re-education, even being classified by François Furet (1927-1997), historian and member of the French Academy, as "one of the most terrible experiences of dehumanization that our era has known"[15] or, according to other researchers, "the cruelest experiment in the entire socialist camp"[16].

Re-education was done in cells, by inmates who had become torturers. One of the most renowned torturers was Eugen Țurcanu (1925-1954), the artisan of re-education at Pitești. After the inmates were starved and beaten by guards, the infiltrated torturers had to do the re-education, which consisted of four stages. External unmasking was the first stage of re-education, during which the inmate had to show loyalty to the party and say everything he had hidden, allegedly, at the Security interrogations, providing detailed information about his connections outside the prison. In this first stage, statements were offered under terror and beatings, then written and submitted for verification, often to Țurcanu, then to the Ministry of Interior. The second stage was internal unmasking, when

the inmate had to denounce all those inside the prison, who had helped him resist physically or morally, from investigators to inmates. The first two stages represented a supplement to the Security's investigation, resulting in a series of arrests. The following two stages aimed at destroying the personality and moral annihilation of the inmate. Thus, the third stage of re-education was public moral unmasking, during which the inmate had to renounce everything he held most sacred, namely, God, family, friends, wife or girlfriend, and, finally, himself. In this stage, his entire past life was analyzed and degrading images about himself and his family were invented, being urged to publicly declare how base his past was, through the lens of perversities done either by him, either by those close to him. When Țurcanu was convinced that the inmate had assimilated all this and there was no trace of reconstitution of his moral personality, the fourth stage intervened, that of becoming himself a re-educator and executioner. During this time, he was forced to lead the re-education process of his best friend, personally torturing him[15].

Aiud, designed as a space for executing sentences for persons deprived of liberty, was classified into category of grade I prisons. The Aiud Penitentiary was supposed to house the most dangerous inmates, with the aim of morally killing the enemies of Communism[5], through the so-called "re-education at Aiud" (1959-1964). Aiud Prison was the continuation of the re-education and destruction of spirituality begun at Pitești, but in a masked form, without applying excessive physical torture (but with the presence of physical aggressions, such as starvation, cold, isolation, chains, lack of medical assistance, humiliation, insults, etc.), trying, of course, by diversion, to give this action a the appearance of a legal and human attitude, as Colonel Gheorghe Crăciun (1913-2001), the leader of the re-education action, often reported: "we have gathered you here, together, to discuss among yourselves and wash your laundry in the family. You can use, against each other or others, in the unmaskings you will make, all the words existing in the vocabulary of the Romanian language. However, you are not allowed to beat or kill each other and, above all, you are not allowed to criticize the regime. We don't want to re-enact here what happened in Pitești, we just want to remove the rot from you, so that, purified, we can return you to society"[17]. Aiud had the precise aim of completely annihilating the faith in God, which served as a foundation for the resistance of the prisoners, and the unmasking of the Church by priests[18]. Despite all the torture methods used against the "enemies of the people", a true monastic lavra was formed in the Aiud dungeon, through the spiritual effort structured on three coordinates: 1) biblical and pastrietical readings; 2) liturgical life, and 3) the practice of the prayer of the heart, taking as a point of reference the bold support of Father Arsenie Papacioc and Traian Trifan. These coordinates had significant spiritual traits, which manifested through the sustained position of the prisoners related to: "a. deepening of Christian teaching; b. creating the 'vertical line', which wanted to name the mode of activity of the group, consisting of efforts for spiritual perfection, achieved through imitation of hermits, studied in dedicated biographies; c. repudiation of the 'horizontal line' which indicated political preoccupations, with the exception of anti-communist zeal, homologated to the vertical, due to the active atheism of Marxist-Leninist ideology; d. administration, according to «render unto Caesar what is Caesar's», behavior totally subordinated"[18].

5. Decree 410/1959. When the communist regime found that terror in society, atheist propaganda, and arrests among the clergy were not sufficient to reduce religious sentiment to the point of annulment, then it also took measures regarding monastic life.

On October 28, 1959, the Great National Assembly adopted *Decree 410*, which was to modify *Decree 177/1948*, regarding the general regime of religious cults. The new *Decree* had devastating effects on monastic life in Romania, along with the measures taken, at the end of 1958, through the Department of Cults. In this year, a new regulation of monasteries was elaborated, which provided for the exclusion from entering monasticism of the following categories of persons: minors, persons who do not have a minimum of seven elementary classes, persons with deviations from monastic rules, those with convictions of common law, "counter-revolutionary elements" and those with "hostile manifestations" towards the communist regime. Having as main reasons the political danger that the monasteries represented (by supporting the anti-communist resistance movement and sheltering persons hostile to the regime) and the spiritual danger (through maintaining faith in God and traditions), *Decree 410/1959* modified *Decree 177/1948* by introducing article 7¹, which specified that only men at the age of 55 and women at 50 could be admitted to monasticism, on the condition of renouncing salary or state pension, if they were not married and if they had no obligations already established based on the *Family Code*[19]. Statistically, following the application of this *Decree*, 92 monasteries throughout the country were disbanded in a very short time, and 4,558 monks and nuns were expelled. *Decree 410/1959* was abrogated, for the first time, in 2002, by *Law 178* for the general regime of religious cults, and, for the second time, by article 51 of *Law 489/2006*, regarding religious freedom and the general regime of cults[20].

Anti-communist religious resistance. Raising the issue of communist repression against the Orthodox Church, we must naturally address the issue of the Church's spiritual resistance. This spiritual resistance had two modes of reaction: internal resistance, supported by prisoners in prisons, and external resistance, through the effort of believers and the Synod of the Romanian Orthodox Church, led by Patriarch Justinian Marina (1901-1977).

For inmates with religious convictions, faith in God was the only pillar of support that strengthened them in torments. Faith is a supernatural connection of man with God, through which man manages to escape from the passionate states of the body and unite his soul with God. The resemblance to the Lord Jesus Christ through the cross of suffering, out of love, meant for the martyrs of communist prisons a victory of grace and an earnest of salvation. In the midst of torments and sufferings for many years, once they reached holiness, the martyrs testified to joy in the midst of sufferings, like the confessor Father Arsenie Papacioc, who stated: "nothing has helped me more in life than suffering. Suffering alone is the supreme chair of theology. I am sure that angels are jealous of us, because they do not have this suffering beyond our nature"[21]. Father Dimitrie Bejan, another martyr of the 20th century, testifies about resistance through faith, in the tormenting years of communist prisons: "the sufferings from there have transformed hell into joy! It was the cross of joy! Who receives suffering as given by God himself, the cross of life transforms into joy! The joy of redemption! You can feel such a joy, especially when you suffer unjustly"[22].

After the Revolution of 1989, when the communist regime was overthrown and democracy was established, the fight against the Church was not weakened, but it was often accused of complicity with the atheist regime, during which time the question was launched: "Where was the Church?" To this question, Father Arsenie Papacioc offered a balanced answer, pointing the spiritual-devotional orientation of both those in prisons and those outside. In this sense, having his own experience, he confessed that the Church was

"in cruel prisons, terrible humiliations, pagan beatings, insults full of venom. [...] Hundreds and thousands of priests, living monks, brothers in faith, wore heavy chains, chains beaten on the anvil through hidden cellars. They tore our beards and pulled us by them like animals by the halter. They starved us terribly with intentions of extermination, for endless years. We were thrown into cells without light - black cells - in dirty prison clothes of pus and dried blood crust on them. [...] They persistently and systematically demanded these renunciations [of Christ] from us, isolated and put in freezers (cold rooms), to be able to obtain even a word against the teaching of our Lord Jesus Christ. [...] This is where the Church was: in prison. Here where there were thousands of Christians, who asked for spiritual strengthening, absolutions, reinforcements and hopes that we gave through wall beatings (Morse code). [...] Our hierarchs did not renounce either formally or in secret. They proceeded with wisdom and it was not easy for them, and the churches, almost without exception, were full to the brim and thousands and thousands of souls were married and baptized in secret. [...] Some were here, others lived their days as they could, but they were zealous not to miss church services. They came to the great feasts and stayed for days on end, in endless columns to be able to kiss the holy relics"[23].

Therefore, the anti-communist religious resistance was sustained by liturgical life in its essence, both in prisons, through ceaseless prayers, confessions through Morse code and improvised *Liturgies*, and in freedom, through preserving unaltered the Church's teaching and worship.

CONCLUSIONS

A first aspect that emerges as evident, following this study, is the presence and importance of the Orthodox Church in Romania, representing, during the communist regime, a factor of cohesion and unity in the midst of an atheist society, namely, a factor of spiritual and religious stability, despite the severe pressures and restrictions exercised against the expression of religious sentiment. The persecution manifested itself through the elimination of the Christian presence from the State, which targeted the entire Church, from hierarchs, clergy and monks to believers, intellectuals and simple ordinary people, with sincere religious convictions. The suffering experienced, in the 20th century, by the Romanian people was the authentic expression of faith in God and of the assumption of sacrifice to the point of blood, in the name of the Lord Jesus Christ and His Church, showing itself a follower of the *Gospel* and Orthodox spirituality.

The second conclusive aspect reveals a vision of the attitudes and strategies undertaken by the regime against the expression of religious sentiment. In antithesis to these, the sacrifices and power of serving the Truth are revealed on the part of those who dedicated themselves exclusively to Christian living and authentic spiritual life, by renouncing any form of moral, essentially, existential compromise.

Last but not least, the analysis undertaken reveals the current vision of the Orthodox Church in Romania until today, which is a majority presence in the midst of Romanian society, with a significant degree of trust. This status of the Church proves the failure of the re-education process undertaken by the communist regime and confirms its work. This status of the Church proves the failure of the process of re-education undertaken by the communist regime and confirms its work of transfiguring the needs of each epoch, like the Christians of the first centuries, who the more they were persecuted, the more fruit they bore, accumulated in the treasury of the Orthodox Church throughout the world.

Where suffering for faith in God was more intense, fruition is evident, through the dynamism of communicating the Truth and developing a Christian attitude, based on altruism concerning the service of neighbor and the forgiveness of persecutors.

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PUBLIC AUTHORITIES' POWERS IN CONSUMER PROTECTION IN THE VISEGRAD FOUR STATES AND THE IMPACT OF EU LAW

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ABSTRACT

This study investigates the differences in national approaches to consumer protection, focusing on the powers of public authorities stemming from national legislation and the impact of EU regulations on the consumer protection landscape in the V4 countries. The research employs a qualitative methodology to analyse national laws and the implemented EU directives, and the field of full harmonisation with a particular emphasis on Regulation (EU) 2017/2394. The objectives of the study include understanding the minimum harmonization of powers given to public authorities responsible for consumer protection within the EU, assessing the practical impact of this harmonization on the V4 countries, and comparing the consumer protection legislation in the V4 countries with the directives implemented by the EU and regulation (EU) 2017/2394. The findings of this research could provide valuable insights into the effectiveness of consumer protection laws and regulations in the V4 countries and the EU. Through this comprehensive analysis, the paper aims to contribute to the discourse on consumer protection and the role of inspection authorities in enforcing consumer rights. It seeks to provide valuable insights for policymakers, regulators, and consumer rights advocates.

Keywords: Czech Trade Inspection Authority, consumer protection, public authority, state control

INTRODUCTION

Consumer protection consists in the development of rules that will protect consumers from potential abuse by traders due to the existence of unequal bargaining power. It is of a dual nature, both private and public law. It therefore ensures the consumer's capacity to defend himself in civil court, as well as administrative controls with the possibility of imposing a sanction for an administrative offence. Consumer law is a relatively young legal discipline. Traditionally, 1962 is considered the year of the birth of modern consumer law and policy. Over the past sixty-plus years, consumer law has developed into a distinct area of law that has spread around the world in different ways and to varying degrees. In terms of the tools developed to achieve consumer protection Puljko, Matkovic states that significant progress has been made. Parallel to this development of national consumer law, attempts have been made to internationalise consumer law [1]. The objective is to implement a transnational safeguard mechanism

that remains operative irrespective of the geographical location of the consumer or merchant which might be in different states. Thus, the internationalisation of consumer law was intended to achieve two main objectives: the creation of a universally applicable minimum standard of consumer protection and the removal of obstacles to the development of cross-border trade. The aim of this approach is to set only basic rules and it has been left to national legal systems to develop and implement comprehensive and well-functioning national consumer protection systems in accordance with their needs and specificities[2], [3]. Thus, important objective of the EU consumer protection policy is to create a uniform level of protection across the EU through regulations and directives and to ensure that consumer protection provisions are enforced across all Member States. As an illustrative case we can mention the Visegrad four countries (V4 - Poland, the Czech Republic, Slovakia and Hungary) have raised concerns about the double standard of quality of the same goods sold in different countries, specifically between East and West European countries.

In order to achieve the same approach, strengthened powers of individual national authorities have been introduced based on shared or harmonised regulations (i.e. directives).. Consequently, it becomes compelling to assess the capabilities of the V4 public authorities in consumer protection, in the context of the applicable directives and additional EU regulations that guide a harmonized approach.

MATERIALS AND METHODS

This contribution aims to delineate the differences in national approaches to consumer protection including powers of public authorities protecting consumer rights, basic harmonization of powers vested in public authorities overseeing consumer protection within the EU and to explore its direct influence on the consumer protection landscape in the V4 countries. This research aims to analyse both national laws and EU regulations. After the literature review providing insight into consumer protection the research compares the legislation that must have implemented the EU directives for the V4 countries. Following that the study examines powers enacted in the Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004. The use of qualitative case study methodology was employed to obtain the aim of the research.

The research objectives are as follows:

1. What is the minimum harmonization of powers given to public authorities responsible for consumer protection within the EU?
2. What is the practical impact of this harmonization on the V4 countries?
3. How does the consumer protection legislation in the V4 countries compare with the directives implemented by the EU and regulation (EU) 2017/2394?

RESULTS

United Nations Guidelines for Consumer Protection set the minimum international level of consumer protection. However, they are only soft-law containing provisions that are not enforceable and legally binding on Member States. It therefore operates only by the authority of its originator. Unfortunately, there is no single global convention or binding international legal instrument on consumer protection issues, as consumer protection is still primarily addressed by individual states within their national laws,

despite the revision of the Guidelines [4]. While the UN has a unique role to play in this area in promoting an inclusive and broad approach to consumer protection, the problem is that it often lacks the legal powers and resources to ensure the full effectiveness of its Guidelines, which is why they are non-binding legal acts for Member States [5].

However, the protection granted by the EU and its institutions is more effective due to the EU's powers to harmonize different policy areas. In her 2016 publication, Jeretina posits that the EU identifies consumer protection as a fundamental domain, thereby constituting a pivotal component of the EU single market's operation. The EU devotes considerable attention to this area and enacts legislation to augment consumer protection across all member states [6]. Esteve contends that member states have the capacity, and in certain instances, the obligation, to implement EU-established rules, thus ensuring consumer protection on a transnational scale [7]. In practical terms, the EU's strategy involves fostering international protection through legislative harmonization. This process unifies substantive law, encompassing both directives and regulations, rendering them obligatory for all EU members [4].

Pertaining to the aforementioned EU rules, these were established under consumer policy to bolster consumer protection. These rules take often the form of directives, which serve as the principal tools for aligning national consumer policy rules within the scope of EU secondary legislation. They strive to achieve the goal of consumer protection in both public and private law. Consequently, the directives seek to standardize legislation to ensure that consumers and businesses situated in various EU Member States have a comprehensive understanding of their rights and responsibilities, irrespective of the national law applicable to their activities [3]. Nonetheless, generally (if not provided otherwise) it remains within a Member State's prerogative to enact even more stringent legislation within its jurisdiction as long as it complies with overriding EU law [8]. There are several directives in the field of consumer protection policy, however the Consumer Rights Directive¹ is considered a key instrument for harmonizing national consumer policy rules in the field of EU secondary legislation. This directive applies to all contracts concluded between a "consumer" and a "trader". It aligns and harmonizes national consumer rules, such as the information consumers need to be given before they purchase goods, services, or digital content, and their right to cancel online purchases, wherever they shop in the EU. The Consumer Rights Directive was amended by Directive (EU) 2019/2161 of 27 November 2019 on better enforcement and modernization of Union consumer protection rules, part of the "Review of EU consumer law - New Deal for Consumers". The Directive entered into application on 28 May 2022. Member States may not derogate from the provisions of this Directive, including more or less stringent provisions, in order to ensure a different level of consumer protection, unless otherwise provided for in this Directive. This means, according to Puljko & Matkovic, that it should guarantee the same rights to all consumers of each EU Member State in similar situations [1].

¹ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.

Nevertheless, the responsibility of establishing state authorities for consumer protection rests with the national legislation of the Member States. Thus, their organization might differ. The following table shows the differences in the V4 states.

Table 1: Consumer Protection Administrative Bodies in the V4 States Structure

State	Organization structure
Czech Republic	Centralized administrative body / inspection with 7 subordinated inspectorates
Slovakia	Centralized administrative body / inspection with 8 subordinated inspectorates
Poland	Office of Competition and Consumer Protection and its subordinate national inspectorate in 16 provinces
Hungary	20 independently operating consumer protection authorities

Source: own elaboration based on the applicable laws

The national legislation is required to equip these administrative entities with authorities that mirror the consumer rights intended for protection and their degree of protection under the EU directives. Thus, the Control Act is a general regulation in the Czech Republic, which is supplemented by specific legislation [9]. Several national authorities are set up to supervise and enforce consumer protection in different areas, such as food quality, air transport and energy. In this study, for the sake of simplicity, we focus only on the provision of protection in purchasing products and services. Still, as depicted in Table 2, there exist some disparities.

Table 2: Powers of the Consumer Protection Administrative Bodies in the V4 States

Powers / State	Czech Rep.	Slovakia	Poland	Hungary
Making a control purchase	Yes	Yes	Yes	Yes
Return of purchased goods against a monetary amount	Yes	Yes	Yes	Yes
Sampling	Yes	Yes	Yes	Yes
Making records without the knowledge of the auditee	Yes	Yes	No (only with the prior consent of the person)	No (not even with prior consent)
Determination of corrective actions (product retention)	Yes	Yes	Yes	Yes
Use of masking agents	Yes	Yes	Yes	Yes
Imposition of a sanction	Yes	Yes	Yes (but only superior entity)	No (only in case of repeated violation or the law allows it)
Issuing administrative act	Yes	Yes		
Entry to buildings, grounds, premises	Yes	Yes	Yes	Yes
Request documents and proof of	Yes	Yes	Yes	

identity				
Cooperation with other bodies (including at international level)	Yes	Yes	Yes	Yes
Prohibit the placing on the market, withdraw from circulation or suspend	Yes	Yes	Yes	Yes
Suggest up to suspension or revocation of trade license	No	Yes	No	No
Impose a fine on the spot	Yes	Yes	No	No
Alternative dispute resolution powers	Yes	Yes	No	No
Conclusion of an administrative agreement to end the infringement	No	No	No	Yes
Remediation of defects by agreement	Yes	No	Yes	No
Use of an intermediary to control (e.g. a person under 18)	Yes	Yes		Yes
Closure of an establishment for a specified period by the inspecting authority	Yes	Yes	No	Yes

Source: own elaboration based on the applicable laws

The powers conferred on the supervisory authorities of EU Member States by full harmonization are set out in several regulations. Due to the limited scope of this study, only one will be specifically mentioned, despite the fact that there are several. Regulation (EU) 2017/2394 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (hereinafter referred to as the Regulation) lays down harmonized rules establishing procedures for coordinating investigative and enforcement measures in the event of large-scale infringements, i.e. those with an EU dimension. The Consumer Protection Cooperation Regulation obliges the Member States to set up enforcement authorities with minimum powers [10]. Coordinated procedures against large-scale infringements should ensure that competent authorities are able to choose the most appropriate and effective tools to stop such infringements and, where appropriate, to obtain undertakings from responsible traders to seek or obtain redress for the benefit of consumers and, in general, to prevent such large-scale infringements in the first place. Article 9 of the Regulation sets out the investigation and enforcement minimum powers of the competent authorities in the exercise of their activities. Member States may decide not to confer all the powers on every competent authority, provided that each of those powers can be exercised effectively and as necessary in relation to any infringement covered by the Regulation. The competent authorities must apply the Regulation proportionately and in accordance not only with Union law and national law. The Regulation lays down the conditions under which competent authorities of Member States cooperate and coordinate actions with each other and with the Commission, in order to enforce compliance with those laws that protect consumers' interests and to ensure the smooth functioning of the internal market, and in order to enhance the

protection of consumers' economic interests. The Regulation applies to intra-Union infringements, widespread infringements, and widespread infringements with a European Union dimension. The minimum powers must be as follows:

- access to any relevant documents, data or information related to an infringement;
- require any public authority, body or agency within their Member State or any natural person or legal person to provide any relevant information, data or documents including tracing financial and data flows, ascertaining the identity of persons involved in financial and data flows, and ascertaining bank account information and ownership of websites;
- carry out necessary on-site inspections, including the power to enter any premises, land or means of transport that the trader concerned by the inspection uses for purposes related to his trade, business, craft or profession;
- request any representative or member of the staff of the trader concerned by the inspection to give explanations of facts, information, data or documents;
- purchase goods or services as test purchases, where necessary, under a cover identity;
- adopt interim measures to avoid the risk of serious harm to the collective interests of consumers;
- seek to obtain or to accept commitments from the trader responsible for the infringement;
- receive from the trader, on the trader's initiative, additional remedial commitments for the benefit of consumers;
- inform consumers about how to seek compensation under national law;
- order in writing the cessation of infringements;
- bring about the cessation or the prohibition of infringements;
- impose penalties;
- remove content or to restrict access to an online interface or to order the explicit display of a warning to consumers when they access an online interface;
- order a hosting service provider to remove, disable or restrict access to an online interface;
- order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned to register it.

Although it might seem that the regulations are a kind of 'European law' that needs no further implementation into the national laws, this presumption does not apply across the board [11]. Thus, differences between states appear.

DISCUSSION

The EU Member States under comparison exhibit a broad spectrum of national laws pertaining to consumer protection, particularly in relation to the conferred powers of their respective supervisory bodies. The above analysis has shown that the EU directives requiring implementation into national laws result also in similar statutory law rules governing powers of individual inspection bodies. However, the organization structure might be different - as proved by the case of Hungary compared to the other three V4 countries. The main difference remains in the power to make records without the knowledge of the auditee, remediation of defects by agreement, imposition of a sanction (which instance may impose it), conclusion of an administrative agreement to

end the infringement, imposition of a fine on the spot, and ADR. The Czech and Slovak laws seem to be most similar. In case of fine imposition, the Hungarian legislation differs slightly, for example, in the imposition of sanctions, where the aim of the Hungarian consumer protection authorities is not to remedy infringements with a financial penalty. The Polish laws do not encompass the power to impose fines within the jurisdiction of individual trade inspectorates operating within the Polish territory. This authority is delegated to the superior regulatory entity, namely the UOKIK. The differences are to a large extent to be found in the enforcement powers, imposition of at spot fines, where only the supervisory authorities in the Czech Republic and Slovakia are allowed to take this remedial action. Hungary allows for the imposition of a measure in the form of a contract leading to the cessation of the infringement or the elimination of minor findings and an undertaking to the consumer that the trader will remedy the situation. The most significant difference that sets the Czech Republic and Slovakia apart from Poland and Hungary is the power to make audio and visual recordings without notifying the individual under surveillance. This is to avoid the concealment of evidence prior to the formal commencement of the surveillance.

Apart from the directives that set the standards for inspections within the state borders, full harmonization is to be achieved via regulations in case of cross boarder cooperation. The powers differ and respect the nature of such controls and cooperation of more authorities needed. The regulations are, as provided for in the second indent of Art. 288 of the TFEU, acts of general application which are binding in their entirety and directly applicable in all Member States. While it may seem that there's no need for additional incorporation into the national laws of EU Member States, this assumption isn't universally valid. In some cases the ECJ case law confirmed the need to adopt further national implementing measures building on the regulation. Not all regulations are always formulated in such a way that they are capable of producing the intended effects on their own, without further. This is usual when they create powers for public authorities which are not already used in other scenarios. Thus, the powers conferred onto national authorities by the analyzed Regulation (EU) 2017/2394 of the European Parliament and of the Council have been implemented into the Czech laws. However, the power to seek to obtain or to accept commitments from the trader responsible for the infringement does not appear in the relevant laws and it is not allowed for in purely national inspections. The question arises whether the power might be used or not. As the regulation has the direct effect the only possible answer is that the power is present, however when needed to be exercised in practice, a public authority from a different Member State involved in the coordinated procedure with powers stemming from legislations with more detailed regulation of accepting commitments shall be taking the measure on the basis of the other involved public authorities.

CONCLUSIONS

International consumer law is understudied, and its potential has not yet been sufficiently explored. The European Union has provided particularly fertile ground for consumer law to flourish, and the EU has developed the world's most advanced regulatory regime for consumer protection. The harmonisation in this policy area is done predominantly through directives which need to be implemented in national laws. These also set the organisation details regarding the public authorities supervising businesses. Powers are conferred on them by national statutory laws. Moreover, the EU

law in the form of regulations provides these state authorities with more powers in combating the cross-border consumer law infringements.

The study showed that despite different organisation models there are only slight differences in powers of inspections providing protection in purchasing products and services in the V4 countries. However, some of the powers conferred by the Regulation, such as requiring commitments from the businesses instead of pecuniary fines, seems to be applicable only with difficulties. International and EU consumer law can be seen as a further development of human civilisation, where the right to protection when acting as a consumer has become a fundamental human right. Still, there are possibilities of strengthening the cross-border cooperation and further research of this field may follow.

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RIGHT TO GOOD ADMINISTRATION IN THE EU

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ABSTRACT

This paper aims to explore the meaning and scope of the right to good administration, which is enshrined in Article 41 of the Charter of Fundamental Rights of the European Union (CFREU). The right to good administration is one of the guarantees that the CFREU provides to every person who is subject to the actions of the EU institutions, bodies, offices and agencies. According to Article 41, this right entails, among other things, the right to be heard, the right to access one's file, the right to receive reasons for decisions, and the right to an impartial and fair treatment within a reasonable time. The paper analyses the content and implications of this right, and the extent to which it applies to Member states, by examining the relevant case law of the Court of Justice of the European Union (CJEU). The paper will also compare and contrast the right to good administration as a fundamental right with the broader principle of good governance, which encompasses various standards and values that aim to ensure the legitimacy, accountability, transparency, efficiency and effectiveness of public administration. By doing so, the paper attempts to demonstrate how the right to good administration and the principle of good governance have evolved and influenced each other in the context of EU law and administration. The paper will also highlight the challenges and opportunities that these principles pose for the protection and promotion of the rule of law and democracy in the EU.

Keywords: good administration, human rights, legality, legitimate expectations, transparency.

INTRODUCTION

Good administration is a principle that forms the foundation of public administration, enabling good governance in a democratic society through efficient policy-making and adherence to the law. It is an umbrella concept which might be incorporated into the substantive as well as the procedural principles of administrative law [1]. It can be viewed in various ways. First, as a right that individuals have in their interactions with administrative authorities. Or, secondly, as a duty imposed on public administration to take suitable actions in administrative affairs. Good administration means that "administrative bodies have a duty to exercise the powers and responsibilities vested in them by existing laws and regulations, by drawing on the prevailing concept of the law, in a way to avoid rigid application of the statutory provisions and laws." [2] It is difficult to define [3], therefore sometimes it is said to be the opposite to the maladministration, which can be more easily imagined. Maladministration includes biased, delayed, inattentive, incompetent, unnatural acts, and indecency. Caiden has identified 175 commonly known bureaucratic pathologies [4]. Therefore, it is a framework concept that encompasses a set of rights, rules and principles that regulate the activities

of public administration in order to ensure procedural fairness, compliance with the principle of legality and the achievement of correct or "fair" outcomes of administrative activities. By fair outcomes, I mean outcomes of administrative action that are acceptable to the public and can be generally perceived as reasonable, proportionate and appropriate, i.e., that the public administration has acted properly [5]. Nehl states that it is an "aid to describing the corpus of the continuously evolving-legally enforceable and unenforceable-procedural and substantive requirements with which a modern administration has to comply." [6] Kanska sees good administration as the "umbrella principle, comprising of rights and obligations".[7] It includes the principles of legality, non-discrimination, transparency, proportionality, prohibition of abuse of power, impartiality, objectivity, legitimate expectations [8]. Thus, good administration is linked to good governance, where authorities uphold principles that ensure citizens' rights. In the end, good administration functions towards promoting social faith in the executive power which can result in political and social stability. It is not just a soft law goal, or something that is legally unenforceable in decision making. Instead, it is a deliberately chosen legal notion that encompasses both procedural and substantive aspects of administration. Severe breaches of principles can lead to a decision's illegality and subsequent court annulment.

Still, the right to good administration is a step forward from a mere principle. The European Union serves as an advocate, implementer, and protector of fundamental human rights, with good administration enshrined in Article 41 of Charter of Fundamental Rights of the European Union (hereinafter the "CFREU" only). The pronouncement of good administration as described in Article 41 of the CFREU has been framed as a subjective right aim towards setting a standard that can be applied to all EU institutions and administrative procedures [7]. It touches on matters of impartiality, fair trial, and the right to be heard without prejudice. This assures citizens that their rights will be respected impartially by Union institutions and member states' public administration bodies when applying EU law as explained below.

MATERIALS AND METHODS

The goal of this study of the right to good administration, as outlined in the CFREU, is to comprehend how good administration contributes to good governance within the Union and its Member states. This research aims to analyze the scope of good administration as guaranteed to EU citizens by Article 41 of the CFREU through case law the Court of Justice of the European Union (CJEU). To achieve the aim, the research first reviews scholarly reviews to establish a theoretical background on the right to good administration: concepts of good administration, institutional framework, code of good administrative behavior, conduct and examination of article 41 of the CFREU and its application. Following that specific case studies that illustrate the application of the right to good administration in practice are analyzed to comprehend how this right has been interpreted and enforced by the CJEU. The use of qualitative case study methodology was employed to obtain the aim of the research.

The research objectives are as follows:

1. Examine the EU's right to good administration nature and content.
2. Identify the differences from a mere principle and a fundamental right.
3. Examine the EU's right to good administration scope - identify to which extent applies not only to EU institutions but to the Member states as well.

RESULTS

According to Fortsakis “...the principle of good administration is at once a long-standing idea and a ground-breaking one”. Its specific content has gradually been nurtured within the framework of the long-established concept of user protection. This principle, enshrined and elaborated on in various instruments and European case law, now stands as one of the cornerstones of modern administrative law. Good administration means that “administrative bodies have a duty to exercise the powers and responsibilities vested in them by existing laws and regulations, by drawing on the prevailing concept of the law, in a way to avoid rigid application of the statutory provisions and laws”. [2] Good administration has been seen to lead to good governance, which is defined as procedures and behaviors affecting how powers are exercised regarding openness, participation, accountability, effectiveness, and coherence [9]. Good administration enhances transparency and accountability by evading convoluted procedures. Good administration is considered a duty, measure, obligation, a principle of the EU law [10]. “Article 41 CFREU is understood to arise from the operation of the rule of law which has shaped the European Union through case law enshrining good administration as a general principle of law.” [9] However, with the adoption of the CFREU, it is not a mere principle anymore. The introduction concept of *effet utile* meaning that the beneficiary of law should be treated and protected as a consumer and someone who might enforce his/her rights into the western democracies’ laws meant a shift in understanding good administration towards a fundamental right. Fairness in relationships between the administration and individuals became a cornerstone requirement on the public administration which might be enforceable in court proceedings. Becoming a fundamental right good administration enabled the CJEU to ignore the distinction between rights, general principles of law with constitutional status within EU law and some principles which are to be respected only in some areas [9].

Before the CFREU was enacted there existed basic rights, and portions of the right to “sound administration” there existed in the ESCS Treaty of 1951. The ECJ (now CJEU) established the protection of basic rights as a basic principle of the Community. Thus, art. 41 is based on case law that establishes good administration as a general principle with the rule of law. These cases which paved the way for the enacting of good administration as a principle of the CFREU included judgments “Jean-Louis Burban v European Parliament” (C-255/90, P) where the Court established that proper administration as a general legal principle. The following judgements of Court of First Instance in the case T-167/94 Nölle, and T-231/97 New Europe Consulting confirmed this view. The case “Union Nationale des entraîneurs et cadres’ techniques Professionnels du football (Unectef) v Georges Heylens and others” (C-222/86), referred to the duty to state reasons as later enacted in Art. 41(2)(c) of the CFREU. The Court noted in point (16) of the proceeding that: “...in view of their aims those requirements of community law, which is to say, the existence of a judicial remedy and the duty to state reasons, are however limited only to final decisions refusing to recognize equivalence and do not extend to opinions and other measures occurring in the preparation and investigation stage.” The case of ‘Technische Universität München v Hauptzollamt München-Mitte’ (C-269/90) is another instance that underscores the right to provide reasons. This case has set a precedent for the necessity of offering reasons and ensuring impartiality in judgment during the decision-making process. The

case of “Orkem v Commission of the European Communities” (C-374/87), lays the foundation for the right of defense by applicants and fair hearing. Again “Organização Gestão de Restaurantes Colectivos Ld. and others v Commission of the European Communities” (T-450/93), the Court of First Instance referred to the fact that the Commission infringed on the recipient’s right of defense during decision making.

However, enacting good administration as a human right pushes its impact to a higher level. Article 41 of the CFREU mandates right to good administration as follows:

- “1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices, and agencies of the Union.
2. This right includes:
 - a) The right of every person to be heard, before any individual measure which would affect him or her adversely, is taken.
 - b) The right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy.
 - c) The obligation of the administration is to give reasons for its decisions.
3. Every person has the right to have the union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one language of the treaties and must have an answer in the same language.”

The wording is rather broad concerning the beneficiaries. It extends to every person, not only to citizens or businesses with its registered office in the EU. The scope of the CFREU applies primarily to institutions, bodies, and staff of the Union in compliance with the principle of solidarity. The wording was drafted in reference to art. 6(2) TFEU, which requires the EU to ensure the fundamental human rights of citizens. However, art. 51 CFREU broadens the obliged entities also the Member states when they implement EU law. Still, Art. 41 is explicitly addressed to the institutions, bodies, offices and agencies of the Union as described in the same context of Article 298 TFEU and in light of the principle of procedural autonomy. In Case C-230/18 PI v. Landespolizeidirektion Tirol the CJEU stated “that it is clear from the wording of that provision that it is addressed not to the Member States but solely to the institutions, bodies, offices and agencies of the European Union (judgment of 13 September 2018, UBS Europe and Others, C-358/16).“ It is imperative to have a clear distinction between the scope of the right to good administration and the general scope of the CFREU. Nevertheless, it is essential for the Member States, to respect the general principles of the EU law. As the elements of the right to good administration contained in Art. 41 such as right to be given the reasons of a decision have been found to be part of these principles, member States have to adhere to them anyway.

Analyzing the content of the Article 41 CFREU requires an insight into the interpretation of its individual parts by the CJEU. As stated in Article 41(1) of the CFREU, the wording of the article is to make sure that officials do not portray a sense of partiality against persons when exercising discretionary powers. The case Zeigler v Commission (C-439/11)” contributed to the jurisprudence on the right to good administration in the context of EU competition law. The case examined the legal effects of the Commission’s guidelines, specifically the ‘Guidelines on the effect on trade concept’ from 2004 and the ‘Guidelines on the method of setting fines’ published in 2006. Questions were raised regarding the Commission’s objective impartiality in its

capacity as the investigating and decision-making authority. The case underscored the right to a fair legal process, which includes the requirement to define the relevant market, the scope of the investigation, and the obligation to state reasons. The case also dealt with the principle of equal treatment and non-discrimination in the setting of fines.

Article 41(2)(b) CFREU, guarantees access to one's file, respecting one's legitimate interest, and maintaining confidentiality. In the *Varec v Belgium* (C-450/06) case, the Advocate General observed that the rights to file confidentiality and protection are substantive rights (the fundamental human rights one holds in a society), even if their application results in procedural implications. When an applicant is looking to contest an administrative decision via a judicial review, having access to files is crucial for informed decision-making. Access to one's file allows an individual or applicant to put counterarguments when exercising or challenging the decision made by administrative bodies. As in the case of *Commission v Technische Glaswerke Ilmenau* (C-139/07 P, 2010), *Technische Glaswerke* relied on Regulation (EC) No 1049/2001 (the right of everyone to access documents), case of *Schenken AG v Commission* (T-534/11) *Schenken AG* also invoked Regulation (EC) No 1049/2001, emphasizing the importance of document accessibility in ensuring transparency and fairness in administrative proceedings. However, there are limits to the right. In the case of *Varec vs Belgium* (C-405/2006) concerning public procurement, *Varec SA*, a company involved in a tender procedure, demanded disclosure of the rival company's tender details during the hearing, arguing that failure to disclose the rival's tender prevented it from effectively challenging the decision. In terms of the right to good administration, the case highlighted the conflict between the right of one party to require production of and access to relevant evidence (the right of every person to have access to his or her file) and that of another to maintain the confidentiality of certain evidence vis-à-vis a business competitor (respecting the legitimate interests of confidentiality and of professional and business secrecy). Thus, the case underscores the importance of protecting business secrets in public procurement context and highlights the challenges in balancing this need with the requirement for tender transparency and fairness.

Art. 41(2)(c) CFREU, mandates that administrative bodies must provide a rationale for each decision they make. It reflects Art. 296 and 298 of the TFEU. Art. 296 TFEU establishes that reasons should be stated based on or in reference to the proposals, initiatives, recommendations, requests, and opinions required by the Treaties. The rationale of providing a reason from the perspective of the affected parties makes transparent why a measure was adopted [11]. Duty to give reason should be thought through by the decision-maker. The process of justifying one's actions and defending a decision made can be quite challenging. In the case *Commission v Ireland* (C-89/08 P), the Court explained that: "...it has been consistently held that the statement of reasons required by Art. 253 EC must be appropriate to the measure at issue and must disclose in a clear and unequivocal fashion the reasoning followed by the institution which adopted the measure in question in such a way as to enable the persons concerned to ascertain the reasons for the measure and to enable the competent Community Court to exercise its power of review. The requirements to be satisfied by the statement of reasons depend on the circumstances of each case, in particular the content of the measure in question, the nature of the reasons given and the interest which the addressees of the measure, or other parties to whom it is of direct and individual concern, may have in obtaining explanations. It is not necessary for the reasoning to go

into all the relevant facts and points of law, since the question whether the statement of reasons meets the requirements of Art. 253 EC must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question.”

It seems that Art. 41(3) CFREU replicates Article 340 TFEU. The action is independent and the fact that the contested provision or decision has not been annulled does not normally prevent from filing a lawsuit. The courts have created different tests for liability depending on whether the authority has discretion or not. After the famous *Brasserie du Pecheur/Factortame* case the case C-352/98 P *Laboratoires Pharmaceutiques Bergaderm* followed. The test for liability requires the individual to prove that the rule of law infringed was intended to confer rights on individuals, there must be a sufficiently serious breach and a causal link between the breach and the resultant harm. If there is no discretion or very little, the fact that law has been breached is sufficient to establish the sufficiently serious breach. However, this is not always this easy. In case T-178/98 *Fresh Maritime* the CFI held that a mere infringement of EU law is sufficient for the liability to arise, however it also decided that the infringement consisted in lack of diligence to which the applicant significantly contributed. A recent case *European Union v Kendrion NV* (C-150/17 P) dealt with actions for damages due to the excessive duration of proceedings before the General Court of the EU. *Kendrion NV* was fined by the Commission for being a part of cartel. *Kendrion NV* appealed the decision, and the case took an excessive amount of time to resolve, leading to *Kendrion NV* filing a claim for damages. The CJEU found that there was no direct causal link between the excessive duration of the proceedings and the damage claimed by *Kendrion NV* (bank guarantee charges). Therefore, the claim for damages was not successful.

DISCUSSION

The selected literature and case law serves as a valuable tool in elucidating the body of continuously evolving legal obligations, both procedural and substantive, that modern administrative bodies are required to adhere to. The CFREU has elevated the principle of good administration to the status of a fundamental right. This is a significant development, as it underscores the importance of good administration in the functioning of democratic societies. This has led to certain expectations, particularly among Member States that are accustomed to having these principles embedded in their statutory laws, but not in their constitutions. However, it's important to note that the scope of good administration, as defined in Article 41 of the CFREU, is limited to certain aspects. The components of the right to good administration, as enshrined in Article 41 of the CFREU, are derived from a broad spectrum of case law from the Court of Justice of the European Union (CJEU). This case law has been instrumental in shaping the general principles of EU law. Furthermore, paragraphs 3 and 4 of the same article provide further elaboration on the existing provisions of the Treaties.

A question that often arises is whether the wording of Article 51 of the CFREU implies that the right to good administration applies not only to EU institutions but also to Member States when they are implementing Union law. “Article 51.1 contains one of the most confusing and obscure clauses of the entire Charter. Namely, it is clear that the fundamental rights enshrined in the European Union are applicable to and in

the Member States. The thing that is not so evident is which conditions should be met in order to identify that there is an Implementation of the EU Law” [12].

The answer to this question has been negative. Craig suggests that interpreting Article 51 to bind states like the ECJ in cases against public authorities could be overly radical [13]. Nevertheless, Member States are still required to adhere to good administration as a general principle of EU law. This does not significantly alter the beneficiaries of good administration protection. Even a breach of the principle of good administration could potentially mean that the public authority acted in contravention of the laws, leading to the annulment of its decision. However, the courts will need to assess the severity of such a breach and its potential to influence the outcome of the administrative proceedings. In case of a right, one might argue, the breach does not need to be as serious. The findings of this study are constrained by the limited number of pages. The case law dealing with administrative principles is extensive, and a more in-depth analysis could yield additional insights. Despite these limitations, it can be concluded from the above analysis that the scope of Article 41 of the CFREU is relatively narrow. It did not bring about a significant change compared to the previous court practice and interpretation of good administration. However, there is potential for Article 41 to be expanded in two ways: by incorporating more elements of the right to good administration and by making it applicable to the administrative bodies of Member States. This, in turn, could enhance the effectiveness and legitimacy of administrative bodies, thereby promoting the principles of transparency, accountability, and good governance that are at the heart of the EU.

CONCLUSION

The outcomes of the research are following. Good administration has become with the adoption of the CFREU an important fundamental human right that should be enjoyed by individuals in European Union. The aim of the right as guaranteed by Art. 41 CFREU is to provide efficient administrative procedure and protect procedural rights of individuals vis a vis public administration. At the same time, it serves as means for citizens to gain trust in public administration. This can be achieved through fairness, lawfulness, non-discrimination, proportionality, openness, meeting legitimate expectations, and transparency. The right to good administration is based on many principles which have already been confirmed and interpreted by the CJEU before the adoption of the CFREU, namely the principle of equality, legality, and proportionality. Article 41 CFREU specifically provides that everyone should have their affairs handled fairly and impartially, in speedy action, have access to one's file, fair hearing, payment of damages and language neutrality. Thus, its scope is limited compared to the extent of the principles. The interpretation of the studied case-law showed that art. 41 CFREU is not applicable to Member States institutions when applying EU law (however they are bound by the general principles of EU law). Although its scope is limited only to some aspects of good administration, it produces fundamental right out of a principle. This generates a space for expansion of the right in CFREU both in content and the bound entities.

This study forms an insight into the right to good administration, while it opens space for the areas of future research. Exploring how the right to good administration is implemented in practice by the EU and individual Member states' administrative bodies

and examining possibilities to broaden the scope of the right in CFREU may build on this initial research. Although the significance of good administration in promoting transparency, accountability, and fairness in the European Union is undeniable, there are still challenges that occur in practice which need to be overcome.

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STRATEGIC FRAMEWORK FOR THE DEVELOPMENT OF BIOREGIONS IN LATVIA

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ABSTRACT

Human activity on the planet has created ecological problems, and it is necessary to find new solutions to the sustainable development of rural areas, thereby affecting the rural areas socially, economically, culturally and environmentally. Sustainable development allows society to increase prosperity, and one of the pillars of prosperity is an attractive living environment. Modern society's perception tends to change, highly appreciating the need for local economic development. Each country applies a different approach to achieving its sustainable development goals. One of the potential solutions in this context could be the establishment of bioregions. The establishment of bioregions in the European Union is still at the initial stage, and an assessment of the current situation is very urgent. A strategic framework in place at all policy-making levels is essential to ensure the sustainable use and preservation of natural resources and to promote regional cooperation and sustainable development. In Latvia, bioregions are a new concept, which has no specific legal framework. However, the establishment of potential bioregions is largely affected by multilateral agreements between the UN and EU Member States, which are binding on Latvia and aimed at sustainable development, biodiversity and mitigating climate change. The present research employed document analysis to identify bioregion establishment processes and the drivers thereof. The research aims to analyse the strategic policy documents in order to summarize the policy conceptions of sustainable territorial development for the establishment of bioregions. The research was conducted with the support of fundamental and applied research project No. lzp2022/1-0519 Bio-regions as an Integrated Strategy for Sustainable Rural Development in Latvia.

Keywords: bioregion, sustainable development, rural areas, strategy

INTRODUCTION

Bioregions give an opportunity for contributing to growth in local economies through increasing the value of territories, which involves social, environmental, economic and also ethical dimensions [1]. It is an innovative and sustainable approach applied to rural development, thereby transforming the current food system and the perception of local communities, with organic farmers playing a key role [2]. In this way, farming that represents a set of economic activities contributes to the development of rural areas through integrating landscape quality, ecosystem services and food production and

consumption [3]. The preservation and enhancement of rural areas is a requirement that EU Member States need to meet, yet the development of rural areas requires a balance and government policies need to contribute to achieving this balance. Because of globalisation, the market is divided between large companies, while local companies are often pushed out of the market; therefore, an opportunity to develop the local culture and preserve the cultural heritage is lost. Food is part of the unique cultural heritage of any country, and pushing local small food producers out of the market depletes part of the cultural heritage. By combining traditional approaches with modern technologies, it is possible to apply agroecological approaches in an innovative way [4], which would provide sustainable and locally adapted solutions [5] to improving the living conditions of the local population. However, the establishment of bioregions as an agroecological tool would help to generate value added by local cultures as well as have a positive social and economic impact.

At the first stage of establishing bioregions, organic farming is considered to be a tool for associating local products with local natural and cultural values to implement local development strategies. With the development of organic farming practices at the following stages, the paradigm shifts and the bioregion is no longer considered only a tool for implementing the strategies but also an approach to designing new development strategies [6]. The origins of the bioregional approach go back to Italy where the Cilento bioregion established in 2009 was the first one in Europe. Currently, 63 bioregions have been established in Europe, mostly in the southern part of Europe: Italy, Portugal and Spain, yet the need for applying the sustainability approach to territorial development pushes the idea of a bioregion system also towards Western and Northern European countries where the first bioregions are in the process of being established in Latvia, Sweden and Norway [7].

Bioregions are a relatively new concept, and sustainable regional development through the establishment of bioregions requires integrating the principles of sustainability and the theoretical aspects of territorial development, which are associated with the nature of bioregions, into policy documents at all levels. First of all, these are global strategic documents (United Nations (UN) Sustainable Development Goals, Paris Agreement) [8], which stipulate how countries could achieve their long-term goals, as well as European-level strategic and policy documents that directly address climate change and environmental issues (European Green Deal, Common Agricultural Policy) [9]. The present research aims to analyse the strategic policy documents in order to summarize the policy conceptions of sustainable territorial development for the establishment of bioregions.

MATERIALS AND METHODS

The research employed the monographic and descriptive methods for analysing policy documents and research papers, as well as the logical construction method for making findings and drawing conclusions.

RESULTS AND DISCUSSION

Sustainable territorial development increasingly sets the horizon of policymakers as a collective long-term goal, which involves orienting economic progress, resource use, investment and technological progress towards the trajectories that promote

environmental preservation, economic sustainable development, social wellbeing and stability (Assiri et al., 2021). The European Union is a world leader in the implementation of sustainability policies. The set of EU initiatives and goals is oriented towards solving problems of environmental, social and economic sustainability by using various mechanisms: international agreements, legislation and funding programmes. The establishment of bioregions is a promising policy initiative because it recognizes the interconnectedness and interaction of various ecosystems in specific geographical areas and applies a holistic approach to land and resource management that considers ecological and socio-economic factors.

A bioregion (organic district, bio district, ecoregion) functions following the principles and methods of organic production and consumption and is characterised by an “organic” lifestyle, healthy nutrition, human relations and nature protection and also its peculiarities. The principles of sustainability included in any policy document, from the global level to the municipal, overlap with the principles of the bioregion system.

Sustainable agriculture is one of the most important elements in global efforts to achieve food security, preserve natural resources and mitigate climate change. In the context of establishing bioregions, special attention should be paid to international organization activities aimed at agricultural policies that directly relate to food policies, as well as research and practices at the global level. The World Food Summit held in 1996 specified the dimensions of food security: food availability, food access, utilization and stability. It was emphasized that food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life [10].

Due to the growing environmental problems, sustainability problems are also highlighted in global-level policy documents. FAO proposes integrating sustainability problems with various production systems into a unified approach to sustainable food and agriculture [11]. This approach has been designed to support and accelerate the transition to a more sustainable food and agricultural system. The approach is based on the following five principles that balance the social, economic and environmental dimensions of sustainable food and agriculture [12]: 1) increase in resource use efficiency; 2) targeted actions to preserve, protect and improve natural resources; 3) improvements in livelihoods and social wellbeing in rural areas; 4) resilience of people, communities and the ecosystem, especially in the context of climate change and market stability; 5) good governance is essential for the sustainability of natural and human systems. It is also emphasized that our food system has a devastating effect on natural resources and contributes to an increase in greenhouse gas emissions and a decrease in biodiversity [8]. In the Paris Agreement, developed in 2015 and concluded to implement the 1992 UN Convention on Climate Change, the parties involved committed to reducing the release of carbon dioxide into the atmosphere in 2020 to achieve complete neutrality in 2050 and prevent global warming. This goal of climate change could be achieved by observing the principles of justice, sustainable development and poverty eradication [8]. The European Union signed the agreement, and Latvia automatically became one of the parties involved. The literature also highlights the broad responsibility of all actors in the food system, indicating that not only farmers and food suppliers but also distributors, retailers and consumers are responsible for the

environmental impact of the global food system [13]. The mentioned commitments set the framework for national policies, strategies and regulations to be designed.

The 2015 UN resolution “Transforming our World: the 2030 Agenda for Sustainable Development”, setting 17 Sustainable Development Goals (SDGs), is considered the most significant sustainable development document today. The goals set by the resolution need to be achieved through three dimensions: the economy, social aspects and the environment. To achieve balanced development of the three dimensions, it is important to realize the interconnectedness and indivisibility of the Sustainable Development Goals [8]. As the resolution entered into force in January 2016, 193 UN member states committed to implementing the goals by 2030, depending on each member state’s level of development, financial capabilities and real situation. Given the real opportunities and level of development of the countries, each of them chooses a different approach to achieving the Sustainable Development Goals.

The most important Sustainable Development Goals set by the UN with regard to the bioregional approach are as follows: Goal 2 End hunger, achieve food security and improved nutrition and promote sustainable agriculture; Goal 8 Promote sustained, inclusive and sustainable economic growth, full and productive employment, as well as decent work for all; Goal 13 Take urgent action to combat climate change and its impacts; Goal 15 Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification and halt and reverse land degradation, promote its restoration and halt biodiversity loss.

A comparison of the global-level policy documents with those of the European Union (EU) level reveals that the EU recognizes and appreciates the important role of the UN Sustainable Development Goals and the Paris Agreement and bases its strategic and policy documents on the UN documents. As an example, the EU has integrated the SDGs and the Paris Agreement into its policy-making and funding systems, including a commitment to spend at least 30% of the total budget on climate-related activities under the EU Multiannual Financial Framework 2021-2027 [14]. In addition, the EU, using the SDGs as a basis for its policies, has defined five main areas of action: people, the planet, prosperity, peace and partnerships.

The possibility of promoting sustainable business development through the establishment of bioregions is emphasized in the new Action Plan for Organic Production in the European Union [15] presented by the European Commission in March 2021. It defines a bioregion as a geographical area where farmers, the public, tourism operators, non-governmental organizations and municipalities enter into an agreement for the sustainable management of local resources based on organic practices and principles. The European Commission’s vision for the development of rural areas in the EU identifies the challenges and concerns faced by rural areas and highlights some of the potential opportunities that could be used in the rural areas [16]. In a communication, the European Commission has stated that rural areas should play a key role in achieving the EU Farm to Fork strategy and biodiversity targets, which are part of the European Green Deal. The goal set by the European Green Deal envisages achieving a target of 25% of agricultural land under organic farming in all EU Member States by 2030. Accordingly, the related Farm to Fork strategy aims to promote sustainable food systems and is followed by the Action Plan for Organic Production,

with the bioregional approach being one of the actions and encouraging the Member States to support the development of bioregions.

The European Green Deal strategy is designed to serve as a cornerstone in the implementation of the UN Sustainable Development Goals in all EU Member States, reorienting economic coordination in the EU so that the economic policies are aimed at raising the living standard of the population, and the Sustainable Development Goals serve as the basis for all future policies implemented in the European Union [9]. In fact, the European Green Deal is a set of various policy initiatives in the areas of environment, climate, industry, energy, transport, agriculture and sustainable finance, emphasizing their interconnectedness and indivisibility. The Farm to Fork strategy, however, is actually considered the most important component of the Green Deal and sets out a comprehensive plan for transforming the EU food system to make it more sustainable, healthier and more resilient. This strategy is based on the recognition that the current food system is a major contributor to environmental degradation, biodiversity loss and climate change, thereby requiring a transition to a new, more sustainable food system.

The political and legal framework for the establishment and functioning of bioregions closely relates to the Farm to Fork or F2F strategy approved by the European Commission in 2020 as part of the Green Deal, which aims to create a high-quality and environmentally friendly food system and implement the Common Agricultural Policy (CAP) to promote sustainable agriculture, food systems and environmental protection, which would simultaneously foster economic growth in rural areas, while the Biodiversity Strategy 2030 aims to renew and preserve biodiversity in the European Union [9]. The strategies are interconnected and complement each other, bringing together entrepreneurs, farmers and consumers as well as contributing to the inclusion of nature conservation and restoration problems in their economic activity agendas.

The CAP is a policy document designed with the aim of supporting farmers, providing them with a sufficiently high standard of living and fostering the growth of agricultural industries, providing EU residents with quality food at affordable prices, as well as preserving the environment and natural resources. Overall, the CAP is an important policy tool for achieving several of the above-mentioned UN Sustainable Development Goals. The CAP is basically a set of legislation adopted by the European Union that applies to all EU Member States in order to implement this single policy there.

The biodiversity strategy addresses the main problems of biodiversity decline: unsustainable use of sea and land resources, pollution, unsustainable use of natural resources, climate change and the spread of invasive species. The strategy involves specific measures aimed at transforming 30% of Europe's total land and sea area into sustainably and efficiently managed areas and turning at least 10% of agricultural land into areas with high biodiversity by 2030.

The mentioned strategies have been seriously criticized by many EU farmer organizations. Currently, the greatest dissatisfaction among farmers is caused by the goal of the Farm to Fork strategy to increase areas with restricted agricultural activity, and it is not clear how the strategies are going to affect the overall performance of the agricultural policy and what compensatory measures for farm losses need to be taken; there are objections to overly ambitious plans to increase areas under organic farming.

The bioregional approach can balance the broader public interest in preserving natural resources and ecosystem services with the goals of economic growth and cultural development in local communities. This connection is also revealed in the goals of the Common Agricultural Policy: 1) to provide a stable, affordable food supply; 2) preserve the rural economy by retaining jobs in agriculture, the agri-food industry and related industries; 3) protect the quality of food and health [17].

At a lower level in the hierarchy of policy documents, it is important to understand whether the goals and measures referred to in the global and EU policy documents are integrated into the national strategic documents. The Sustainable Development Strategy of Latvia until 2030 (Latvia 2030) and National Development Plan of Latvia for 2021-2027 (NDP2027) are the hierarchically highest long-term strategic document in Latvia [18], it was adopted in 2018 and defines the vision of sustainable development in the country over the next decade. It includes objectives such as economic growth, social cohesion, environmental protection and good governance practices. To a certain extent, the Latvia 2030 strategy integrates the UN Sustainable Development Goals, the Green Deal goals and the CAP goals. As an example, it could be mentioned that both the CAP and Latvia 2030 recognize the role of innovation and research in promoting sustainable agriculture and rural development, with the CAP providing funding for research specifically in the field of agriculture in the European Union, while Latvia 2030 provides funding for research in all fields in Latvia.

Not only the policy documents that refer to regional and territorial development but also to organic farming are essential in establishing bioregions. The possibility of fostering sustainable business development through the establishment of bioregions is emphasized in the new EU Action Plan for Organic Production, which was presented by the European Commission in March 2021. The plan defines a bioregion as a geographical area where farmers, the public, tourism operators, non-governmental organizations and municipalities enter into an agreement for the sustainable management of local resources based on organic principles and practices. In Latvia, agricultural activity, including organic farming, is governed by the Law on Agriculture and Rural Development [19], which entered into force on 24 May 2004. In addition to the national legislation, EU and national-level policy documents are also important, as they set a framework for strategic documents on agriculture in Latvia to plan support payments for farmers engaged in organic, integrated or conventional farming.

CONCLUSION

Many multilateral UN and EU agreements binding on Latvia are aimed at sustainable development, preserving biodiversity and mitigating climate change. At the same time, the agreements reduce opportunities for individual regions to use their full potential for economic growth. These concerns have been a major item in the 2030 Agenda for Sustainable Development of the United Nations Development Programme, which aims to guide political decisions to combat inequality and challenges in the world in various dimensions of sustainable development, incl. social, economic and environmental. The preservation of and improvement in the rural environment is one of the main policy requirements of the European Union for the Member States.

The bio-region approach can balance the interests of a wider public in preserving natural resources and ecosystem services with the local community's goals of economic

growth and cultural development. This connection is also revealed in the objectives of the EU Common Agricultural Policy. The influence of policy-making at all levels is essential to ensure the sustainable use and preservation of natural resources and contribute to regional cooperation and sustainable development. Therefore, it is important to recognize that the concept of bioregions includes the strategic goals specified in the international, EU and national sustainability policy documents and can contribute to their achievement.

The latest developments in designing a concept of bioregions in Latvia relate to developing European Commission guidelines on identifying and establishing bioregions. Implementing the EU Green Deal, organic farming also tends to grow in Latvia every year, while consuming more material and human resources, which means that the farmers also need to supplement their knowledge of the basic requirements outlined in EU and national legal acts. This could reduce the risk of a legislative burden and attract potential organic farmers, which would definitely be a step towards achieving the sustainability goals.

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**THE FUNDAMENTALS OF CRISIS COMMUNICATION AND THEIR
APPLICATION IN THE INTERNATIONAL INSTITUTIONAL
COMMUNICATION STRATEGY. COMPARATIVE ANALYSIS: THE
PRESIDENTIAL ADMINISTRATION OF THE UNITED STATES OF AMERICA
VERSUS THE EUROPEAN COMMISSION**

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ABSTRACT

The systematic manipulation of information and disinformation has been deployed by the Russian government as an operational tool in its attack on Ukraine. The spread of disinformation by the Russian government and its allied actors, as well as the actions undertaken in response by the Ukrainian government, allied governments, and international organizations, provide an important perspective and lessons on how crisis communication.

The general objective of the research is to conduct a comparative analysis of online communication between the United States Presidential Administration and the European Commission.

For this study, 10 data sets were collected and analyzed for the White House and the European Commission, respectively. All data are collected over time periods originating on February 24, 2022, the date of the illegal invasion of Ukraine. Many of these data sets focus on the immediate aftermath of the conflict's onset, up to March 1, 2022, to emphasize the importance of a rapid response to a situation in a highly dynamic context. In this regard, the research is focused on eight key indicators, which will be presented in detail in the case study.

Keywords: crisis communication. manipulation, disinformation

I. INTRODUCTION

The systematic manipulation of information and disinformation has been employed by the Russian government as an operational tool in its attack on Ukraine. The spread of disinformation by the Russian government and its allied actors, as well as the actions taken in response by the Ukrainian government, allied governments, and international organizations, provide an important perspective and lessons on how crisis communication should be managed and how to counteract false and misleading content.
[5]

Russia's aggression against Ukraine is notable for the extent to which it is executed and shared online. While social media has played a role in previous wars, for example, Russian soldiers were identified on the battlefield in the Donbas region during the 2014 invasion, and videos from the Syrian war were shared on TikTok, the large-scale invasion of Ukraine has illustrated how social networks are changing the way war can be

chronicled, experienced, and understood. (Svetoka, Svetlana, Ionatamishvili, Engra, (2022). This is largely due to the rapid increase in internet coverage and the use of social networks (75% of Ukrainians use the internet, and 89% of the population is covered by at least 3G mobile technology). In comparison, when the Russian Federation invaded Ukraine in 2014, only 4% of Ukrainian mobile subscribers had access to 3G or faster networks, and during the Syrian war in 2015, only 30% of the Syrian population was online. Partly due to this dynamic, the ongoing war in Ukraine has also clarified the extent of the disinformation threat. While the use of disinformation as a weapon has always existed, the social network landscape has multiplied its coverage and potential penetration. [1]

The disinformation surrounding the large-scale invasion of Ukraine by Russia in February 2022 marked an escalation of Russia's long-standing information/intelligence operations against Ukraine and open democracies. Accompanied by increased restrictions on political opposition in Russia, disinformation narratives progressed from propaganda and historical revisionism – for example, insisting that Crimea has always been Russian following Moscow's annexation in 2014 – to false claims about neo-Nazi infiltration in the Ukrainian government and conspiracy theories about US/Ukraine biological weapons labs. These efforts represent some of the ways the Russian government and its allied actors use disinformation as a weapon to distract, confuse, and undermine opponents.

The spread of disinformation around the invasion of Ukraine by Russia reflects broader challenges related to changing how information is produced and disseminated. Platform design and algorithms can amplify the spread of disinformation by facilitating the creation of echo chambers and confirmation bias mechanisms that segregate the news and information people see and interact with online; information overload, confusion, and cognitive biases play a role in these trends.

A particular challenge is that people tend to spread lies further, faster, deeper, and wider than the truth; this is especially the case with false political news. [2]

Another study found that false information on Facebook attracts six times more engagement than real posts. Additionally, feedback loops between platforms and traditional media can serve to further amplify disinformation, increasing the risk that it can be used to deliberately influence public conversations, as well as to confuse and discourage the audience.

The flow and disruptions caused by Russian disinformation have significantly increased since the invasion in February 2022. In turn, Ukraine's response to the Russian disinformation threat has been based on the progress made in strengthening the informational and media environment since 2014 and in establishing mechanisms to directly respond to informational threats. These include efforts to provide accurate information, to ensure that media organizations can continue operations, and efforts to combat threats posed by state-linked Russian media. [3]

Internationally, governments quickly recognized the disinformation threat in the context of Russia's large-scale aggression against Ukraine. In response, they have highlighted the narratives and tools used by the Russian government, sanctioned media and individuals, and supported national media environments, as well as in Russia and Ukraine. International organizations have similarly executed fact-checking and debunking programs, as well as provided inter-organizational mechanisms for information exchange and technical support. [3], [4]

That said, the lessons from governmental responses to the disinformation threat in the early months of the war will not necessarily dictate what should be done in

peacetime due to the complicated and urgent circumstances generated by the war. As Russia's war of aggression against Ukraine continues, finding the balance between countering disinformation while at the same time considering the facilitation of press freedom and a whole-of-society approach to strengthening informational ecosystems and democracy will need to be considered. [5]

II. Research methodology

II.1 Research objectives

II.1.1. The general objective of the research

The overall objective of the research is to conduct a comparative analysis of online communication between the Presidential Administration of the United States of America and the European Commission.

II.1.2. The specific objectives of the research

The specific objectives of the research are:

1. Comparative analysis of online public communications: This will analyze the content of online public communications issued by the Presidential Administration of the United States of America and the European Commission, identifying differences and similarities in strategies and messages conveyed.

2. Comparative analysis of the evolution of the number of fans: This will study the evolution of the number of fans and followers on the social media platforms of the Presidential Administration of the United States of America and the European Commission, to assess the impact of online communication on the audience.

3. Comparative analysis of reactions: This will examine the reactions received by the online communications issued by the two institutions, including the number of likes, shares, and comments, to understand the level of engagement and commitment of the audience.

4. Comparative analysis of comments: This will conduct an analysis of the comments received on social media platforms, highlighting the main themes addressed and the sentiments associated with them, with the aim of assessing the public's perception of the communications of the two institutions.

5. Analysis of the sentiment indicator: This will calculate the sentiment indicator of online communications, using natural language analysis methods, to assess the public's perception and reactions to the messages transmitted by the Presidential Administration of the United States of America and the European Commission.

II.2 Research Method

The chosen method for this study was the analysis of qualitative information. This method was selected because the case study aims to find out how, if at all, the current information of communication professionals, representatives of established institutions, differs from existing research and key theories of crisis communication.

For this study, 10 sets of data for the White House and the European Commission were collected and analyzed. All data are collected over periods of time originating on February 24, 2022, the date when the illegal invasion of Ukraine began. Many of these data focus on the immediate aftermath of the conflict's start, that is, up to March 1, 2022, to emphasize the importance of a rapid response to a situation in a very fast-paced dynamic. In this regard, the research is focused on eight key indicators, which will be presented in detail in the case study.

III.3. Data analysis and interpretation of results

III.3.1 Comparative Analysis of Online Public Communications

The chart below presents a comparative analysis of the online public communications issued by the public communication departments of the White House and the European Commission, focusing on the conflict in Ukraine. From the data shown below, it is clear that the White House's communication department was much more active in terms of online postings, with the number of communications being almost three times higher, at 1773 posts, while the European Commission has 660 posts:

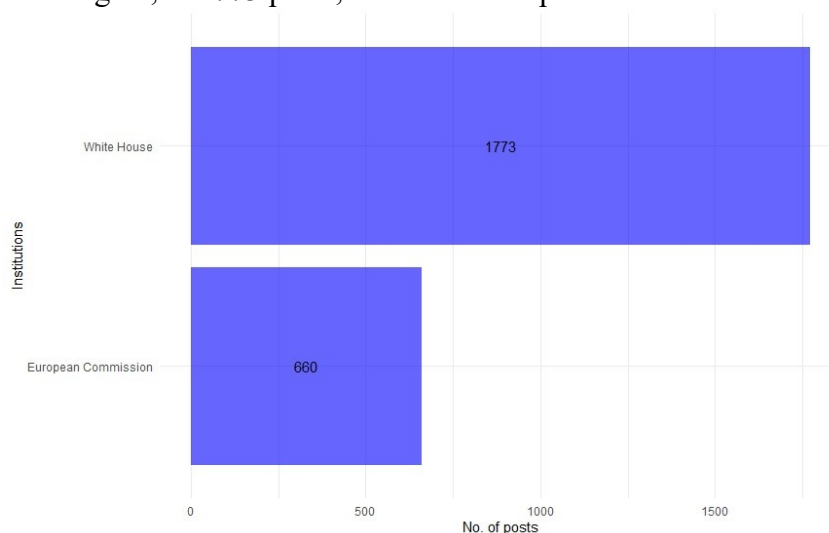


Figure 3.1. Comparative Analysis of Online Public Communications for the White House and the European Commission

At the same time, the White House remained active online throughout the entire conflict period, and almost a year after the war, on February 20, 2023, it repeatedly posted aspects of President Joe Biden's visit to Ukraine:



Figure 3.2. Aspects of Joe Biden's Official Visit to Ukraine on February 20, 2022 (Twitter Post)

Similar to this, the European Commission has actively supported Ukraine in the online environment, with the institution's official Twitter account consistently maintaining a header image that symbolizes support for this nation:



Figure 3.3. The header photo of the official page of the European Commission

III.3.2 Comparative Analysis of the Evolution of the Number of Fans

The evolution of the number of fans of the two analyzed institutions fluctuated, in both cases, as also presented in the chart below:

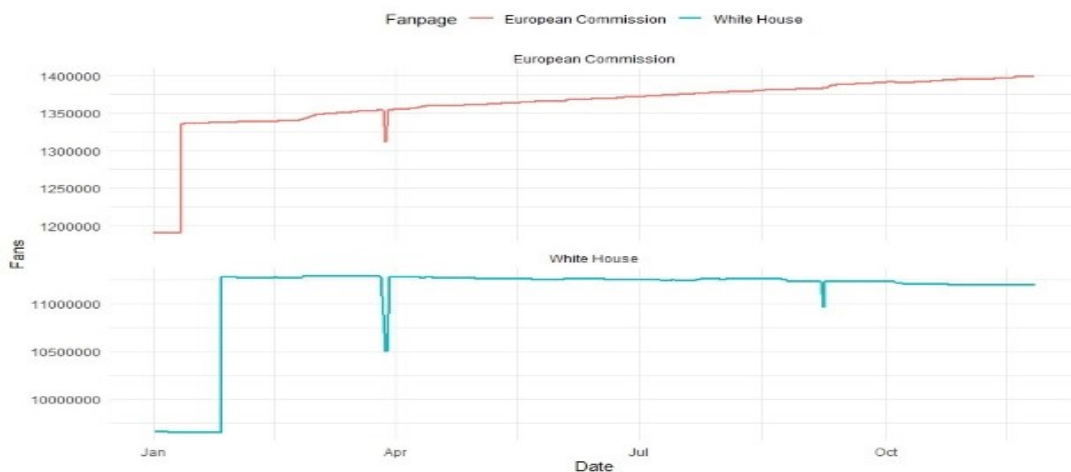


Figure 3.4. The evolution of the number of fans of the White House (above), and the European Commission (below)

Although the White House enjoys a much higher number of fans, about 10 times more compared to the European Commission, from the chart above it can be observed that the number pertaining to the European Commission is steadily increasing since April 2022, while the number pertaining to the White House is consistently decreasing from the same period. Regarding concrete figures, the White House "enjoys" 8.6 million followers on Twitter, while the European Commission only has 1.8 million followers, and on the official Facebook account, the White House has 11 million followers, but the European Commission only has 1.4 million followers.

III.3.3 Comparative Analysis of Reactions

The figure below presents a comparative analysis of reactions to the posts of the two institutions, with a more detailed situation for the first week of the illegal invasion of Ukraine being presented at the bottom:

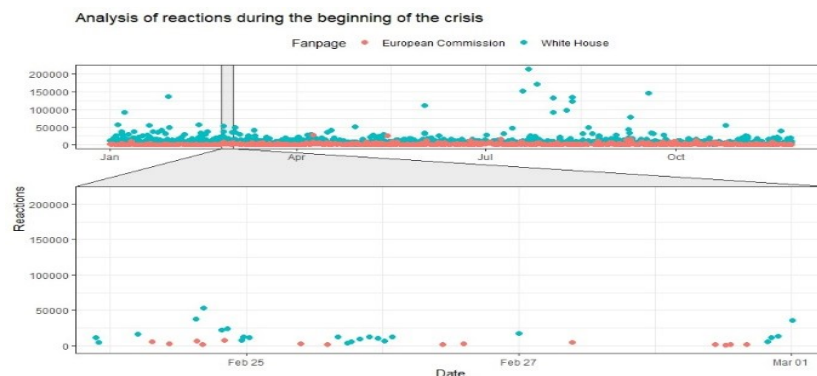


Figure 3.5. Comparative analysis of reactions on the official pages of the institutions with detail regarding the first week of the conflict outbreak

From the analysis of the developments presented in the figure above, it is evident that on the date the conflict began, 24.02.2022, the White House's fanpage recorded a high number of reactions (over 50,000), then the number of reactions decreased until 01.03.2022, the date on which the US Government announced the first package of military support and the first sanctions directed towards Russia and its economy. Regarding reactions on the European Commission's fanpage, their evolution was constant, with no significant numbers recorded in the first week of the conflict, nor throughout the entire year. For the rest of the year, reactions on the White House's fanpage showed fluctuating values, depending on the announcements and decisions made by the US Government regarding the support provided to Ukraine or the official visits that took place. [6]

III.3.4 Comparative Analysis of Comments

The chart below shows the evolution of the number of comments on the fanpages of the two institutions. Similarly, the focus is on the first week of the invasion outbreak, but the evolution for the entire period of the year is also presented.

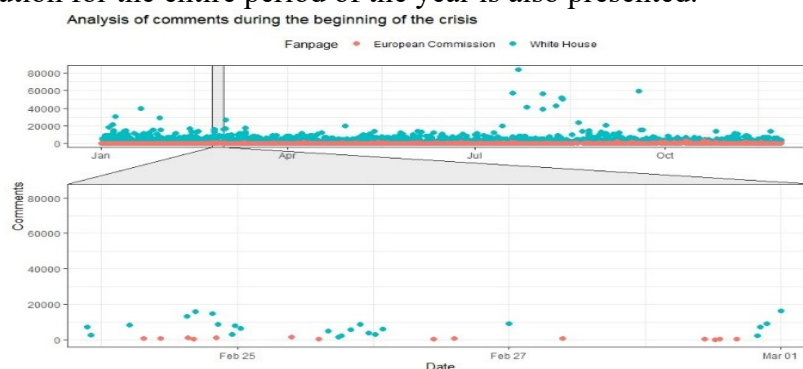


Figure 3.6. Comparative analysis of comments posted by users on the official pages of the institutions with detail regarding the first week of the conflict outbreak

An increasing trend in the number of comments posted on the official pages of the two institutions is recorded on 24.02.2022, being much higher in the case of the White House, which approaches the threshold of 20,000, while the number pertaining to the European Commission's pages is much lower. In the case of the White House, in the first week of the conflict, the trend is descending until 01.03.2022, when it again approaches the threshold of 20,000, and throughout the year, the peak is reached in July 2022 when

it exceeds 80,000. Clearly, followers of the official pages of the European Commission are not as active in terms of posting comments.

III.3.5 Sentiment Indicator Analysis

The chart below shows the evolution of the sentiment indicator for the two institutions throughout the year 2022. Throughout the past year, the indicator has more pronounced values for the White House, obviously, while it becomes even more amplified towards the end of 2022. In the case of the European Union, the maximum value of 0.23 is reached in February 2022, while for the White House, the highest value of 0.39 is reached in April 2022.

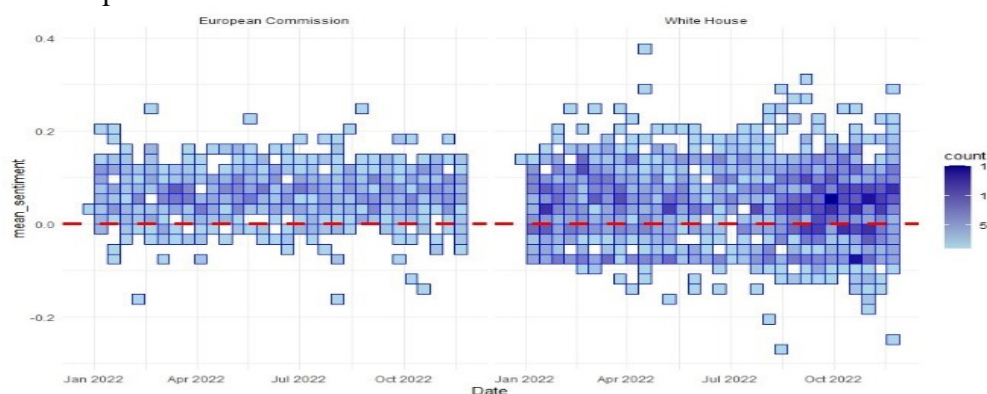


Figure 3.14. Comparison of the sentiment indicator evolution analysis

IV. CONCLUSIONS AND DISCUSSIONS

Although these strategic communication efforts did not prevent Russia from invading Ukraine, the publicity of information made it more difficult for the government to hide its intentions or to confuse the public discourse through disinformation campaigns, and likely supported the quick and relatively unified response. This proactive communication is a clear illustration of prevention or pre-bunking, an approach that seeks to inoculate the public against potential disinformation and misinformation. Essentially, it's about warning people about the possibility of being exposed to manipulative information, with the idea that such activities will reduce susceptibility to disinformation. [7], [8]

Furthermore, within the European Commission, the StratCom Task Force was created shortly before the invasion to support the public communication function in debunking and countering Russian disinformation campaigns. [9] It operates across different government organizations, producing strategic communication content to share online and offering advice to up to 30 NATO and EU allies. The European Commission also sought support from the United Kingdom, which relies on the Counter Disinformation Unit, part of the Department for Digital, Culture, Media and Sport, to directly interact with social media platforms to flag what it has identified as false and dangerous content published on platforms. [10], [11] The decisions to remove content ultimately lie with the platform coordinators. Another good example is Canada, which, shortly after the invasion, pledged 3 million USD to counter disinformation related to Russia's war of aggression against Ukraine. [10]

The US Congress's emergency spending package includes 120 million USD to counter Russian disinformation and propaganda. Similarly, the United States' Global Engagement Center has been tracking and countering disinformation narratives well

before Russia's invasion. In addition to debunking narratives related to the Russian government, the Global Engagement Center provides detailed analytical and explanatory content on Russia's efforts. It also shares information with other government agencies, as well as those of its allies. [12]

The two institutions have attempted to develop a more constructive engagement through social media platforms, either by interacting with content creators or by offering guidance to platforms. The White House, for example, has informed TikTok, YouTube, and Twitter creators about Russia's war in Ukraine, in a manner similar to how it informs journalists. [13] Moreover, it highlighted which Russian media organizations spread disinformation but did not force platforms to ban them. Australia and the United Kingdom, on the other hand, have followed the European Union's lead and explicitly asked social networks to block Russian state-linked services and content providers. On March 22, European Commission President Ursula von der Leyen called on platforms to vigorously apply policies against content that violates their laws and service conditions, emphasizing that many accounts are directly linked to the Russian government.

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THE ROLE OF THE EU COMMISSION'S COMMUNICATIONS ON THE LEGAL INTERPRETATION OF WASTE MANAGEMENT REGULATIONS

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ABSTRACT

In the field of environmental protection, the European Union has shared regulatory competence, which gives it the right to legislate and adopt legally binding acts in this field. The member states of the European Union know and recognize the importance of Union regulations, as they are regulated in art. 288 of the TFEU. The jurisprudence of the CJEU shows that compared to the instruments listed in Article 288 of the TFEU, practice has led to the emergence of a whole series of unique documents, such as: inter-institutional agreements, resolutions, conclusions, communications, green papers and white papers. The European Commission, in terms of environmental protection, but not only, expresses its views on Union policies and legislation through its communications to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

This article, through the study carried out on 114 communications of the Commission elaborated between 1999-2023, investigates the role they have in establishing environmental policies, in the elaboration of new normative acts or the modification of existing ones, but also their role in the interpretation and application of existing legislation. A situation generated by three communications of the Commission is highlighted through which it, by imposing the issued interpretations, determines legal effects in the field of waste management legislation. In conclusion, both the new trend of legislation at the Union level through soft law and the new role offered to the Commission's communications are discussed. It is concluded that the increasingly blurred demarcation between hard law and soft law has effects including in the field of waste management and that it cannot be left up to communications to identify a correct definition or explain it in a form that must be known by those to whom the main normative act in question is addressed.

Keywords: Environmental legislation, European Union, EU Commission Communications, Waste management

INTRODUCTION

One of the main concerns of today's society in terms of environmental protection is waste management. The impact of waste on the environment is a major one and closely dependent on its quantity and danger. In a recent statistic of the European Environment Agency (EEA) it is shown that „The total waste generated per capita increased in 16 Member States (21 of the 34 countries with available data) and decreased in the rest”

[1]. Therefore, at the European Union (EU) level, special attention is paid to issuing regulations to ensure the fulfillment of the provisions:

- Art. 11 of the Treaty on the Functioning of the European Union (TFEU) which requires environmental protection requirements to be "integrated into the definition and implementation of Union policies and actions, in particular to promote sustainable development" [2]
- Art. 191 para. (1) of the TFEU, which establishes the general objectives of EU environmental policies
- EU Environment Action Program issued starting from the year 1973. The latest EAP is established by Decision (EU) 2022/591 [3]
- the sustainable development objectives contained in 2030 Agenda for Sustainable Development [4] and in Decision (EU) 2022/591.

Regarding the powers of legislation, art. 4 of the Treaty on the Functioning of the European Union (TFEU) establishes at para. (2) letter (e) that, in the field of the environment, they are shared between the Union and the member states. This means that the Union and the Member States can legislate and adopt legally binding acts in this area, but the Member States can exercise their competence to the extent that the Union has not exercised it [5]. EU member states have the obligation to comply with the provisions of the TFEU, and with regard to the provisions of art. 288, they must pay special attention to binding legislative acts, namely the regulation, the directive and the decision. Art. 291 TFEU requires that member states take "all the necessary domestic law measures to implement the legally binding acts of the Union". Along with the binding acts, for the exercise of the powers of the Union, at the level of the European institutions, non-binding acts such as recommendations and opinions can be adopted, (art. 288 TFEU).

The jurisprudence of the CJEU shows that compared to the instruments listed in Article 288 of the TFEU, practice has led to the emergence of a whole series of unique documents, such as: inter-institutional agreements, resolutions, conclusions, communications, green papers and white papers.

This article analyzes the role and legal effect of the documents issued at the EU level by the Commission and which bear the name "communication" and which concern aspects of waste management, which is part of the shared field of competence established according to art. 4 para. (2) let. (e), namely environment.

MATERIALS AND METHODS OF THE RESEARCH

The research refers to the legal effects of the EU Commission act namely Communication, in the field of waste management.

In carrying out the research:

- the provisions of the TFEU and the specialized literature on the EU's exclusive and shared legislative competences were analyzed
- the existing legislative database on the EU legislation portal was queried: <https://eur-lex.europa.eu/> in the form presented in English

- the jurisprudence of the CJEU was analyzed regarding the new instruments that appeared and are used in the regulation in the analyzed field - waste management.

When querying the legislative database, the "Advanced research" method was chosen and within it the "EuroVoc thesaurus" tool with the "Include sub-levels of selected narrow terms" option from the "Theme" section. In the identified section "(52) ENVIRONMENT" the following terms were selected: "waste management" from the subsection "(5206) environmental policy" and "waste" from the subsection "(5216) deterioration of the environment" (Figure 1).

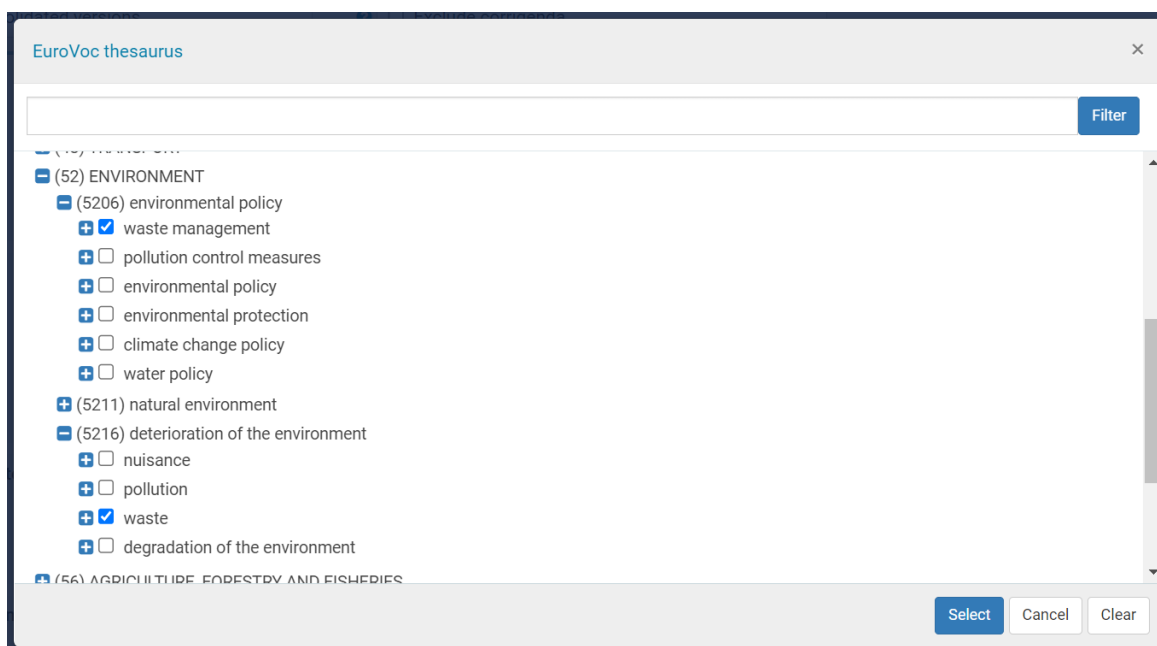


Fig.1. Selecting query terms

Subsequently, the results obtained were analyzed by applying the refinement criteria "Legal acts" from the classification "By collection" and "Communication" from the classification "By type of acts".

In the analysis carried out on the documents thus identified, the application of legal methods of interpretation and comparative analysis were taken into account.

RESULTS AND DISCUSSIONS

The search results revealed that in the researched field, the platform provides 8235 documents that meet the search requirements, among which:

- in the "By collection" classification, 1242 documents are included in the "Legal acts" category, and the rest are included in 5 other different categories (Figure 2) and
- in the "By type of acts" classification, 114 documents fall into the "Communication" category (Figure 3).

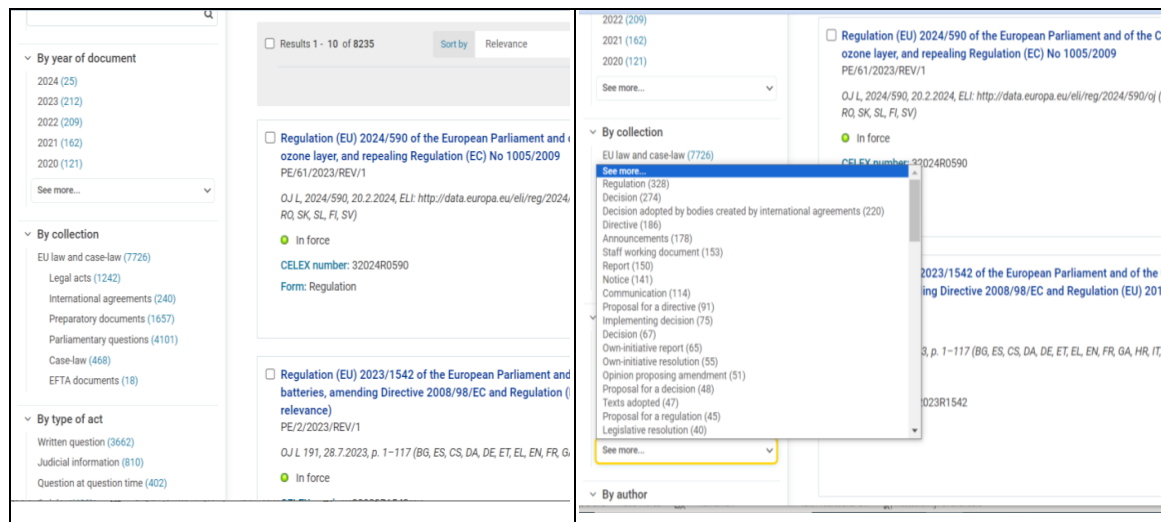


Fig.2. Query results „By collection”

Fig. 3 Query results „By type of acts”

The Legal acts category, previously identified, includes only 2 Communications, of which, (i) Commission Opinion of 18 October 2010 relating to the modified plan for the disposal of radioactive waste arising from the Georges Besse II enrichment facility, located at the Tricastin site in France, in accordance with Article 37 of the Euratom Treaty [6], and (ii) Notice published under Article 19(3) of Council Regulation No 17 - Case 34.950 - Eco-Emballages [7]. Analyzing the title of the 114 Communications highlighted under the "By type of acts" classification criterion, we find that the 2 communications are also found in this category.

A first conclusion that can be drawn from the analysis of the previous information is that of the 114 Communications aimed at waste management, 2 are legislative acts and the remaining 112 are not. This statement is consistent with the provisions:

- art. 289 of the TFEU, which shows that mandatory acts (regulation, directive or decision) can be adopted in the ordinary or special legislative procedure, and with those of

- art. 290 para. (1) of the TFEU which stipulates that through their provisions the Commission can be delegated „the power to adopt non-legislative acts with a general scope of application, which complete or modify certain non-essential elements of the legislative act". In this situation, the "objectives, content, scope and duration of the delegation of powers" must be expressly defined. The essential elements of a certain field are reserved for the legislative act and cannot therefore be the subject of the delegation of powers."

To make it easier for EU citizens to understand the regime and legal power of documents issued at EU level, in the description "Types of documents in EUR-Lex", they are presented, with brief information and in tabular form (Types of documents in EUR-Lex - EUR-Lex (europa.eu)). The communications (COM) can be found, as an explanation, under "Sector 5 Preparatory documents" as documents issued by the European Commission either as legislative proposals, and related documents or as Other COM documents, along with green papers, white papers, reports, etc. These confirm

the hypothesis that the Communications do not have a legislative character, being produced during the various stages of the legislative and budgetary process.

Analyzing the content of these communications, three of them particularly attract our attention. Starting from the problem generated by the different interpretation of the notions contained in the legislation specific to waste management, highlighted both in the specialized literature [8] and in the jurisprudence of the CJEU, these communications bring clarifications on the meaning of the terms used, and in particular the notion of waste. The thematic strategy on waste prevention and recycling required the Commission to present a "communication containing guidelines based on the jurisprudence of the European Court of Justice and to resolve the issues related to by-products in the relevant sectors of the industry, regarding the cases in which by-products should or should not be considered waste, to clarify the legal situation for economic agents and competent authorities." [9]

The first Communication we will refer to is the one identified under the code "COM(2007) 59 final" issued by the Commission to the Council and the European Parliament [10]. From the content point of view, it is clear from the title that it is a „Interpretative Communication on waste and by-products“. From the beginning, the importance and challenges determined by the correct interpretation of the notion of waste are emphasized, showing that, although this term has been used for 30 years in legislation, "there are numerous problems regarding the interpretation of this definition".

At the time the Communication was issued, Directive 2006/12/EC, the Waste Framework Directive [11], was in force, establishing the legal definition of waste in Article 1. The problem generated by the meaning of the notion of waste can be found including in art. 8 para. (2) point (iv) of Decision 1600/2002/EC establishing the sixth community action program for the environment, which requires the clarification of the distinction between waste and non-waste, i.e. the legal and technical clarification of the two terms [12]. Moreover, it is stated in the communication that „The evolving jurisprudence and relative absence of legal clarity has made in some cases the application of the definition of waste on this issue difficult for competent authorities and economic operators alike.“ [10]. Responding to the requirement to clarify the two notions, the Commission details and explains the jurisprudence of the CJEU until then, but clearly specifies that „The definitions do not represent a legal interpretation of the European Commission and are not destined to be used outside of the context of this Communication“ [10].

We appreciate in this context that this communication, although it contributes to the harmonization of the interpretation of the legal provisions regarding waste, falls entirely within the classification of an act without a legal character.

After the repeal of Directive 2006/12/EC by Directive 2008/98/EC [13], the problem of correctly establishing the notion and type of waste remained, especially in terms of the distinction between hazardous and non-hazardous waste. The need has arisen again to clarify the situations and conditions under which waste should be considered hazardous, an initial decision that is considered "fundamental in the entire waste management chain, from generation to final treatment." [14]

Thus, in 2018, the Commission, through its communication of April 9, 2018, elaborates technical guidelines regarding the classification of waste [14]. What is new compared to the previous clarifications, is the fact that it is stipulated from the introductory part that the document:

- „provides clarifications and guidance to national authorities, including local authorities, and businesses (e. g. for permitting issues) on the correct interpretation and application of the relevant EU legislation regarding the classification of waste” and
- „provides clarifications in accordance with the existing EU legislation and taking into account guidelines on waste classification from various EU Member States. This technical guidance may be updated as necessary in light of the experience with the implementation of the EU relevant legislation. The guidance provided in this Notice is without prejudice to the interpretation which may be given by the Court of Justice of the European Union (CJEU). The views expressed in this technical guidance cannot prejudge the position that the Commission might take before the CJEU”.

Thus, although theoretically we are in the presence of a document that does not fall into the category of Legal acts, its provisions must be taken into account by the authorities when evaluating the activity of a commercial agent, either at the time of requesting the issuance of an authorization, or later, when verifying compliance with existing obligations in Legislation in force.

More recently, as a result of the large amount of hazardous waste generated by households, the obligation to collect them separately was imposed. Through COM 375 (2020), the Commission draws up guidelines on the Separate Collection of Hazardous Waste Generated by Households, "to assist Member States and facilitate their implementation of the separate collection obligation provided for in Article 20 paragraph (1) of Framework Directive regarding waste" [15]. Analyzing the content of the communication, we notice that it also falls into the category of document that does not constitute Legal acts. But, what is important from the perspective of this study, is the fact that this communication specifies that "Additional guidelines on waste classification and the assignment of waste codes can be consulted in the Commission's Communication on technical guidelines on waste classification" [15], i.e. COM 124/2018, previously analyzed.

Jurisprudentially, at the CJEU level, it has been shown since 2016 that at a general level there has been a change in "the legislative landscape in the Union (and not only), which is marked by a proliferation of various non-binding legislative instruments" and that "there are rules that generate important legal effects and which lie beyond the binary logic binding/non-binding legal norms." [16].

In the mentioned case, analyzing the issue of the emergence of non-binding legal instruments, the Advocate General M. Bobek states in his opinion that (pc. 81-83):

„There is a wide array of instruments in (not only) EU law, under various names and forms (guidelines, communications, codes of conduct, notices, recommendations, opinions, interinstitutional agreements, conclusions, statements, resolutions and so on), that are generically referred to as ‘soft law’. They can be adopted in any field, at all possible stages of the decision-making process, whether that is early, upstream consultation of the stakeholders or downstream implementation of legislative acts. Thus, those instruments can equally be pre-legislative or post-legislative.

There are perhaps two elements on which there is a general agreement in the otherwise very different approaches to such soft law instruments: first, soft law does not easily fit within the binary, black and white distinction between binding and non-binding legal effects. Second, in the past decade or two, it has been on the rise, becoming increasingly more frequent than before.

Consequently, the issue of soft law proliferation and (the absence of) the judicial review thereof have been discussed not only in scholarly literature, but also by the institutions of the EU.”

Although we would have expected that in time the distinction of legal effects would have been resolved by the issuers of the acts themselves, the discussions regarding Legal effects, binding force, or binding legal effect regarding EU soft law are still topical [17]. In the specialized literature it is stated that „the fine line between binding and non-binding norms has thus been blurred, as such endangering EU law, at least to a certain extent” [18] [19]. It is also shown that „authorities implementing and applying soft law are faced with the more practical problem of the bindingness of these measures in a given case” [20].

The analysis carried out on the communications aimed at waste management allows us to state that also in the case of these documents, legal problems may arise from the perspective of practical application. This is due to the fact that at least in the primary point of understanding and applying a legal norm, i.e. the meaning of the notion with which the legislator works and from the perspective of knowledge of environmental legislation, the average informed people do not have the skills necessary for a correct and complete navigation between the multitude and complexity of the acts issued. If, in addition to the "classical" documents categorized as mandatory, there is also the obligation to know those that are not mandatory, surely the positive effects expected to occur on environmental protection will not occur. We believe that it cannot be left to the complex communications regarding waste management, the identification of a correct definition or its explanation in a form that must be known by those to whom the main normative act in question is addressed.

CONCLUSION

Although we agree that the problem of waste, or rather its correct management, is one of great importance, the complications of correctly identifying the mandatory rules in this area do not help. The large number of normative acts was, and is, necessary as a result of the technical identification of different methods of separation, collection, reuse, processing or storage. The minimum legal knowledge that any natural person or the legal representative of a legal person is supposed to possess usually boils down to the must/must not binary, i.e. mandatory/non-mandatory.

The normative transformation at the EU level regarding the importance of soft law has, and will have, an effect on the legislation of the member states, especially with regard to the elaboration of application and/or implementation rules.

Even the proceedings before the courts can be affected, as it has been demonstrated, by the increasingly blurred demarcation between hard law and soft law.

We conclude that these aspects should be clarified as soon as possible, not only at the jurisprudential level, but also at the basic legislative level (TFEU, TEU) in order to ensure a stability of the legal relations/reports with which they intersect.

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GUIDING PRINCIPLES OF THE CROATIAN CHILD PROTECTION SYSTEM

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ABSTRACT

Protection of children is guaranteed by the Constitution of the Republic of Croatia and special protection is guaranteed to particularly vulnerable groups of children – children with disabilities, socially neglected children, orphans and minors neglected by their parents. According to the UN Convention on the Rights of the Child (Art. 18 para 1) parents are primarily responsible for the development, growth, upbringing and protection of the child. Additionally, Croatian Family Act prescribes that parents above all have the right, duty and responsibility to live with their child and take care of him/her, and help is provided and interventions are made only when is needed. Therefore, the state intervention, i.e. authority of the state to intervene in family life of children and their parents takes place when parent(s) are not able to exercise parental care independently or in a satisfactory manner and child's rights in the family are endangered or violated. Aim of such interventions are protection of the child's rights and welfare. Protection of a child without adequate parental care is provided by the institute of guardianship. Child protection is also emphasized when it comes to the child's right to a standard of living, especially concerning maintenance of a child and temporary maintenance institute. In cases of poverty, when child's family doesn't have enough resources to meet basic life needs, various forms of assistance to children and families – e.g. different forms of benefits as well as social services, the social welfare system aims to provide. Having in mind these crucial areas of Croatian child protection system in this paper we will present and analyze fundamental guiding principles which derive from relevant legal documents aiming to emphasize the value and importance of child protection in the Croatian family law system as well as to indicate some challenges in implementation of those principles and give some proposals *de lege ferenda*.

Keywords: child protection, rights of the child, state intervention, family life, parental care

INTRODUCTION

Protection of children as the most vulnerable members of the society is the duty of all. This is the primary obligation and responsibility of the parents, secondarily of society as a whole, i. e. the state. [1] [2] Children are entitled to many human rights recognized by numerous international documents and national regulations, but children also have special rights intended for them as the only addressee, namely the rights of children. [3] Children's rights as a subgroup of human rights, can be observed as specific children's needs in the period of their growth and development into an adult individual. Satisfying

these children's needs during this long period has the meaning of both child protection and the maturation of the child in a safe, healthy and stimulating environment. Thus, the needs of the child have been translated into the legal norms, and therefore children's rights are considered a special category of rights intended and belonging exclusively for, i.e. to children. We agree with the authors who emphasize that children's rights should be seen as one of the highest values and a part of public order. [3] Therefore, in this paper, we will analyze the system of child protection in the Croatian legal system, starting from the international and domestic legal framework, in order to: a) single out the fundamental principles on which the system of protection of this particularly vulnerable social group dependent on adults is based, b) emphasize the importance of implementing the aforementioned principles in practice and finally, c) point out the possibilities for improvements of implementation of those principles *de lege ferenda* all with the aim of strengthening child protection as one of the fundamental values in the legal system.

INTERNATIONAL AND DOMESTIC LEGAL FRAMEWORK

In this part of the paper, we will analyse the relevant provisions of the Constitution of the Republic of Croatia (hereinafter: Constitution), global and regional legal documents, i.e. international treaties of which the Republic of Croatia is a state party and which are component of the domestic legal order and have primacy over domestic law according to the Art. 134 of the Constitution, as well as the relevant provisions of the national legislation. There are several provisions of the Constitution that we would emphasize as particularly important. Thus, the Constitution prescribes that "family shall enjoy special protection of the state" (Art. 62 para 1) as well as that "the state shall protect maternity, children and young people..." (Art. 63). Considering parent's rights, duties and responsibilities provision of Art. 64 para 1 of the Constitution states that "parents shall bear responsibility for the upbringing, support and education of their children, and they shall have the right and freedom to make independent decisions concerning the upbringing of their children". Additionally, "parents shall be responsible for ensuring the right of their children to the full and harmonious development of their personalities" (Art. 64 para 2). The Constitution also prescribes that children with physical and mental disabilities and socially neglected children shall be entitled to special care, education and welfare (Art. 64 para 3). Therefore, in a case of a child with disabilities or a child living in socially unacceptable conditions, the state's positive obligation is additionally emphasized. Special care of the state shall be devoted to orphans and minors neglected by their parents (Art. 64 para 5). Furthermore, according to the Constitution, everyone shall have the duty to protect children (Art. 65 para 1). These constitutional norms are elaborated in more detail in the legal regulations, especially in the Family Act (hereinafter: FA), the analysis of which follows *infra*.

Before that we will consider the relevant norms of international legally binding documents on child protection. Undoubtedly the most important global international document on children's rights is the UN Convention on the Rights of the Child (hereinafter: CRC). The CRC guarantees children a whole series of rights that are unique to them, are of equal value and cover all aspects of the child's life. When it comes to the realization and protection of the child's rights, the CRC entrusts the primary role to the parents, while the duty of the state is to provide parents assistance when and to the extent it is needed (Art. 5 in connection with Art. 18 paras 1 and 2

CRC). Thus, in the preamble of the CRC it is stated "...the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community...". Convention principle of the best interest of the child from the Art. 3. is recognized in all global, regional and national documents. [3] An important global legal source for the protection of children with disabilities is the Convention on the Rights of Persons with Disabilities (hereinafter: CRPD), which in the provision of Art. 3 defines the principle of respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities. Furthermore, the provision of Art. 7 applies specifically to children with disabilities and it states that "(S)ates Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children." Recalling the CRC, in the aforementioned provision prescribes that the best interest of the child shall be a primary consideration in all actions concerning children with disabilities and that state parties "shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right". We would also point out the provision of the Art. 23 para 3 according to which state parties "shall ensure that children with disabilities have equal rights with respect to family life". Furthermore, state obligation is to "ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents." (Art. 23 Para 4 CRPD in connection with Art. 9 para 1 CRC). The most important regional document of the Council of Europe on human rights is the European Convention on Human Rights and fundamental freedoms (hereinafter: ECHR). Considering the main focus of our work – the child protection system, the provision of Art. 8 on the right to respect for family life deserves special attention. This right is guaranteed to every person, i.e. every child and his/her parents, but it is not an absolute right. Namely, in Art. 8 para 2 the criteria for the permissibility of intervention by competent authorities are prescribed. As the measures for the protection of the child's rights and interest encroach on this fundamental human right, it is extremely important that the competent authorities in their actions follow the criteria set by the ECHR, as well as to consider the views of the European Court of Human Rights (hereinafter: ECtHR) expressed in its case-law, considering that the ECtHR has a role of the main interpreter of rights and obligations deriving from the provisions of the ECHR. [19] When it comes to judicial and administrative proceedings concerning children, European Convention on the Exercise of children's rights (hereinafter: ECECR) is very important. The object of this convention is "in the best interests of children, to promote their rights, to grant them procedural rights and to facilitate the exercise of these rights by ensuring that children are, themselves or through other persons or bodies, informed and allowed to participate in proceedings affecting them before a judicial authority". ECECR is applicable only in family cases, i.e. proceedings affecting the child. It recognizes the child's procedural subjectivity and guarantees procedural rights of the child, and these are: right to be informed and to express his/her her views in proceedings

(Art. 3), right to apply for the appointment of a special representative (Art. 4) and other possible procedural rights such as the right to appoint his/her own representative (Art. 5). Namely, the child shall be entitled to receive all relevant information, be consulted and express his/her views and to be informed of the possible consequences of compliance with these views and the possible consequences of any decision. [4] Among the European Union documents of great importance is the EU Charter of Fundamental Rights (hereinafter: Charter) which contains a number of provisions important for children's rights and their protection. [5] We would especially emphasize the provision of Art. 24 which refers precisely to the rights of the child, guaranteeing children the right to such protection and care as is necessary for their well-being, the right to express his/her opinion, the right that child's best interests be a primary consideration and the right to maintain on a regular basis a personal relationship and direct contact with both his/her parents, unless that is contrary to his/her interests. When it comes to the national regulations governing the child protection system, in this paper we will focus on the provisions of the FA, the Social Welfare Act (hereinafter: SWA) and the Temporary Maintenance Act (hereinafter: TMA). Family law institutes in which the effort to provide children with the necessary and adequate protection of their rights and interests are particularly emphasized are the institutes of parental care, children's rights, measures for the protection of personal and property rights and interests of children, guardianship, adoption and maintenance. Social services that include various activities intended to detect, prevent and solve problems and difficulties of individuals and the family, as well as the improvement of the quality of their life in the community are regulated in detail by the above-mentioned SWA. A temporary maintenance institute is provided when the child is at risk because his/her parent does not fulfil the maintenance obligation. The aim of this institute is to ensure the child's right to adequate standard of living in circumstances when parent and other maintenance debtors do not fulfil their obligation in whole or in part (Art. 7 TMA in connection with Art. 27 CRC). By analysing this shortly presented international and national legal framework in the second part of the paper, we will try to single out some of the fundamental principles of the Croatian child protection system, which should serve as guidelines for all those who make decisions concerning child protection.

PRINCIPLES OF THE CHILD PROTECTION SYSTEM IN CROATIA

Supreme legal standard set by Art. 3 of the CRC - primary protection of the best interest of the child, represents one of the fundamental principles incorporated into Croatian child protection system. Namely, courts and all public authorities conducting proceedings in which it is directly or indirectly decided on the rights of the child, must above all protect the rights and the welfare of the child (Art. 5 para. 1 FA). Furthermore, protection of child's welfare is the duty of all – primarily the parents, the family members, the community in general and the state. According to the CRC, the best interest of the child should be the parents basic concern, while responsibility of the state is to provide support to parental efforts by complementary measures and activities (Art. 3 para. 2 CRC). According to the interpretation of the Committee for the Rights of the Child, the best interest of the child is a fundamental principle, the right of the child and a rule of procedure. [6] This principle represents one of the fundamental values of the CRC and it is one of general principles for the interpretation and implementation all rights of the child set in the CRC, as well as a

dynamic concept that requires assessment in every individual case which is appropriate to the specific context (General comment, I.A.1.). Moreover, if a legal provision gives space to different interpretation, “the interpretation which most effectively serves the child’s best interests should be chosen” (General Comment, I, A, 6 (b)). The concept of the child’s best interests is also child’s right to have his/her “best interest assessed and taken into account as a primary consideration in all actions or decisions that concern him or her, both in the public and private sphere”, i.e. “when different interests are being considered in order to reach a decision on the issue at stake” (General Comment, I. A. 6. (a)). Third dimension of this concept is the best interest of the child as a rule of procedure. Namely, whenever a decision is to be made that will affect a child, “the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned”. Furthermore, “assessing and determining the best interests of the child requires procedural guarantees”. From the statement of reasons of a decision, it must be seen that this right has been explicitly considered, i.e. it shall be explained “how the right has been respected in the decision, that is, what has been considered to be in the child’s best interests; what criteria it is based on; and how the child’s interests have been weighed against other considerations...” (General comment, I.A. 6. (c)). This principle is implemented in national family law regulations as one of the fundamental principles of the FA (Art. 5) and is emphasized as primary principle in making decisions in provisions on every family law institute concerning the child. Another fundamental principle of the CRC (Art. 12) that is implemented in Croatian family law, especially within the child protection system, is the principle of child participation, i.e. the right of the child to be informed and heard in all matters affecting him/her. The child’s right to be heard has an important position within the FA and is regulated by a general provision is set in Art. 86 which reads: “(1) Parents and other persons who take care of the child are obliged to respect the views of the child in accordance with his/her age and maturity. In all proceedings involving decisions on the child’s right or interest, the child is entitled to be informed in an appropriate way of the relevant circumstances of the case, obtain advice and express his/her views and to be informed of the possible consequences of those views. The child’s views shall be given due weight in accordance with his/her age and maturity.” By giving due weight to the child’s views in all matters affecting him/her, his/her legal subjectivity is being respected. [20] Furthermore, the child is a party in all judicial and administrative proceedings in which his/her rights and interests are being decided (Art. 358 FA). If the competent authorities would not give the child the opportunity to be heard in these proceedings, without particularly justified reasons, this would represent a substantial violation of civil procedure rules (Art. 346 of the FA in connection with Art. 354 para. 2 subpar. 6 of the Civil Procedure Act – violation of the principle of hearing the parties), as well as a violation of the constitutional right to a fair trial (Art. 29 para. 1 Constitution). [7] [8] This reaffirms that exercise and respect of the right of the child to be informed and heard is of fundamental importance within the Croatian child protection system. In this regard, General Comment No. 12 prescribes: “(T)here is no tension between Articles 3 and 12, only a complementary role of the two general principles...In fact, there can be no correct application of Article 3 if the components of Article 12 are not respected. Likewise, Article 3 reinforces the functionality of Article 12...” (par. 74). Relying on such standpoint of the Committee on the Rights of the Child, Croatian family law theory concluded that the same link exists between Articles 86 and 5 of the FA and thus

formed a standpoint that proper exercise of the child's right to be informed and heard is somewhat of a precondition for the correct assessment and protection of the best interest of the child. [16] Besides the CRC, other international documents also guarantee participatory rights of children. Although the ECHR does not contain a special provisions on children's (participation) rights, it presents a valuable legal source thanks to the ECtHR and its interpretations of (procedural) requirements deriving from Article 6 and Article 8 in the case law (see: Case C v. Croatia, Appl. No. 80117/17, 3 October 2020., par. 73., 76-78. and 81-82.; Case M. and M. v. Croatia, App. No. 10161/13, 3 September 2015., par. 129., 171., 181. and 184-187.). [9] [10] Since indispensable role of the parents for the upbringing and development of the child, as well as State obligation to render appropriate assistance to parents in the performance of their child-rearing responsibilities has been recognized in the CRC (Art. 18 paras 1 and 2), one of the fundamental principles of Croatian child protection system is the principle of the primary right of parents to take care of the child and the duty of the State to provide them with assistance. Thus, according to the provision of Art. 6 FA "(P)arents above all have the right, duty and responsibility to live with their child and take care of him/her. Assistance is provided and interventions are made only when necessary." Closely related to this principle is the principle of proportionate and mildest intervention into family life – Art. 7 FA: "Measures affecting family life are acceptable as long as they are necessary and their purpose cannot be successfully met by undertaking more lenient measures, including preventive assistance, i.e. family support." This principle is especially emphasized in relation to measures for the protection of the rights and welfare of the child (Art. 128 FA), according to which the competent authority that conducts the proceeding when choosing a measure suitable for the protection of the rights and welfare of the child is obliged to determine the measure that in the least possible extent restricts the right of the parents to take care of the child, if with such a measure is possible to protect the rights and welfare of the child. Since every measure for protection of the child's rights and welfare, especially those repressive ones by which a child is being separated from the family, represents state interference in family life, it is important to emphasize that the aforementioned principle represents, *inter alia*, implementation of the preconditions for justified intervention of public authorities into the protected right of every person to respect for private and family life. Namely, those preconditions are that all interventions into family life must be in accordance with the law, done with a legitimate aim and have to be recognized as "necessary in a democratic society". [11] [12] Thus, state interference into family life must be reasonable, proportionate and necessary for the accomplishment of a legitimate aim and that is the protection of the welfare of the child. [13] This is in line with the provision of Art. 16 of the Constitution. Generally, compliance with the principle of proportionality is being accomplished in legal practice by application of a pragmatic procedural mechanism that obliges the courts to define reasons for imposing the least restrictive measure in the explanation of the decision by which a child is being separated from his/her parents and placed in public care (Art. 485 para. 3 FA). Thus, the Croatian legislator confirmed that national legal system of child protection reflects the position of the ECtHR according to which "any order related to the public care of a child should, firstly, be capable of convincing an objective observer that the measure is based on a careful and unprejudiced assessment of all evidence on file, with the distinct reasons for the care measure being stated explicitly" (K.A. v Finland, No. 27751/95, 2004 (par. 103); Constitutional Court of the Republic of Croatia, U-III/34/2020 of 15 July 2020,

para. 11). For protection of children without adequate parental care important principle is the principle of guardianship protection prescribed in Art. 8 of FA which reads: “(G)uardianship protection of a child without parental care must be proportionate to the need of protection, with the obligation of respecting the fundamental human rights and the rights and welfare of the child.” When resolving any family law matters concerning the child the principle of urgency, i.e. timeliness must be respected as well. According to Art. 10 FA: “(I)n all family-law proceedings regarding the child, competent authorities must proceed with urgency, while protecting the welfare of the child at the same time.” Furthermore, in cases when the decision-making proceedings are not completed swiftly enough, this would pose a risk of the so-called *de facto* decision making, i.e. the codification of *status quo*. (Cf. Ribić v Croatia, No. 27148/12, 2015 (par. 92), K. B. and others v Croatia, No. 36216/13, 2017 (par. 142), Begović v Croatia, No. 35810/14, 2019 (par. 62) and Adžić v Croatia, No. 22643/14, 2015 (par. 93). [11] [14] In order for child protection to be accomplished in timely and adequate manner the duty of notification and cooperation is of utmost importance and this would be one of the fundamental principles of Croatian child protection system also. According to Art. 132 paras. 1-2 of the FA, there is a legal obligation of all to report a potential violation of the child's personal and property rights to the Croatian Social Work Institute (hereinafter: CSWI), whose duty then is to investigate the case and take measures to protect the rights of the child. The court and the CSWI, parents and other persons or social welfare institutions entrusted with the care of the child are obliged to mutually cooperate and inform each other about the actions that they have undertaken (Art. 132 para. 3 FA). Furthermore, the court which conducts misdemeanour or criminal proceedings, the state attorney, as well as the police are obliged to notify the CSWI within twenty-four hours of the initiation of proceedings in connection with the violation of a child's rights (Art. 132 para 4 FA). This provision prescribes an obligation of notification as a part of the holistic cooperation of state authorities aiming to timely protect a child who is a victim of a criminal or misdemeanor offense committed by parents or other family member by imposing some of the preventive or repressive family law measures towards the parents, regardless of the outcome of the misdemeanour or criminal proceedings. [15] There is an obligation of the CSWI to investigate the case and take measures to protect the child's rights immediately upon receiving the notification and to inform the person who submitted the notification (Art 132 para. 5 FA). The duty of cooperation between authorities and persons in matters of guardianship is specifically regulated in Art. 276 of the FA.

CHALLENGES OF IMPLEMENTATION OF FUNDAMENTAL PRINCIPLES

Considering the challenges of implementing the basic principles of the Croatian system of child protection, we would emphasize only a few. The first challenge relates to the principle of the best interest of the child. Having in mind that the practice of the ECtHR is inconsistent in this regard [18], it is important to emphasize that this is a superordinate principle, i.e. legal standard of the utmost importance which should be respected as a primary guideline especially if children's rights and interest are being approached as fundamental values of the national legal system and part of the public order which we think should definitely be the case. Furthermore, when it comes to the principle of the child's right to participate, we believe that there is room for additional improvements in the domestic legal system in order to harmonize the solutions of the

national legislation to a greater extent with the requirements of international documents. [16] [17] We are referring to Article 360 Paragraph 3 of the FA. This provision reads as follows: “In an exception to Paragraph 2 of this Article, in the case of a child younger than fourteen, the court shall enable his or her opinion to be expressed by way of a special guardian *ad litem* or another professional person.” According to General Comment No. 12. (par. 35 and 41) child’s right to be heard includes the right to choose how to express his/her opinion, either directly or through a representative. If we take a closer look at this provision of the FA, we can conclude that if a child is younger than fourteen then he/she cannot express his/her opinion directly, but only through a representative, i.e. these children are denied the right to choose how they would like to exercise their right to be heard in proceedings in which their rights or interests are decided. Such legal solution is questionable from the standpoint of application of the fundamental principle of child’s right to participate, i.e. to express his/her views. The second challenge for more consistent implementation of this principle *de lege ferenda* in Croatian legal system represents the provisions of the FA on child participation in extrajudicial proceedings in which important decisions concerning child are being made – mandatory counselling and family mediation. According to Art 325 Paragraph 3 of the FA in the mandatory counselling, a child can be allowed to express his/her opinion if the parents give their consent. In the same way is regulated child’s participation in family mediation (Ar. 339 Para 2 FA). Although the parents are first called to protect their children, the fact that children’s participation in these proceedings, i.e. exercise of their right depends upon the decision of the parents cannot be considered as a solution which would be in accordance with Art. 12 of the CRC. [17] Third and no less important, the question of cooperation, which we pointed out as one of the fundamental principles, always represents a challenge in practice, and as a rule, the success and timeliness of child protection will depend on it. In this regard, we consider it important to work on improving the system through the training of experts and the creation of clear guidelines on intersectoral cooperation, which is of primary importance for this area.

CONCLUSION

The aim of this paper was to present a comprehensive analysis of relevant international legal documents and domestic legislation in order to emphasize some of the fundamental principles of Croatian child protection system. Protection of children, their rights and interests are a part of parental care. The role of the state is to help parents in their unique and indispensable role as well as to provide special protection and assistance to a child without adequate parental care. Besides this principle of primary parental role in taking care of their child and subsidiary role of the state, the principle of the best interest of the child should be especially emphasized. In all circumstances when decisions concerning a child are made, by parents, other family members, public or private institutions and state authorities, this principle should be the guidance and paramount consideration. Complementary principle is the principle of child’s participation, i.e. the right of the child to be informed and heard in all matters concerning him/her. Those two principles we can recognize in many domestic legal norms relevant for child protection, especially in legal instruments that were in focus of our research. Having in mind that respect for private and family life is one of the basic human rights, the principle of proportionality and mildest intervention into family life is

recognized and applicable in domestic regulations and comes to the fore especially when decisions on measures to protect children's rights are being imposed. For effective child protection the principle of timeliness and cooperation are specially pointed out in Croatian legislation. At the end some challenges of implementation as well as proposals *de lege ferenda* are presented having in mind the importance and value of consistent, continuous and dedicated work on the protection of children who are the pledge of the future of every society.

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THE CORRESPONDENCE OF THE LAWYER IN EUROPEAN COURT OF HUMAN RIGHTS JURISPRUDENCE AND OF THE ROMANIAN CONSTITUTIONAL COURT

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ABSTRACT

Correspondence between a lawyer and his client, regardless of its purpose, is protected under article 8 of the Convention, which gives it increased protection in terms of confidentiality.

In Romania, the Constitutional Court considers regarding the correspondence between a lawyer and his client, that it contributes essentially to the defense of the client, being an intrinsic element of the fundamental right to defense, enshrined in article 24 of the Constitution. Therefore, the lawyer-client relationship is qualified as a privileged one. The analysis of the Constitutional Court must have as a premise the privileged status of lawyer-client correspondence, which benefits from a specific legal treatment, without putting the sign of equality between this and ordinary correspondence between individuals. Romania must regulate a normative framework capable of providing additional protection for this type of correspondence.

Keywords: Secrecy of correspondence, the right to defence, the right to a fair trial, Constitutional Court, lawyer, ECHR jurisprudence

INTRODUCTION

The European Court of Human Rights attached particular significance to the confidential relationship that exists between lawyer and client. In the Court opinion, it would be too restrictive to limit the notion "private life" to an "inner circle" in which the individual may live his own personal life as he chooses and to exclude therefrom entirely the outside world not encompassed within that circle. Respect for private life must also comprise to a certain degree the right to establish and develop relationships with other human beings [1].

But what about correspondence between lawyer and client, is it guaranteed under paragraph 1 of Article 8 of the Convention? And what is meant by the notion of lawyers' correspondence?

First of all, „client's file" or „documents", without qualification or limitation. The search of a law offices and seizure of a document relating to the client's file constituted an interference with the rights, guaranteed under paragraph 1 of Article 8 of the Convention [2]. For example, the warrant issued by the Munich District Court ordered a search for, and seizure of, "documents" - revealing the identity of a client. In this connection, it is sufficient to note that that provision does not use, as it does for the word "life", any adjective to qualify the word "correspondence". And, indeed, the Court

has already held that, in the context of correspondence in the form of telephone calls, no such qualification is to be made [3].

The seizure of hard disks held by the lawyers, amount to an interference with the right to respect for the lawyers "homes" and "correspondence", as those terms have been interpreted in the Court's case-law. In the case of *Petri Sallinen and Others v. Finland*, the searches and seizure ordered by the police concerned, *inter alia*, the law office owned and managed by the applicant. The search warrants were issued by the officer in charge of the police investigation, in which the applicant was first considered as a witness, but the second search warrant was based on the suspicion that he was suspected of having aided and abetted an offence of aggravated debtor's fraud allegedly committed by two of his clients (who are not applicants before the Court). It is undisputed that the police had copied a hard disk from the applicant's computers and that the copy was kept by the police until a final court decision. The Court finds that the search by the police of the residential premises and the business premises of the applicant, and the seizure of hard disks there, amounted to an interference with the right guaranteed under paragraph 1 of Article 8 of the Convention [4].

Also, the lawyer's electronic data are subject to professional secrecy, and their confiscation was considered by the European Court to be disproportionate to the legitimate goal pursued in the case, namely the prevention of crime [5]. Including the electronic files and email accounts containing lawyers' correspondence were considered in the court's jurisprudence to be protected by Article 8 [6] and we believe that their scope can be widened, falling under the scope of professional secrecy and the conversations between lawyer and client carried out on different social networks or through some applications like Instagram, Messenger, Whats App, Telegram, Viber and others.

The Court specified that a folded sheet of paper on which a lawyer has written a message before handing it over to his clients was protected correspondence within the meaning of Article 8. It emphasised that the content of the documents intercepted by the police officer was immaterial given that, whatever its purpose, correspondence between lawyers and their clients concerned matters of a private and confidential character. In the case of *Laurent v. Franta*, the applicant, in his capacity as a lawyer, had written and handed over the papers in question to his clients in full view of the senior escorting officer, without attempting to conceal his actions. In the absence of any suspicion of an unlawful act, the interception of the documents could not be justified [7].

Romania became a party to the Convention for the Protection of Human Rights and Fundamental Freedoms following its ratification by Law No.30/1994, assuming the obligation to respect its provisions and the interpretation given by the European Court of Human Rights to the Convention, within the limits set by it. Otherwise, Romania would be in the position of a party to the Convention which does not comply with its obligations under public international law and domestic law, contrary to the provisions of Article 11 paragraph (1) and (2) and Article 20 para. (1) of the Romanian Constitution [8].

Article 20 of the Romanian Constitution includes rules that actually concern the transposition into practice of the constitutional provisions regarding the rights, freedoms and fundamental duties of citizens that must be interpreted in conjunction with article

11 of the Romanian Constitution, which enshrines the correlation between domestic law and international law.

From this it follows that the national judge has the obligation to ensure the full effect of the norms of the European Convention, ensuring their pre-eminence over any other contrary provision of the national legislation and at the same time, he is allowed to remove, ex officio or at the request of the parties, the provisions of the national law that it considers incompatible with the Convention and its additional protocols [9].

This article wants to find answers to the following questions:

In what situations can the professional secrecy of lawyers be limited, and especially the professional secrecy of lawyers regarding the confidentiality of the correspondence between the lawyer and the client?

To what extent does Romania implement the case-law of the ECHR on this subject, both legislatively and jurisprudentially?

What is the contribution of the Constitutional Court of Romania - through the prior and posterior constitutionality control- to the elaboration/amendment of Romanian legislation in accordance with the provisions of the European Convention of Human Rights and Fundamental Freedoms?

First of all, there are additional guarantees for the protection of lawyers' correspondence in Romania, regulated both by the Code of Criminal Procedure in article 139 paragraph 4 and in the special law on the legal profession no.51/1995.

According to article 34 of Law no.51/1995 „In order to ensure professional secrecy, the documents and works of a professional nature found on the lawyer or in his office are inviolable. The search of the lawyer, his home or office or the collection of documents and goods can only be done by the prosecutor, based on a warrant issued under the law. The following are exempted from the measure of collection of documents and from the measure of confiscation: documents containing communications between the lawyer and his client; the documents containing notes made by the lawyer regarding aspects related to the defense of a client. The telephone conversations of the lawyer will not be listened to and recorded, with any kind of technical means, nor will his correspondence of a professional nature be intercepted and recorded, except under the conditions and with the procedure provided by law”.

Also, according to the provisions of art. 139 paragraph 4 of the criminal procedure code ”the relationship between the lawyer and the party he assists or represents cannot be the subject of technical supervision, unless there is data that the lawyer commits or is preparing to commit a crime such as: crimes against national security, crimes of drug trafficking, arms trafficking, human trafficking, acts of terrorism, money laundering, forgery of coins or other values, forgery of electronic payment instruments, blackmail, rape, deprivation of liberty, tax evasion, in the case of crimes of corruption, crimes against the financial interests of the European Union, crimes committed through computer systems or electronic means of communication or in the case of other crimes for which the law provides a prison sentence of 7 years or more”.

The Romanian legislator wanted to amend the previously enunciated legal texts by introducing new legal texts that would limit the scope of criminal liability of the lawyer for the act of not reporting some crimes, when exercising the profession of lawyer and

limiting them to: the crime of murder, manslaughter, genocide, crime against humanity or war crime, kidnapping for ransom, hostage-taking, attack on air and naval traffic committed by a terrorist group. It was also aimed at exonerating the liability of the lawyer who prevented the commission of the crime or its consequences in a way other than denouncing the perpetrator.

At the time when these changes were submitted to the constitutionality control of the Constitutional Court of Romania, through the objection of unconstitutionality, the Constitutional Court departed in its analysis from the national normative acts that regulate the lawyer-client relationship and professional secrecy, but taking into account consideration of the entire jurisprudence of the European Court in the matter.

The situation is thus different depending on the context in which the lawyer becomes aware of the commission of some crimes, outside legal assistance activities or in the execution of legal assistance activities, the legal treatment being differentiated.

In the situation described above, the Constitutional Court of Romania established that the legislator has the constitutional competence to establish a specific regime for the criminal liability of lawyers for the act of non-reporting only when they carry out activities specific to the profession [10].

Although the Romanian Constitutional Court paid special attention to the observance of the provisions of art. 21 and 24 of the Romanian Constitution regarding the guarantee of the right to defense and a fair trial, it considered constitutional provisions from a special law on classified information that conditions the lawyer's access to them.

In a recent case, published in the Official Gazette of Romania on February 19, 2024, the Constitutional Court of Romania showed that the criticized legal provisions do not exclude the lawyer's access to classified information that constitutes state secrets and work secrets respectively, this access being allowed only on the basis of a written authorization, issued by the head of the legal entity that holds such information, after prior notification to the Office of the National Register of State Secret Information, as the lawyers do not hold a security certificate or access authorization, valid for the level of secrecy of the necessary information performance of service duties [11].

What was the reason why the Romanian legislator granted unconditional access to this classified information only to certain categories of persons, such as the President of Romania, the Prime Minister, ministers, deputies, senators, judges, prosecutors and assistant magistrates of the High Court of Cassation and Justice, may constitute a topic for another debate.

Returning to the professional secrecy of lawyers, we will note that it is not intangible, and the Strasbourg Court found that it can be limited, for example, when it conflicts with the lawyer's right to freedom of expression. Its importance must be balanced with that which, for example, Romania gives to the fight against money laundering originating from illicit activities, likely to be used to finance criminal activities, especially in the field of drug trafficking, or international terrorism. The obligation of lawyers to report suspicions related to the commission of specific crimes does not in itself contravene the conventional text if it is properly regulated, in limited cases, and does not touch the very essence of the defense mission[12]. We cannot fail to recall the Judgment of December 6, 2012, in the Case of *Michaud v. France*, para. 127, when the European Court showed that if the lawyer has suspicions, arising outside the exercise of

their defense activity, regarding the commission of a crime of money laundering, he is obliged to notify the dean of the Bar, according to the national legislation of the state of which the lawyer was a member.

Only exceptionally, the professional secrecy of lawyers, which is based on the right of defense of the client, does not constitute an obstacle to the transcription of a conversation between a lawyer and his client in the ordinary interception of the latter's telephone line if its content is likely to lead to the presumption of the participation of the lawyer himself in a crime and to the extent that this transcription does not affect the right of defense of the client.

MATERIALS AND METHODS

Used materials: ECHR jurisprudence, jurisprudence of the Romanian Constitutional Court, the national legislation from Romania regarding the treated subject, articles and legal studies.

Methods:

In the framework of the present research, the analysis, as a general research method, based on the decomposition of a whole into its component elements and the study of each one, proved to be particularly useful. It departed from the meaning of the lawyer's correspondence as it was categorized by ECHR jurisprudence over time; subsequently, the way in which lawyers' correspondence is regulated in Romanian legislation was followed, as a result of the fact that Romania is part of the European Convention of Human Rights and Fundamental Freedoms, with the aim of answering the three questions outlined.

Both the static analysis was used to review the national legislation and the ECHR jurisprudence regarding the treated subject, but also the dynamic analysis, which aimed to highlight the legislative changes that occurred over time.

Thus, the logical method was used in close connection with the historical method that followed the research from the historical perspective of the evolution of the ECHR jurisprudence and of the Romanian Constitutional Court, on the chosen topic.

The comparative method was used in order to elucidate the similarities and differences between the national legislation of Romania and its interpretation by the national or constitutional judge and ECHR jurisprudence in the matter.

The highlighting of the legislation was achieved as a result of the use of some quantitative methods (for example, studying decisions online through the HUDOC or CCR database search engines), but the emphasis was placed on its interpretation and not on its quantification.

RESULTS

Interference with a lawyer's correspondence must be provided for by law, pursue one of the legitimate goals listed in art. 8 § 2 ECHR (for example, protecting national security, defending public order, preventing crime), being necessary in a democratic society to achieve these goals and be proportional to the legitimate goal pursued.

The records benefit from a distinct legal treatment in the consideration of the right of defense of the client, but not the lawyer if he becomes the active subject of a crime.

The specific guarantees provided by article 8, which accompany the lawyer-client privileged relationship, do not apply if the lawyer himself commits criminal acts.

The commission of criminal acts by the lawyer exceeds the lawyer-client relationship, regardless of the conditions, circumstances, and in this case the lawyer will be liable according to the rules of common law in the matter.

The European Court admits exceptions to the principle of confidentiality of conversations between the lawyer and his client, provided that the right of defense of the client is not affected, and the transcripts of the intercepted conversations are not used against him in the proceedings in which he is subject.

Regarding the professional secrecy of lawyers and their correspondence with clients, the constant jurisprudence of the Constitutional Court of Romania has shown that in Romania there is a normative framework suitable to ensure additional protection of the lawyer-client relationship and implicitly the correspondence between them.

CONCLUSION

By its Constitution, Romania is obliged to respect and apply accurately and in good faith the treaties to which it is a party, otherwise it may be held liable.

As such, the constitutional provisions regarding the rights and freedoms of citizens will be interpreted and applied in accordance with the European Convention of Human Rights and Fundamental Freedoms, to which Romania is a party.

At the moment, there are no inconsistencies between the internal legislation of Romania regarding the relationship between the lawyer and his client, professional secrecy or the guarantees granted to lawyers' correspondents.

Both the national judge and the constitutional judge appeal to the jurisprudence of the European Court when interpreting or verifying the constitutionality of the laws in force or proposed for promulgation in Romania

However, Romania, as a state party to the European Convention of Human Rights and Fundamental Freedoms, is not prevented from establishing a higher standard of protection of the right to respect correspondence, according to art. 53 of the European Convention.

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THE EVOLUTION OF POLITICAL COMMUNICATION IN THE DIGITAL TECHNOLOGY ERA: A CONTENT ANALYSIS OF ONLINE POLITICAL DISCOURSE

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ABSTRACT

The research will employ a content analysis methodology to examine a sample of 50 articles from various online sources, including news websites, political blogs, and social media posts. The articles will be selected based on their relevance to political communication and their potential impact on public opinion. The analysis will focus on identifying the dominant themes, rhetorical strategies, and persuasive techniques used in the selected articles.

The study will develop a coding scheme to systematically categorize and analyze the content of the articles. The coding scheme will include variables such as the main topics addressed, the tone and sentiment of the language used, the use of evidence and arguments, and the inclusion of multimedia elements. The coding process will be conducted by trained coders to ensure reliability and consistency in the analysis.

Through the content analysis, the study aims to uncover the characteristics and trends in online political discourse. It will examine how political actors frame their messages, engage with their audiences, and respond to political events and issues. The analysis will also explore the potential impact of online political communication on public opinion, political attitudes, and electoral behavior.

Furthermore, the study will discuss the implications of the findings for the democratic process and the quality of political discourse in the digital era. It will consider the potential risks and challenges associated with online political communication, such as the spread of misinformation, the polarization of public opinion, and the erosion of trust in political institutions. The study will also explore the role of media literacy and critical thinking skills in helping citizens navigate the complex landscape of online political discourse.

Keywords: political communication, digital era, online discourse, content analysis, public opinion.

INTRODUCTION

Political communication has undergone significant transformations in the digital era, and researchers have closely investigated these changes. Bimber and Davis [1] examined how the internet has influenced electoral campaigns and highlighted its

potential to facilitate political participation and enhance transparency. Their study laid the foundation for subsequent research on online political communication.

With the rise of social networks, researchers began to analyze the impact of these platforms on political discourse. Enli and Skogerbø [2] explored the use of social media by politicians during election campaigns and found that they provide opportunities for direct interactions with voters. Their study underscored the potential of social networks to transform the relationship between political actors and citizens.

However, online political communication also presents challenges. Allcott and Gentzkow [3] investigated the spread of fake news during the 2016 U.S. presidential election and found that it was widely disseminated on social media. Their study highlighted the need to combat disinformation and promote critical thinking in the consumption of online political content.

The polarization of public opinion in the digital era has also attracted the attention of researchers. Bail et al. [4] examined the role of social networks in political polarization and found that exposure to partisan content can lead to more extreme attitudes. Their study underlined the challenges associated with echo chambers and filter bubbles in the online environment.

Despite these challenges, researchers have also explored the potential of digital technologies to enhance the quality of political discourse. Halpern and Gibbs [5] analyzed political discussions on social platforms and found that certain design features can facilitate more deliberative dialogue. Their study emphasized the importance of careful design of online spaces to encourage productive political discourse.

These previous studies have laid the groundwork for understanding political communication in the digital era. However, the digital landscape is continuously evolving, and further research is necessary to examine current practices and their implications. This study aims to contribute to the existing literature by investigating the characteristics and trends of online political discourse and its potential impact on democratic processes.

MATERIALS AND METHODS

This study employs a content analysis methodology to investigate the evolution of political communication in the digital era. The specific objectives of the research are: (1) to identify the dominant themes in online political discourse, (2) to examine the rhetorical strategies and persuasive techniques used by political actors in the digital environment, and (3) to explore the potential impact of online political communication on public opinion and political participation.

The research sample consists of 50 articles selected from various online sources, including news websites, political blogs, and social media posts. The criteria for article selection include their relevance to political communication and potential impact on public opinion. To ensure a diverse and representative selection of articles, a stratified sampling technique will be employed, where articles will be stratified based on the type of source (news websites, political blogs, social media posts) and political orientation (left, center, right). From each stratum, a proportional number of articles will be selected using a systematic random sampling method.

The content analysis will focus on measuring four main indicators: (1) topics addressed, (2) tone of discourse, (3) types of arguments used, and (4) presence of multimedia elements. Themes will be identified through inductive coding of the main subjects discussed in each article. The tone of discourse will be evaluated on a scale from 1 to 5, where 1 represents a highly negative tone and 5 a highly positive tone. Types of arguments will be classified based on their appeal to emotion, logic, or credibility. The presence of multimedia elements will be coded as a binary variable (present/absent).

To systematize the analysis process, a coding scheme will be developed that includes these indicators, as well as demographic variables (e.g., author's gender, political affiliation). The coding scheme will be developed through an iterative process, starting from an initial set of variables identified in the literature and refined based on a pilot analysis of a subsample of articles. Clear operational definitions will be established for each variable to ensure consistency and reliability in coding.

The coding process will be carried out by a team of three trained coders who will work independently to code the selected articles using the coding scheme. Prior to commencing the actual coding, the coders will participate in a training session to familiarize themselves with the coding scheme, variable definitions, and coding procedures. To assess inter-coder reliability, 20% of the articles will be coded by all three coders. Krippendorff's alpha coefficient will be calculated to measure the degree of agreement among coders, with a minimum threshold of 0.8 considered acceptable. Any discrepancies will be resolved through discussions among the coders and further refinement of the coding scheme if necessary.

The data collected through the coding process will be analyzed using descriptive statistics, such as frequencies, percentages, and means, to identify patterns and trends in online political communication. Comparative analyses will also be conducted between different types of sources and political orientations to explore potential differences in strategies and techniques employed.

The results of this content analysis will contribute to the understanding of the dynamics of political communication in the digital era, providing valuable insights into the characteristics, trends, and potential implications of online political discourse. These findings will be discussed in the context of the evolving media landscape and the impact of digital technologies on the political sphere, drawing upon relevant theories and previous research in the field. The study aims to advance the scholarly understanding of how political communication is being reshaped by the digital environment and its potential consequences for democratic processes and public engagement.

RESULTS

The content analysis of the 50 selected articles yielded a series of results relevant to the specific objectives of this study. The results are presented according to the four main indicators measured: topics addressed, tone of discourse, types of arguments used, and presence of multimedia elements.

1. Topics addressed

Inductive coding of the themes highlighted three dominant topics in online political discourse: economic policies (30%), social issues (28%), and

international relations (24%). Other topics, such as environment (8%), education (6%), and healthcare (4%), were present in smaller proportions.

2. *Tone of discourse*

Evaluation of the tone of discourse on a scale from 1 to 5 showed that the majority of articles (42%) had a neutral tone (score 3). However, a significant proportion of articles presented a negative tone (36% with a score of 1 or 2), while only 22% had a positive tone (score 4 or 5).

Table 1. Tone of Discourse

Tone of discourse	Frequency	Percentage
1 (Very negative)	8	16%
2	10	20%
3 (Neutral)	21	42%
4	7	14%
5 (Very positive)	4	8%

3. *Types of arguments*

Analysis of the types of arguments showed that appeal to emotion was the most frequent persuasive strategy (48%), followed by appeal to logic (32%) and appeal to credibility (20%).

Table 2. Type of Argument

Type of argument	Frequency	Percentage
Appeal to emotion	24	48%
Appeal to logic	16	32%
Appeal to credibility	10	20%

4. *Presence of multimedia elements*

Coding of the presence of multimedia elements revealed that 38% of the analyzed articles included at least one multimedia element (images, videos, or infographics), while 62% were exclusively text.

Table 3. Presence of multimedia elements

Presence of multimedia elements	Frequency	Percentage
Present	19	38%
Absent	31	62%

Comparative analyses between different types of sources showed that news websites addressed a wider range of topics and used more multimedia elements compared to political blogs and social media posts. Regarding the tone of discourse and types of arguments, no significant differences were identified between sources of different political orientations.

The content analysis of the 50 selected articles yielded a series of results relevant to the specific objectives of this study.

Objective 1: Identifying the dominant themes in online political discourse

Inductive coding of the themes highlighted three dominant topics in online political discourse: economic policies (30%), social issues (28%), and international relations (24%). Other topics, such as environment (8%), education (6%), and healthcare (4%), were present in smaller proportions. These results suggest that online political discourse primarily focuses on subjects of major public interest, such as the economy, social issues, and international relations.

Objective 2: Examining the rhetorical strategies and persuasive techniques used by political actors in the digital environment

Evaluation of the tone of discourse on a scale from 1 to 5 showed that the majority of articles (42%) had a neutral tone (score 3). However, a significant proportion of articles presented a negative tone (36% with a score of 1 or 2), while only 22% had a positive tone (score 4 or 5). Analysis of the types of arguments revealed that appeal to emotion was the most frequent persuasive strategy (48%), followed by appeal to logic (32%) and appeal to credibility (20%). These results indicate that political actors employ a variety of rhetorical strategies and persuasive techniques in online communication, with a tendency towards neutral and negative tones and a preference for emotional appeals.

Objective 3: Exploring the potential impact of online political communication on public opinion and political participation

Coding of the presence of multimedia elements showed that 38% of the analyzed articles included at least one multimedia element (images, videos, or infographics), while 62% were exclusively text. Comparative analyses between different types of sources showed that news websites addressed a wider range of topics and used more multimedia elements compared to political blogs and social media posts. These results suggest that multimedia elements and the type of source may influence the potential impact of online political communication on public opinion and political participation. Articles with multimedia elements and from news websites may attract a broader

audience and have a greater impact on public opinion compared to other types of sources.

DISCUSSION

The results of this study make an important contribution to understanding the characteristics and potential impact of online political communication. The content analysis highlighted the dominant themes, rhetorical strategies, and persuasive techniques used by political actors in the digital environment, providing answers to the initial research questions.

Regarding the first objective, the results showed that online political discourse primarily focuses on subjects of major public interest, such as economic policies, social issues, and international relations. These findings are consistent with previous studies that have highlighted the importance of these topics in political communication [6][7]. The prioritization of these subjects suggests that political actors attempt to address the concerns and interests of the public in the online environment.

Concerning the second objective, the results indicated that political actors employ a variety of rhetorical strategies and persuasive techniques in online communication, with a tendency towards neutral and negative tones and a preference for emotional appeals. These findings partially support the initial hypothesis, which assumed a frequent use of emotional appeals. However, the prevalence of neutral and negative tones suggests that political actors adopt a more balanced and critical approach in online discourse, possibly to adapt to the specific characteristics of the digital environment [8].

Regarding the third objective, the results suggested that multimedia elements and the type of source may influence the potential impact of online political communication on public opinion and political participation. These findings extend previous research that has highlighted the role of visual elements in enhancing the attractiveness and persuasiveness of political messages [9]. The results also emphasize the importance of news websites as credible and influential sources of political information in the online environment.

Overall, the results of this study are largely consistent with the existing literature while also bringing new insights into the characteristics and dynamics of online political communication. The findings highlight the adaptation of political actors to the digital environment, using specific rhetorical strategies and persuasive techniques to address the online audience. However, further research is needed to fully explore the implications of these practices on public opinion, political participation, and democratic processes.

CONCLUSION

This study makes a significant contribution to understanding the characteristics and dynamics of political communication in the online environment, specifically focusing on the Romanian context. Through a content analysis of 50 selected Romanian articles, the research highlighted the dominant themes, rhetorical strategies, and persuasive techniques employed by political actors in the digital space. The results showed that online political discourse primarily focuses on topics of major public interest, such as

economic policies (30%), social issues (28%), and international relations (24%). These findings suggest that political actors attempt to address citizens' concerns and aspirations in their digital communication, adapting their strategies to the specific characteristics of the online environment within the Romanian political landscape.

Regarding the tone of discourse, the analysis revealed that the majority of articles (42%) adopted a neutral tone, while 36% presented a negative tone and only 22% a positive tone. This prevalence of neutral and negative tones indicates that political actors tend to take a more balanced and critical perspective in the online environment, possibly to adapt to the interactive and scrutinizing nature of digital communication. This finding suggests that political actors in Romania recognize the importance of maintaining a balance in expressing opinions and criticisms in the online space, avoiding the adoption of an exclusively positive or negative stance.

Concerning persuasive strategies, the study showed that appeal to emotion was the most frequently used technique (48%), followed by appeal to logic (32%) and appeal to credibility (20%). These results indicate that political actors in Romania employ a variety of rhetorical strategies in online communication, with a preference for affective persuasion. This approach can be explained by the desire to establish an emotional connection with the target audience, appealing to their feelings and values to promote political messages and ideas. However, the significant use of appeals to logic and credibility suggests that political actors in Romania also recognize the importance of rational arguments and trustworthy sources in persuading the online public.

Another important aspect highlighted by the study is the potential impact of multimedia elements on online political communication in Romania. The results showed that 38% of the analyzed articles included at least one multimedia element, such as images, videos, or infographics. Comparative analyses between different types of sources revealed that news websites addressed a wider range of topics and utilized more multimedia elements compared to political blogs and social media posts. These findings suggest that multimedia elements and the type of source can influence the potential impact of online political communication on public opinion and political participation in Romania. The incorporation of visual and interactive elements can enhance the attractiveness and ease of understanding of political messages, while news sources may be perceived as more credible and informative than other types of online sources.

However, this study has some limitations that should be considered. Firstly, the sample of 50 Romanian articles, while providing valuable insights, may not be fully representative of the entire landscape of online political communication in Romania. Future studies could expand the sample to include a broader range of online sources and platforms, thus providing a more comprehensive picture of trends and patterns in this domain within the Romanian context. Secondly, content analysis, although a robust method for examining textual characteristics, may not fully capture the nuances and complexities of online political discourse. Additional methodological approaches, such as network analysis or sentiment analysis, could offer complementary perspectives on the dynamics of political communication in the digital environment in Romania.

The results emphasize the importance of multimedia elements and news sources in shaping public opinion and political participation. However, further research is needed

to fully explore the implications of these practices on the political sphere and democratic processes in Romania.

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SECTION LAW AND SOCIETY

AIR POLLUTION RESPONSIBILITY OF MEMBER STATES

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ABSTRACT

The European directives on air pollution liability have undergone several substantial changes. The approval in October 2024 of a new directive has highlighted the problems present in the previous directives. This study analyses how they were addressed and proposes possible further innovative solutions. The definitions of environmental damage contained in Article 2 of Directive 2004/35/EC allow for the delimitation of legal areas and critical issues in the field of environmental pollution. The results indicate that there are still significant challenges in the practical application of the laws. To address these issues, the work proposes alternative solutions, such as the implementation of advanced monitoring systems, public awareness initiatives, virtuous models of renewable energy production and the adoption of sustainable technologies. These approaches could not only reduce environmental damage, but also promote greater responsibility among businesses and citizens, contributing to a healthier and more sustainable environment in Europe. The aim of this study is to call for a step-by-step approach to meeting current and future EU air pollution standards by setting air quality standards for 2030 aligned with the latest WHO air quality guidelines to guarantee the right of human beings to a healthy and productive life in harmony with nature.

Keywords: environmental responsibility, sustainable development, renewable energy.

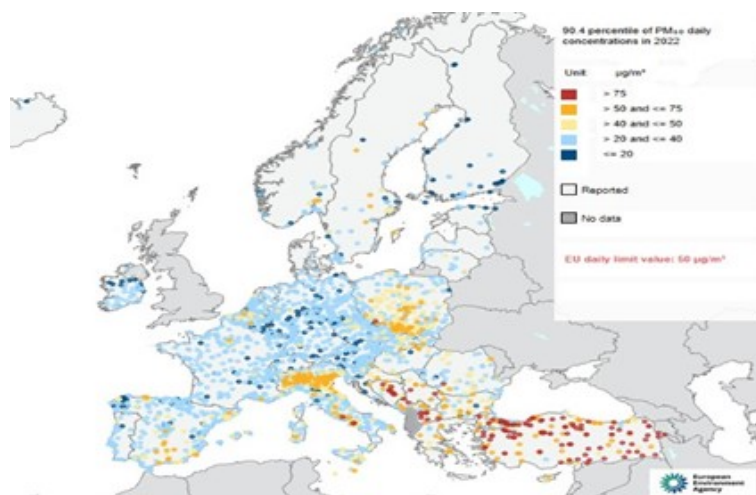
INTRODUCTION

The fight against air pollution has changed today. Different from the past, air pollution is punished as such. Thanks to this change of perspective, there has been a shift from an ‘anthropocentric’ notion, that is, linked to the use of the environment for the benefit of the individual or the community, to an ‘ecocentric’ notion of the environment, in other words, of an environment understood as a common good that is ‘of primary importance for social and economic life, to be preserved as an asset in itself, in order to ensure the ecosystem for present and future generations’ [1], in which it acquires an autonomous merit of protection [2], and becomes ‘a privileged instrument for the development of the person’ [3]. This led to the introduction of a new provision in the Italian Constitution, more precisely in Article 9, aimed at protecting the environment, biodiversity and ecosystems, also in the interest of future generations [4]. The process began in 1992 with the United Nations Declaration on Environment and Development, commonly known as the Rio Declaration, which included the ‘polluter pays’ principle among the 27 guiding principles for future sustainable development [5]. This principle is at the heart of EU environmental policy. Article 191(2) of the Treaty on the Functioning of the European Union (TFEU) states that the Union's policy on the environment is based on the precautionary principle and the principle that preventive action should be taken, the principle of rectifying, as a priority, damage caused to the environment at source, the polluter pays principle and the ‘do no harm’ principle of the European Green Deal, of

damage caused to the environment, on the ‘polluter pays’ principle and on the ‘do no harm’ principle of the European Green Deal, recognising the human right to a clean, healthy and sustainable environment [6], as identified in Resolution 76/300 adopted by the United Nations (UN) Assembly on 28 July 2022. In this context, the European Union has implemented a complex regulatory framework to address this issue, aimed at ensuring a healthier and more sustainable environment for people. It is the Environmental Liability Directive 2004/35/EC, better known as ELD, that establishes the EU framework for environmental liability [7]. This directive stipulates that economic operators who cause damage to the environment are obliged to pay the cost of restoring it to its original condition, and thus have an incentive to avoid the damage. In accordance with this directive, when an economic activity that is environmentally unsafe causes significant environmental damage to land, water and biodiversity, the responsible operator is obliged to take all necessary remedial measures at his own expense. For economic activities that are not considered to be environmentally dangerous, such as, for example, agriculture, the directive requires operators to remedy the damage caused to biodiversity only in the case of intentional or negligent behaviour. In support of this directive, the European Commission has developed guidelines that provide a common interpretation of the term ‘environmental damage’ as defined in Article 2 of the directive.

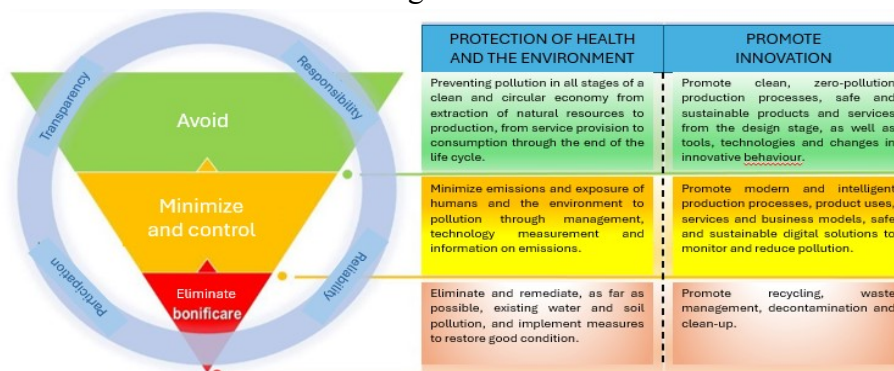
MATERIALS AND METHODS

Over the last twenty years, considerable progress has been made in Europe around air quality. With European Commission Decision 2011/850/EU, the criteria for reporting air quality information between the member states were defined. In this context, data are transmitted daily from each member country to the European Commission with a minimum delay of a few hours from the time of measurement. For Italy, data are transmitted by the Regions and Autonomous Provinces to ISPRA, which makes them available to the European Union. The data published in 2023 paint a better picture than in the past and a consolidation of the downward trend recorded over the last 10 years, as well as a substantial approach to the objective of complying with the legal limit values throughout Europe. But the situation is still serious. Italy violated air quality limit values in a ‘systematic and continuous’ manner between 2008 and 2017. This was ruled by the Court of Justice of the European Union on 1 November 2020, in a case pitting the Commission against Italy. In 2018, the European Commission initiated proceedings for failure to comply with the Italian Air Quality Directive due to systematic and continued exceedances of the limit values set by the ‘Air Quality’ Directive in a few areas of Italy. According to the Commission, since 2008 Italy has exceeded in the affected areas the daily and annual limit values for PM₁₀ particle concentrations. The Commission also criticised Italy for failing to comply with its obligation to take appropriate measures to ensure compliance with the limit values set for PM₁₀ particles in all the areas concerned. Considering insufficient the clarifications provided on this subject by Italy during the pre-litigation phase of the procedure, the Commission brought an action for failure to fulfil obligations before the Court on 13 October 2018. In its judgment of 10 November 2020, the Court upheld the appeal. Italy has tried to demonstrate the objective difficulties of managing the problem, due to the characteristics of its territory and its extent. Insufficient reasons to avoid the recall. Regarding air quality, Italy currently has three infringement procedures open.



Source: European Environment Agency

Although air pollution is caused by a variety of sources, it is mainly caused by industry [8], transport, energy production and agriculture. Air quality standards are often not met, especially in urban areas. The European Environment Agency briefing entitled ‘Europe’s air quality status 2023’ has shown that air pollution is excessive, exceedingly too often the parameters recommended by the World Health Organisation. Here is a European Union action plan for zero pollution by 2050. This plan aims to reduce air, soil and water pollution, as well as noise and plastic pollution, to levels no longer considered harmful to health and natural ecosystems [9]. This long-term goal has been broken down into key targets for 2030 and progress towards achieving them is constantly monitored. European Regulation 2020/852 of 18 June 2020 [10] codified, for example, the principle of Do No Significant Harm (DNSH), according to which each company is obliged to comply with environmental objectives if it benefits from a facility co-financed by the National Recovery and Resilience Plan (PNRR). Could the effectiveness of this instrument, like others, help to raise the level of environmental protection? What is certain is that the violation of EU environmental standards slows down the achievement of the objectives set by other EU legislation. This is why there is a need to better define the definition of environmental damage and, with it, the responsibility of those who may be legally responsible for it, the circumstances and the type of actions to be taken as an obligation of liability. The concept of environmental damage plays a key role in protecting the environment, as it helps to determine whether environmental damage has been predicted and can be repaired. Furthermore, the common interpretation of environmental damage must be based on the other principles underpinning the Union’s environment policy, namely the principles of precaution, preventive action and correction of damage caused to the environment.



Source: EU Action Plan: ‘Towards zero pollution for air, water and soil’

All three principles are useful for better defining environmental damage. The directive also has a significant benchmark, which is Art. Paragraph 1 of the Charter of Fundamental Rights, which requires that ‘the essential content of the law’ be always respected and that a measure having an impact on the fundamental right respects the principle of proportionality [11]. Following a common interpretation of environmental damage, the Commission submitted Directive 2004/35/EC to an evaluation in 2016. The evaluation showed that the implementation of the ELD directive was hampered by a lack of uniformity in the application of some key concepts, which are closely linked to the notion of environmental damage. This requirement resulted in a common interpretation document based on research and consultation which was useful for the drafting of guidelines for Member States, competent authorities, operators, natural and legal persons and providers of financial guarantees. The guidelines together with the case law of the Court of Justice of the European Union help to clarify the various aspects of the definition, directly or by analogy. Potential perpetrators of environmental damage are referred to as operators. They may be liable for all three categories of environmental damage under the Directive, and their liability is objective, that is not dependent on their actions or omissions by fault (intent or negligence). It is sufficient for an objective liability to be established that a causal link between the environmental damage and the professional activity has been established. It may be that some operators are involved in polluting activities without complying with the applicable rules. This may be the case, for example, of persons who engage in illegal waste management operations. Illegal conduct does not exclude these operators from the scope of the Directive; if it did, it would be contrary to the ‘polluter pays’ principle [12]: the Directive is an expression of this principle and must be interpreted in the light of it. The directive also allows Member States to maintain or introduce more stringent provisions in relation to environmental damage. Adverse effects from environmental damage may occur suddenly and unintentionally. For example, events such as the recent floods in Italy and Spain can cause immediate damage to ecosystems and communities. In addition, some air pollution consequences can have long-term effects on human health and the environment [13]. It is important to monitor and manage risks to reduce these negative impacts. The legal obligations for those responsible for an environmental damage already established should include: ‘All practicable actions to control, contain, eliminate or otherwise manage, with immediate effect, the pollutants concerned and/or any other damaging factors, in order to limit or prevent further environmental damage and adverse effects on human health or further deterioration of services’. This situation creates the obligation on operators to take preventive measures and immediately manage the factors of damage as provided for by European legislation. Operators must also fulfil ancillary obligations. For example, when an environmental damage has occurred, they must ‘without delay notify the competent authority of all relevant aspects of the situation’ and may be required to provide additional information. The ELD Directive also allows Member States to decide to exempt an operator from paying the cost of remedial measures if it is demonstrated that he is not guilty of malpractice or negligence. The assessment of the extent of environmental damage shall be based on information on the state of the environment concerned. There are different types of information. Some information concerns the state of the environment related to the harmful event. Other information is collected for other purposes. Other scientific and technical information about the environmental damage. Competent authorities play a significant role. They must be aware of the existence or threat of environmental damage. It is their responsibility to identify the operator who caused the environmental damage or imminent threat of damage. It is their responsibility to assess the extent of environmental damage, determine the remedial measures that the operator must

implement. In conclusion, it should be noted that on 26 October 2022 the European Commission published a proposal to update the current legislation on air quality. The new directive was approved by the European Parliament in October 2024 after a long review process that lasted 2 years. Member States now have 2 years to transpose it, and it will enter into force on 1 January 2030. The new Directive with binding air quality standards (such as limit values and target values) is an important step in the direction of aligning scientific research results on health effects from exposure to air pollutants, helping to protect public health. In fact, it is now clear that air pollution is the main environmental health risk factor and is responsible for numerous health effects both carcinogenic and non-carcinogenic.

RESULTS

The European Commission has set an interim target for 2030 to reduce the number of premature deaths caused by air pollution. The goal is that air pollution will not have a significant impact on health by 2050. It is worth recalling that the current Directive has had a significant impact on the constant and continuous reduction of air pollution in recent decades. Based on the impact analysis accompanying the new Directive, further reductions in air pollution are now expected. The concentration levels contained in Annex I ‘Air quality standards’ of the Directive adopted in October 2024, however, are not yet fully aligned with the guide values dictated by the World Health Organization (WHO), but they represent an important step towards achieving a high level of protection of human health. In this process of adaptation to the new Directive, it is particularly important to follow a common approach that provides for the adoption of the same air quality standards also for indoor environments, such as offices, schools, banks, The European Commission has published a report on the European Union’s research program in the field of telecommunications. It is worth mentioning that the WHO has always considered indoor and outdoor air together, and both are referred to in the recommendations on ‘WHO global air quality guidelines’ (AQG). Their application contributes to the reduction of exposure to indoor and outdoor air pollution and helps overcome health inequalities. This approach would allow Italy to overcome and fill the legislative gap on indoor air quality with protocols and procedures present in the reports of the Study Group Indoor Pollution of the *Istituto Superiore di Sanità* (ISS). In the years that separate us from 2030, it will be necessary to start a path of reduction of indoor and outdoor environmental levels of concentration of certain pollutants working on risk factors such as the energy performance of buildings that in Italy, in some areas, they are still critical. The misalignment between the legal values currently in force and the WHO AQGs levels will certainly stimulate the identification and adoption of ambitious, structural, synergistic, integrated and coherent actions in the different sectors, from industrial to civil, and at all regional, national and European levels to achieve continuous reduction targets in the not-too-distant future. The first result of the analysis carried out so far concerns the negative effects included in the definition of environmental damage. They, combined with professional activities and the factors of harm that may be associated with them, assume that competent authorities often need to rely on specialist knowledge, including expert judgement, to determine their extent. In the energy field, the growing focus on renewable energies has led to new forms of organization and energy production [14], including the creation of widespread photovoltaic parks [15]. These models not only promote more responsible use of resources, but also bring significant environmental and social benefits. The results obtained with the implementation of the photovoltaic park of the Madonie shows a clear reduction in carbon emissions, greater efficiency in the use of renewable sources, Reduced dependence on fossil

fuels and allowed the re-use of land previously used in an unsustainable way. In fact, through the installation of solar panels, these areas have been transformed into clean energy production sites, reducing the environmental impact compared to other forms of energy production. Solar energy production does not produce air pollution, thus improving air quality and contributing to public health. In addition to environmental aspects, the Madonie photovoltaic park has had a positive impact on local communities. It created job opportunities during the installation and maintenance phases, stimulating the local economy. It also promoted awareness and education about renewable energies, encouraging sustainable behaviour among citizens. By analysing these benefits, we can understand how widespread photovoltaic parks not only an immediate positive impact has but also contribute to building a sustainable future for future generations. However, it is essential to analyse in depth the direct and indirect impacts of energy production from renewable sources. Direct impacts include the reduction of greenhouse gas emissions and improved air quality using local renewable sources. The indirect effects can be identified with the strengthening of the sense of community, with the increase in local employment and with the education of citizens towards more sustainable practices. In 2008, the Madonie Development Agency promoted the creation of the first photovoltaic park spread, which sees the presence of 14 photovoltaic plants for a total power of 1,200 Kwh located in public areas as former landfills, Lifting equipment and asbestos roofing. The idea of the photovoltaic park was born with the intention of using local renewable energy sources that are of public interest and public utility. It also allowed the use of new land and enabled environmental, productive and social recovery. In fact, the 14 installations were built on existing roofs of schools, gyms and degraded areas. The identification of the most suitable sites, on which photovoltaic systems have been installed, was carried out to enable a route for the recovery and redevelopment of degraded areas. The results obtained from the implementation of the photovoltaic park are environmental, productive and social. The installation of three plants on the ground in former municipal dumps, a lifting plant and some of the roof installations made it possible to clean up the old roofs built with asbestos panels. Prior to this intervention these sites and areas had no profitability for the community. Now, for about 15 years, they have been income-generating. The profitability produced by the photovoltaic park has enabled the municipalities to activate social policies in favour of single-family households and cases of hardship. In addition, the plants that make up the photovoltaic park are mostly located in municipalities with less than 4,000 inhabitants and therefore allowed a revitalization of historic centres.

DISCUSSION

The ELD Environmental Liability Directive is a general and transversal instrument of environmental law, which does not apply to one environmental sector but to several. As such it complements the other EU instruments for protecting the environment. The EU's environmental policy is based on a few principles, including the precautionary principle and the preventive principle. The precautionary and preventive principles are useful tools for preventing environmental damage. The adoption of preventive policies and measures are supportive of anticipating, if not avoiding, environmental damage. The idea of the Madonie Photovoltaic Park is being developed to prevent further environmental damage and to exploit local renewable resources. The aim of the 14 installations is to create a sustainable energy system that is accessible to all. This project promotes the use of solar energy in a decentralized way, allowing communities to participate actively in the production of clean energy. Solar energy should be considered as a public good and utility, and therefore not only

contributes to greater energy resilience but also promotes environmental awareness among citizens, Stimulating sustainable behaviour and interest in renewable energy. Through the installation of photovoltaic systems distributed on public buildings, municipal areas and fallow land, the park has contributed to a reduction in environmental impact while also promoting energy self-sufficiency of local degraded areas. It has also contributed to the creation of jobs in plant design, installation and maintenance, providing economic benefits to the community. This was possible thanks to the participation of several municipalities, which created a financial governance model that made it possible to identify banking partners. The bank partners based their assessments on cash flows and therefore on the profitability provided by the Photovoltaic Park and then granted and disbursed the loan necessary to finance the creation of the photovoltaic park diffuse. Therefore, the precautionary principle can be said to be a practical and effective solution to all these air pollution phenomena. The implementation of this principle allows people to carry out their daily activities in a liveable environment free from air pollution and thus provides them with a better quality of life.

CONCLUSION

In conclusion, the issue of air pollution emerges as one of the most difficult challenges of our time, with significant impacts on human health, ecosystems and climate. Despite regulatory efforts and global initiatives to reduce pollutant emissions, the issue requires continued collective effort. It is essential to promote more stringent policies in the long term, invest in sustainable technologies, raise public awareness of the importance of clean air and continue the policy of promoting energy from renewable sources. Cooperation and changes in individual and collective habits will effectively tackle air pollution and protect the planet for future generations. The concept of environmental damage is a crucial element in the protection of the environment, highlighting the need to assess and empower the actors involved. Although it is formalised in the EU directive governing environmental liability, a thorough assessment must always be made. European environmental policy is based on precaution, prevention, correcting pollution at source and the 'polluter pays' rule, as well as the 'do no harm' principle of the European Green Deal, recognising the human right to a clean environment, Healthy and sustainable, as recognised in Resolution 76/300 adopted by the United Nations (UN) Assembly on 28 July 2022. Therefore, proposals and rules such as Do No Significant Harm (DNSH) are welcome, according to which each company is obliged to comply with environmental objectives if it benefits from a facility co-financed by the National Recovery and Resilience Plan (PNRR). These pillars not only reflect an ethical commitment to sustainability, but also represent a pragmatic approach to addressing contemporary environmental challenges. By adopting these strategies, the EU seeks to promote a development model that protects public health and the environment, while ensuring a balance between economic growth and environmental protection. The positive environmental, productive and social results obtained by the implementation of the photovoltaic park of the Madonie is a concrete and effective example that with the rational use of renewable sources can aspire to a healthier and sustainable future for all.

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ASSESSING TRANSITIONS TO SUSTAINABLE AGRIFOOD SYSTEMS: A LEGAL PROSPECTIVE

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ABSTRACT

The global food system faces environmental, social and legal challenges.

Primary production has become increasingly dependent on external inputs from industrial companies, which contribute to the rising cost of nutritious food and decreasing the income of producers, particularly the producers in primary production.

Adopting alternative models of short food supply chains can reduce those negative effects and move the agri-food supply chain towards some Agenda 2030 sustainable development goals and aims of European Strategies in the agrifood field.

The present paper analyses the benefits of a short food supply chain model, the Community Supported Agriculture (CSA), whereby the farm receives financial support from the consumer community and offers to customers the access to nutritious and seasonal food.

From a legal perspective, the CSA model presents several benefits, including increased agricultural productivity, high farmer income, fast direct marketing and sharing business risks between farmers and consumers. Furthermore, the CSA model is aligned with several sustainable development goals set out in the mission 'Zero Hunger'.

The paper highlights benefits and limits of CSA as production and consumption model and its capability to satisfy the interests of producers, who receive maximum profit from their work, and consumers, whose consumption choices reduce environmental impacts.

Some of the limitations of CSA arise from the lack of legislation governing this model. Indeed, despite its prevalence in Europe, CSA has not been formally regulated by European legal systems.

In the CSA, the agreement between consumers and local producers characterised by a commitment to solidarity, participation and the achievement of sustainable development goals, represents a potential instrument for the planning of a new agricultural model.

Therefore, the implementation of CSA models represents a crucial opportunity to rethink the agri-food system and address the current challenges it is facing.

Keywords: Community Supported Agriculture, Sustainable Goals, Agrifood Law, Farm To Fork

INTRODUCTION

The capacity of human beings to survive and thrive in societies characterised by complexity is contingent upon the availability of nutritious food produced in an environment that is both healthy and functioning. A range of factors external to agri-food systems, including civil conflict and climate disasters, combined with internal issues such as low productivity, an insufficient availability of nutritious food and an excess of cheap, highly processed food, are contributing to the rising cost of nutritious food [1].

The rising cost of nutritious food is concomitant with the falling income of primary producers, who are no longer able to generate sufficient income to sustain small-scale food producers, particularly in primary food production [2].

The combination of rising food costs and declining producer incomes may have disruptive implications for the long-term survival of humanity. This is because the agri-food supply chain and its provision of food are essential for the survival of humanity.

Food safety, nutritious food and income stability for small-scale food producers represent some of the goals of the 2030 Agenda and the European Green Deal, implementation tool of the Agenda.

The same objectives are also identified in the European Strategy 'From producer to consumer' for a fair, healthy and environmentally friendly food system' (Farm to Fork Strategy) [3] and the Biodiversity Strategy 2030 [4], published on 20 May 2020.

The Farm to Fork Strategy identifies three main goals to (i) ensure that the food supply chain has a neutral or positive environmental and climate impact, (ii) ensure the supply of healthy, nutritious food that is environmentally and animal welfare friendly and responds to consumer food preferences and (iii) ensure food affordability, competitiveness and equity in the supply chain.

To achieve these objectives, the European Union Institutions aim to involve public authorities, citizens, private sector actors, non-governmental organisations and academics.

However, the establishment of a legislative framework for a food system to achieve these goals is facing significant challenges.

The Regulatory Monitoring Committee rejected the Commission's legislative proposal presented in March 2023 [5] and currently any legislative instruments are available to address the agri-food sector towards the transition promoted in the Green Deal, in accordance with the terms and conditions established in Farm to Fork Strategy.

The agri-food system needs legislative intervention that addresses every aspect of social, economic and environmental sustainability, as outlined in the Farm to Fork Strategy.

The aim of this paper is to assess whether and which business practices currently operating in the European agri-food have the needed requirements to achieve some sustainable development goals for agricultural and food system.

MATERIALS AND METHODS

The present analysis of the agrifood business allows to understand which business models are participating in the goals of social, economic and environmental sustainability. Indeed, legal analysis should not be limited to identifying malpractice and punishing greenwashing, but should identify the good practices to implement.

In the context of emerging models of consumption and production, the present paper examines a specific production and consumption model, known as Community Supported Agriculture (CSA).

This paper, through a review of the relevant socio-legal literature, focuses on the proximity of CSA models to the three goals of the Farm to Fork Strategy and their potential acceleration towards the mission Zero Hunger. In particular, the target of ending hunger, the target of ensuring access to safe, nutritious and sufficient food for all people all year round, and target goal of doubling agricultural productivity and incomes of smallholder food producers.

The advantage of literature review [6] [7] is that it allows us to assess the proximity of the Community Supported Agriculture's values and participation to Sustainable Development Goals enables the identification of limitations that must be overcome in order to improve CSA business practices.

RESULTS

From a legal point of view, we can define the Community Supported Agriculture as a partnership formalised by an individual contract between a consumer and a producer, characterised by a mutual commitment over a long period of time, beyond any single trade act.

Specifically, the CSA is based on solidarity between producers and consumer groups and involves sharing both the risks and the benefits of healthy production, adapted to natural and seasonal conditions and respectful of the environment, natural and cultural heritage and health [8].

Solidarity ensures a reasonable and fair price is paid up-front, allowing producers and their small and medium enterprises to support their farms and live in dignity.

The origins of the CSA in Japan can be traced back to the 1970s, when a group of women, motivated by environmental concerns and scepticism of the prevailing food system, established a non-profit producer-consumer partnership, known as 'Teikei'.

Collaborative relationships between consumers and producers dedicated to developing an alternative food system based on agro-ecological principles and joint, supportive collaboration have emerged also in the United States of America.

The first known instance of Community Supported Agriculture (CSA) in the United States occurred in South Egremont, Massachusetts, in 1985 [6].

Currently, the CSA model is currently in widespread use throughout Europe, however, from a legal standpoint, it would be inaccurate to describe it as an 'official model', because the CSA schemes in the world have different structural and different approaches.

In their structural diversities, CSAs are characterised by two common aspects.

The first is an agreement between producers and consumers, based on shared values, goals and trust, to share the responsibilities, risks and rewards of agricultural production.

The second aspect is to establish a social structure based on the contractual relationship between producer and consumer, can contribute to the dissemination of a more conscious food culture [9].

In a CSA, a substantial number of consumers engage in the production and management activities of the enterprise.

The consumers can participate in production or management CSA activities on a pro bono basis as volunteers. Alternatively, remuneration may be required on the basis of the existence of an employment contract between the final consumer and the production company. In some CSAs, the producer and consumers engage in a collaborative process to determine the eco-friendly and agro-ecological production techniques that will be employed during cultivation and production.

Furthermore, consumers and producers together establish a network of collaborations with public authorities, citizens, private sector actors, non-governmental organisations and academics with the objective of promoting societal awareness of the advantages of adopting this model.

DISCUSSION

The exam of the CSA model in relation to the objectives of the Farm to Fork Strategy and the sustainable development goals highlights the need of avenues for further analysis by European researchers, authorities and institutions wishing to engage in the green transition.

From an environmental perspective, the CSAs adopt organic farming and eco-friendly techniques and reject the use of chemical and aggressive products.

The use of chemical products such as pesticides may increase productivity and provide some economic benefits, but in the short term it can severely reduce soil fertility, contaminate groundwater and undermine the health of citizens and farmers, and over time it can also lead to ecological degradation. Contrary, CSA aims to prevent and mitigate such negative environmental impacts through the adoption of agro-ecological techniques.

Moreover, the environmental impact is reduced by the distribution method of the final products. Indeed, consumers collect their food directly from the field or from collection points situated in close proximity to the field. This distribution system results in a reduction in the cost and duration of transport, thereby actively contributing to the mitigation of climate change.

From a legal point of view, the benefits result from an conventional advance payment mechanism, similar to annual subscription. In CSA, the consumer buys a share of the crop at the beginning of production, before the start of production season.

Following an assessment of an estimated personal food consumption, the consumer makes a payment to the enterprise in return for a weekly food portion. The consumer shares the risks associated with seasonal farming with the producer through the payment up front and the contribution to capital assets via shares in the farm business.

Given the intrinsic unpredictability of agri-food production, the consumer is exposed to the possibility of receiving a portion that is less than the payment amount, but the consumer accepts the sharing of the commercial risk to guarantee the producer a secure and stable income.

The producer is able to generate a reliable income, which in turn facilitates more effective business planning and allows them to devote more time to their agricultural activities. Furthermore, the direct marketing also allows the producer to obtain a high return and set fairer prices than those set by large food retailers [10].

Finally, the contemporary integrated agri-food system has the capacity to produce consumption practices. The diversification of the agri-food system and the implementation of socially responsible businesses can lead to the diversification of consumer behaviour and address the customers towards conscious food consumption choices. The conscious food consumption choices represent an essential step to establish a self-sufficient food economy.

However, for a Community Supported Agriculture (CSA) programme to be successful, it is essential to educate and inform consumers about the effective costs of high-quality production and to persuade them of the advantages of participating in a CSA scheme.

This represents a more challenging undertaking than merely competing with industrial food products offered by big retailers that needs to be addressed by all stakeholders in the food production chain.

CONCLUSION

Community Supported Agriculture (CSA) represents a new approach to social farming, offering a potential alternative to the conventional agri-food system.

In order to the conventional agri-food system, we have to recognised a number of negative aspects, including rising food costs, unequal distribution of income to farmers and a high negative environmental impact.

In CSAs, consumer financial support has the advantage of enabling small-scale producers to earn a decent income. Furthermore, consumers buy healthy and nutritious food with reasonable prices, knowing that their financial commitment supports a small-scale producer [11].

The food consumption is closely linked to local food production, multiplying direct interactions between consumers and farmers. This implies a territorial diversification of the agricultural sector, promoting positive regional specialisation but avoiding the spatial concentration of unsustainable overexploitation of natural resources. The organic

techniques used in the CSA in combination with direct sales and local distribution schemes significantly reduce environmental impacts and participate in climate change challenges.

The CSA scheme is contributing to the realisation of the goals identified by the Farm to Fork Strategy and in the mission 'Zero Hunger', therefore the consumer-producer partnership in CSA is crucial for the future of agriculture.

However, the absence of a legal framework of the CSA scheme could reduce the benefits of this new consumption and production model of agriculture.

The absence of legal framework prevents sceptical farmers from adopting a model that currently lies on consumer trust and without legal protection. Moreover, small-scale farmers, who are convinced by the ethical values of the CSA, may not have sufficient financial capital to begin the transformation process to CSA model.

Public and private sectors should cooperate to transfer the needed capital for projects such as the CSA. The cooperation, e.g. a public-private partnerships of private banks with promotion banks, is crucial to enable small and large farmers and food system actors to move towards sustainable practices needed to real green transition.

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CHALLENGES AND DIRECTIONS OF THE EUROPEAN REGULATION OF MEDIATION IN CROSS-BORDER DISPUTES

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ABSTRACT

Mediation, an alternative dispute resolution tool, has attracted the attention of the EU, which has decided to promote its use in cross-border disputes by adopting DIRECTIVE 2008/52/EC of 21 May 2008 on certain aspects of mediation in civil and commercial matters.

Subsequently, in December 2018, the United Nations General Assembly unanimously adopted the United Nations Convention on International Agreements Resulting from Mediation (the "Singapore Convention"), which applies to international settlement agreements derived from mediation concluded by parties wishing to resolve a commercial dispute in this way.

Although it took part in the negotiations during the drafting of the Convention, it has not yet been signed by any of the EU Member States or by the EU, but the European Commission has started consultation on the Singapore Convention on Mediation, not only with stakeholders, but also with EU Member States.

Keywords: mediation, enforcement of the mediation convention, Singapore Convention, EU

INTRODUCTION

Mediation is an attractive concept for the legislative power, likely to increase the quality of justice, both by relieving the courts of law and by the fact that the realization of justice is placed in the hands of the parties to the dispute. Mediation is also of interest to participants in international trade, as this dispute resolution tool saves time, money and, above all, the possibility of continuing commercial relations with the contractual partner. In a broad sense, mediation is a process in which the parties try to resolve a dispute using the assistance of a neutral third party acting as a mediator. The essence of mediation is that the mediator has no authority to impose any decision on the parties and serves only to facilitate their reaching a mutually acceptable decision [1].

Mediation is known for increasing the efficiency of dispute resolution and for its flexibility, putting justice in the hands of the parties. The mediation process is more flexible, and, in many cases, more cost- and time-efficient than other dispute resolution processes, such as judicial or arbitral proceedings.

The studies carried out have shown that mediation becomes much more attractive when the mediation agreement has the power of an enforceable title, in the sense that it will be possible to start the forced execution against the party that does not fulfill its obligations, without investing the court or the arbitration court with a common law action.

The absence or the ineffectiveness of a cross-border mechanism for the implementation of mediation agreements is one of the main obstacles to the wider use of mediation, as mediated settlement agreements are practically enforceable only in the same way as any other contract. According to a 2020 survey of the Singapore International Academy of Dispute Resolution [2], enforceability was indicated as the most important factor (71%) for choosing a dispute resolution mechanism. Similar conclusions were reached at the Global Pound Conference of the International Mediation Institute [3].

In general, the percentage of non-compliance with mediation agreements is small, as the parties are unlikely to refuse to implement a mediation agreement for which they have spent time and made efforts to negotiate. At this point, if two parties conclude a dispute resolution agreement using mediation, and one of the parties does not comply with its obligations under that agreement, the other party must identify other solutions to resolve that dispute. For example, the parties may have agreed that the dispute will be resolved in court, under a particular jurisdiction, or by arbitration.

However, the enforcement process is more complex for disputes settled at international level, with parties from different states. The parties may agree on court proceedings in one jurisdiction, but the judgment must be enforced in another jurisdiction where, for example, the properties are located – if such enforcement is permitted. If the parties agree to arbitration, then an arbitral award will first be rendered before it is recognized and enforced by the courts where the properties are located (under the New York Convention).

Both processes can involve a long time and high costs, which means postponing enforcement. Such potential enforcement issues may discourage the parties from agreeing to resolve the dispute through mediation from the outset.

Starting from the idea that mediation should not be seen as an inferior solution to the judicial procedure because compliance with the agreements resulting from mediation would depend on the goodwill of the parties, the European Union considered that the Member States must ensure that the parties to a written agreement resulting from mediation are able to make its content enforceable.

Admittedly, there is the possibility of refusal to recognize the enforceability of an agreement where its terms are contrary to the law of the State concerned, including its private international law, or where the law of the State does not provide for the possibility for the content of that agreement to become enforceable, such as, for example, the case of agreements containing obligations which, by their nature, cannot be enforceable.

II. PROVISIONS OF DIRECTIVE 2008/52/EC ON CERTAIN ASPECTS OF MEDIATION IN CIVIL AND COMMERCIAL MATTERS

The Council of Europe has three main pillars: human rights, democracy and the rule of law, and mediation is mainly related to the effectiveness of human rights in the protection and effectiveness of the rule of law.

The American mediation model was introduced in Europe through Great Britain and the Society of Friends of this country, respectively, in cases of juvenile delinquency. The success achieved by the United Kingdom has captured the attention of the European Union, which has become extremely interested in alternative dispute resolution channels.

It should be noted that in Europe, mediation in structured form as a process was used only after 1996, while it was already widely used starting in the 80s in the USA and later in Canada.

Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters was adopted in order to achieve the objective of maintaining and developing an area of freedom, security and justice, which is necessary for the proper functioning of the internal market.

Mediation in international business disputes is preferred due to significant advantages such as party control, length of time, expense, flexible process, confidentiality, possibility of selecting the mediator, but not the finality, also the enforcement of international mediation agreements is not comparable to the enforcement of arbitral awards [4].

Despite the EU's major interest in the matter, the solution chosen was that of a Directive, not a Regulation, mainly due to the reluctance of some states towards a legal registry, in the sense of using an institution not specific to European culture [5], and their distrust in procedures that allow obtaining an enforceable title without verifying the legality of the content of that title.

In fact, this EU Mediation Directive was the lowest common denominator among EU Member States, and this explains both the care taken to respect the rights of those involved in mediation and the lack of radical enforcement provisions. [3]

The Directive applies to cross-border disputes in civil and commercial matters, except for rights and obligations that the parties may not have under the corresponding applicable law. It does not apply to fiscal, customs or administrative matters or to the liability of the State for acts or omissions in the exercise of its official authority ('*acta iure imperii*').

For the purposes of the Directive, a dispute is cross-border if at least one of the parties is domiciled or habitually resident in a Member State other than that of any other party on the date on which it is decided that the parties will have recourse to the average, whether it is their decision or that of the court. Cross-border litigation is also considered to be a dispute in which the judicial or arbitral proceedings that followed mediation between the parties are initiated in a Member State other than the one in which the parties have their domicile or habitual residence.

As regards the enforceability of the mediation agreement, Article 6 provides that Member States shall ensure that the parties, or one of the parties with the express

consent of the others, may request that the content of the written agreement resulting from mediation be enforceable. The content of such an agreement shall become enforceable unless either the content of the agreement is contrary to the law of the Member State in which the request is made or the law of that Member State does not provide for the possibility of making it enforceable. It also stipulates that the content of the agreement may become enforceable by a judgment, decision or authentic instrument issued by a court or other competent authority in accordance with the law of the Member State in which the request was made.

As a result of the application of these provisions, In many EU Member States' legal systems, a settlement agreement is considered a contract and is enforceable like a contract. It is based on the will of the parties, like any contract, and its non-performance means that the will of the parties to engage in such a contractual relationship does not exist. Also, in some legal systems of EU Member States, settlement agreements can only be enforced after they have been validated by national courts.

The parties could, however, agree through such a clause that any disputes arising from the conclusion of the mediation agreement should be settled through judicial proceedings in a particular jurisdiction or through arbitration proceedings. The party that is interested in the enforcement of the agreement should, in this situation, start court proceedings or arbitration proceedings. [6]

We emphasize the fact that this legal rule refers to enforcement only with the consent of both parties, and therefore there is no provision for unilateral application.

In Romania, Law no. 192/2006, provided that when the parties in conflict have reached an agreement, an agreement is drafted that will include all the clauses consented to by them and which has the value of a document under private signature. This agreement of the parties could be subject to verification by the notary public in order to authenticate or, as the case may be, to the approval of the court. In the latter case, it was necessary that the dispute had been submitted to the court before the court and after the conclusion of the agreement, the court pronounced, at the request of the parties, an expedient decision that was enforceable.

In order to transpose Directive 2008/52/EC into Romanian legislation, Law no. 154/2019 was adopted, amending Law no. 192/2006. According to art. 58 of Law no. 192/2006, amended by Law no. 154 /2019: “(2¹) The mediation agreement verified and certified by the parties' lawyers, by the notary public or by a lawyer or notary public chosen by the mediator with the agreement of the parties is an enforceable title. (4) If the mediated conflict concerns the transfer of the right of ownership of immovable property, as well as other rights in rem, partitions and inheritance cases, under penalty of absolute nullity, the mediation agreement drafted by the mediator shall be submitted to the notary public or to the court, so that they, based on the mediation agreement, may verify the substantive and formal conditions through the procedures provided by law and issue an authentic deed or a court decision, as the case may be, in compliance with legal procedures. The mediation agreements will be verified regarding the fulfillment of the substantive and formal conditions, the notary public or the court being able to bring the corresponding amendments and completions with the agreement of the parties.”

It follows that in the Romanian legal system, the mere conclusion of a mediation agreement does not lead to the acquisition by the parties of an enforceable title, it being necessary for it to be verified and certified by a lawyer or by a notary public. If the

mediation agreement provides for the transfer of the right of ownership or other rights in rem regarding the immovable property, the mediation agreement shall be submitted to the notary public or to the court of law, in order to verify the substantive and formal conditions and to issue an authentic deed or a court decision.

The practice of the courts in Romania is constant, in the sense that they carry out a rigorous verification of the substantive and formal conditions of the act, rejecting the request for consecration of the mediation agreement in the situation where there is no proof that the parties to the agreement owned the immovable property they had (the conclusion pronounced by the Court of Sector 1 Bucharest on April 4, 2024 in the file no. 31742/301/2022) or rejecting the request for declaration of forced execution in the event that the mediation agreement does not meet the legal requirements (conclusion of the Bucharest District Court of 15 May 2024 in the case no.12992/300/2024, the conclusion of the Court of Iași of June 12, 2024 in the file no. 18584/245/2024 or the conclusion of the Court of Sibiu of April 4, 2024 in the file no.4558/306/2024) .

III. PROVISIONS OF THE UNITED NATIONS CONVENTION ON INTERNATIONAL SETTLEMENT AGREEMENT RESULTING FROM MEDIATION

The United Nations Convention on International Settlement Agreements Resulting from Mediation, known as the "Singapore Convention", was designed to become an essential tool in facilitating international trade and promoting mediation as an alternative and an effective method of resolving commercial disputes.

This Convention ensures that the agreement reached by the parties involved is binding and enforceable, in accordance with a simplified procedure. In other words, it contributes to strengthening access to justice and facilitating international trade.

Proclaimed as the mediation equivalent of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (hereinafter referred to as the New York Convention), many commentators herald the Singapore Convention as marking a crucial moment for the development of mediation as a method of dispute resolution.

The main objectives of the Convention are to facilitate international trade and promote the use of mediation for the settlement of international commercial disputes, so that it applies only to international mediation agreements that settle commercial disputes and excludes agreements for the settlement of disputes for which a court or arbitral award already exists.

According to the Singapore Convention, mediation is broadly defined as "an attempt by the parties to reach an amicable agreement on their conflict, with the assistance of a third party or a person who does not have the authority to impose a solution on the parties."

As long as the settlement complies with this definition, the Singapore Convention applies regardless of whether the settlement process is referred to as "mediation" or goes by another name. Likewise, there is no requirement that mediation be managed by a mediation institution or led by an accredited mediator. [7]

The role of national courts in the application of the Singapore Convention is extremely important, as they are expected to deal with claims made under the Convention, in order to allow the international mediation agreement to be invoked in accordance with national rules of procedure and under the conditions stipulated in the Convention, and to implement an international mediation agreement in accordance with national rules of procedure and under the conditions stipulated in the Convention.

IV. CONSIDERATIONS REGARDING THE POSSIBILITY OF THE EUROPEAN UNION TO ACCEDE TO THE SINGAPORE CONVENTION

Following the adoption of the Convention, it was initially appreciated by practitioners that although the start is promising, the future appears uncertain, mainly because the mediation procedure is not yet "mature" neither in the collective mind nor in the legislation of the states that are party to the Convention. Moreover, not only is there a lack of a coherent legal framework for mediation in many countries, but in most countries, there are no mechanisms for the implementation of the Convention. [6]

Although the European Union was represented in the negotiations of the Singapore treaty, the acceptance of it, signing and in the end ratification is faraway. The current state is probably connected to the objection that contractual agreements cannot be granted by executorial strength. Also, the aspect of unification in the field of mediation could be a problematic point. European tradition and the principles of the European legal system are probably not ready for the new approach presented by the Singapore convention and the mediators are not qualified in the same way, globally reflected by the legal orders. The problems mentioned as examples are mostly connected to the national legislative aspects. International, cross-border, commercial, free will of the parties and their private autonomy are the most important principles we must focus on. Despite this state of affairs, the European Commission has started consulting on the Singapore Convention on Mediation, not only with stakeholders but also with EU Member States, which has led to this approach.

In the 2019 European Handbook for Mediation Lawmaking, the Singapore Convention has already been very positively received by the European Commission for the Efficiency of Justice (CEPEJ). Also, in the Position paper on the Singapore Convention on Mediation of 25.04.2022, ADR- SAB Working Group Alternative Dispute Resolution Service, the conclusions were positive, in the sense that, given the clear advantages offered by the Singapore Convention, a future accession of the EU and its member states to this international legal instrument would help support EU companies in resolving their disputes more efficiently in more jurisdictions and help maintain their competitive position globally.

As the arguments for or against accession to the Singapore Convention have pursued the benefits of EU companies and its legal compatibility with the already existing regulations, we are going to structure the analysis in the same way.

Thus, from the point of view of the benefits of European companies, the following aspects were discussed.

1. The fact that the EU is an important player in world trade and that 8 G20 members and important trading partners of the EU have already signed the Convention (Australia, Brazil, China, India, South Korea, United States of America, Japan UK), so

that not signing the Convention would have a particular impact on EU-based companies. It is pointed out that in a survey conducted by the International Mediation Institute at the end of 2014 among in-house lawyers and business managers, almost 93% of respondents said they were more likely to mediate a dispute with a party from a country that was a party to a convention that facilitated the application of transactions mediated in that country [3].

We believe that this perspective is profoundly wrong, given that potential partners from outside the EU could resort to mediation in any EU Member State and could acquire an enforceable title against the company in the Member State, based on its national legislation, in which the provisions transposing the European Directive exist. However, we believe that the signing of the Convention would bring comfort to the non-EU partners, who would no longer have to resort to foreign procedural law.

2. Legal certainty in cross-border disputes, in the sense that a framework ensuring compliance with mediated settlement agreements will help to spread a culture of mediation and reduce uncertainty and risks when entering new business relationships with non-EU business partners, promoting the overall competitiveness of EU companies on the international stage.

We also have reservations about this argument, in the sense that if trade relations are concluded with partners of states that are signatories to the Convention, according to Article 1 of the Convention, it is applicable. If the commercial relationship is related to a State that is not a signatory to the Convention, an attempt to obtain enforcement under the Convention will most of the time be unsuccessful.

3. Lower costs and high time efficiency, as well as ease of application of mediation compared to arbitration. These arguments are valid and known by the EU, the adoption of the Directive being the result of this belief, but they do not represent by themselves arguments for signing the Convention, given that mediation already exists and is used in the EU.

4. More accessible dispute resolution based on online mechanisms, saving time, money, reducing the carbon footprint. It is argued, in this regard, that 94% of WIPO mediations were conducted entirely online in 2020 and 2021, and that all ADR services at the EUIPO were conducted online during the same period, a trend that continues today.[3,8] Indeed, the experience during the COVID-19 pandemic has led to the acceptance of the widespread use of online mechanisms, but we appreciate that if this is the objective to be pursued by the EU, amending the Directive is a much easier way forward. On the other hand, we consider that nothing prevents the parties from conducting negotiations online and subsequently concluding the agreement in writing, especially when it comes to rights that are transcribed in advertising registers or for which the law requires the authentic form.

We emphasize that such an argument is not sufficient for the rectification of the Singapore Convention, especially given that the mediation agreement in the form of a document is also used to prove the creation or modification of rights that are sometimes registered in publicity registers or in situations where the national legislation of the States requires the authentic written form of the document. In that situation, the ratification of the Convention would lead to the creation of a paradoxical situation, in which in the context of an internal dispute the parties can conclude the mediation

agreement only in authentic form and in the context of a cross-border dispute the agreement reached through electronic communications is sufficient.

5. *Supporting EU ADR centres* [3] We consider that, on the one hand, this argument has no real practical implications for EU companies, and, on the other hand, that compared to the possibility of conducting mediation on the basis of online mechanisms, as well as the lack of qualifications necessary for a person to be a mediator, the signing of the Convention could represent a disadvantage for EU ADR centres.

6. *Improving the image as a business partner.* It has been stated that large parts of the world have signed the convention and that the EU risks being left behind, but that being a party to the convention would demonstrate an openness to world trade and appropriate legal mechanisms [3]. We believe that this argument is real and that it relates to the exercise of the EU's foreign policy powers. Indeed, if, by its mere existence, it will confer more guarantees and more confidence to the potential users of mediation, it will generate more mediations and more mediation agreements, the direct beneficiaries of those agreements, individuals or companies, will benefit, but there will also be benefits at the macro level of the economic or justice systems of the states. [6]

7. *Tracking assets located outside the EU.* It is argued that enforcement would be a problem if the third country's assets are located outside the European Union and that there are neighbouring countries such as Georgia, Montenegro, North Macedonia, Serbia, Ukraine and Turkey (all signatories to the Singapore Convention), where business is also carried out by EU-based companies. As indicated in point 2, if the commercial relationship is related to a state that is not a signatory to the Convention, an attempt to obtain a forced execution under the Convention will most of the time be unsuccessful.

From the point of view of the compatibility between the provisions of the Directive and those of the Convention:

1. *Specific interests of Regional Economic Integration Organizations (REIOs).* The problem of the division of competences between the EU and the Member States. It should be noted that within the EU it has not been determined with certainty whether the possible signing of the convention should be made by the EU based on Article 81(2) of the Treaty on the Functioning of the Union or by each individual Member State, if it is considered that this article does not refer to mediation. This issue has been discussed with member states, some of which indicate that they accept EU recommendations, but that the decision-making power belongs to them. [9]

Furthermore, if it is concluded that the decision on this accession falls within the competence of the European Commission, it must be emphasized that, after the entry into force of the Treaty of Lisbon, the European Parliament has the right to be informed during the negotiations, to be consulted and to approve international agreements.

2. *As regards the question of the simultaneous application of the Directive and the Convention, it was considered that this is possible,* invoking in this regard Article & of the Convention, according to which: This Convention shall not deprive any interested party of any right it may have to avail itself of a settlement agreement in the manner and to the extent allowed by the law or the treaties of the Party to the Convention where such settlement agreement is sought to be relied upon.

It should be noted, however, that the Directive does not have direct effect, so that it cannot be invoked as a law or a treaty, since the persons concerned are left with the possibility of relying on their own national law transposing the Directive. However, I consider that in this situation, the invocation by the EU company of its own legislation could deprive the Convention of its content.

3. *The problem of reciprocity.* One observation made regarding the Singapore Convention is that it does not contain a reservation of reciprocity, which is unusual for an international civil justice instrument not to address the issue of reciprocity between signatory states. Article 8(1) of the Singapore Convention provides for the only two reservations that States may make when signing and ratifying the Singapore Convention, one of which is that the Convention will apply only on the basis of the autonomy of the parties, but nowhere has it been provided that its provisions would apply to a mediation contract to be performed in a signatory State, only if the provisions of the Convention apply equally in the State of nationality or nationality of the creditor entitled to enforcement.

Due to this aspect, we have previously stated that even in the event of the signing of the Convention by the EU or by the Member States, EU companies will not benefit from the possibility of obtaining an enforceable title that will take effect in a country that is not a signatory to the Convention. In the doctrine it has been stated that the EU's reluctance towards the Singapore Convention should be correlated with the fact that individual member states are rather jealous of their long cultural and legal tradition and with the fact that lawyers can influence political decisions, implying that they are not prepared to look at mediation as a way of settling disputes [8].

4. *Legal nature of the mediation agreement.* We believe that the real difficulty in harmonizing the rules within the EU with the Singapore Convention lies in the legal nature of the mediation agreement.

In fact, the resolution of mediation disputes results in a settlement agreement that differs from a simple new contract, due to the role of the mediator. The mediator acts in a certain position. He does not act as a judge or arbitrator, even if he uses some methods also used in arbitration. Assisting, helping to break the deadlock, analysing the settlement agreement from a sustainability point of view, all this describes the special role of the mediator and also the most likely impossibility of reaching the dispute agreement without the exact procedural assistance of the mediator.

The mediation settlement agreement has a specific nature, different from that of court decisions or other authentic documents.[10] By the European Union directive, the new form of contract is not given binding effect, the binding force being granted after the specific judicial procedure or as a result of the supporting role of another competent body. In this regard, it has been stated that the inherent coercive nature of international court awards or arbitral awards has been missed in mediation and that the mediation agreement is a *sui generis* instrument, different from a judgment, decision or any other authentic act referred to in the Mediation Directive, so we must focus on the legal instruments of the European Union dealing with the issue of enforcement, before deciding on the adequacy of the Singapore Mediation Convention. [5, 11].

The Mediation Directive refers to the enforceability of mediation settlement agreements in the traditional form, reflecting the European legal tradition and the nature of appropriate dispute resolution methods. Thus, the Mediation Directive is an instrument

of harmonization and does not create a unified system of recognition and enforcement for the settlement of disputes in mediation.

The Singapore Convention reflects in this article the difference between the civil law system, the common law system, and the different understanding of recognition and enforcement, describing the procedure without using the word recognition, but attempting to establish a functional definition acceptable to both systems of law.

CONCLUSION

The comparative analysis of the texts of the two normative acts shows the differences dictated by the way in which the institution of mediation is received in different legal cultures.

The possible adoption of the Singapore Convention by the EU or by the member states will represent, above all, a declaration of the EU's openness to world trade and appropriate legal mechanisms and will be the result of a political decision.

Although we appreciate that such a step could bring benefits, we emphasize that this would lead to a profound change in the European legal culture of the concept of enforceable titles, in general, and of the agreement resulting from mediation, in particular.

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COMBATING THE FINANCING TERRORISM: AN ANALYSIS OF THE EU REGULATORY FRAMEWORK AND ENFORCEMENT MECHANISM

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ABSTRACT

European Union (EU) has been at the forefront of efforts to disrupt and dismantle the financial networks that sustain terrorist organizations. This paper provides a comprehensive analysis of the regulatory frameworks and enforcement mechanisms employed by the EU in its fight against the financing of terrorism. The study analyses the threat by examining the different funding methods used over the years by various terrorist organizations. Then, the research scrutinizes the role of EU frameworks and mechanisms to mitigate those threats. It explores the challenges posed by divergent national implementations and the measures taken to enhance cooperation and information-sharing among member states. The research evaluates ongoing efforts to address these challenges, including the new Regulation on the Traceability of Transfers of Funds (TFR). In conclusion, the paper provides a comprehensive overview of the EU's CFT architecture framework. It analyses the strengths and weaknesses of the existing regulatory framework and enforcement mechanisms, including identifying potential gaps and areas for improvement within the EU's CTF framework, offering recommendations for strengthening regulatory oversight, enhancing cross-border collaboration, and addressing emerging threats posed by evolving financial technologies.

Keywords: EU, Terrorism, Funding, Law, Mitigation, Economy

INTRODUCTION

The financing of terrorism poses a persistent threat to global security, demanding robust and coordinated measures to counteract its influence. The International Monetary Fund (IMF) defines “Terrorist Financing” as “involves the raising and processing of funds to supply terrorists with resource” [1].

According to The EU Global Facility on Anti-Money Laundering and Countering the Financing of Terrorism (GF-AML/CFT) “Terrorist Financing is the raising of money involving the solicitation, collection or provision of funds, with the intention that it may be used to support terrorist acts, terrorists or terrorist organisations” [2]. Terrorist organizations are today powerful and resourceful economic units. Islamic terrorist organizations such as ISIS, Al-Qaeda, Hamas, The Taliban and Hizballah have annual income estimated at hundreds of millions of US. The sources of the revenues are varied and may include taxes and fees, oil and gas, kidnapping, extortion, looting, confiscation, and fines, as in the case of ISIS.

Therefore, the purpose of this paper is to address two research questions: (1) What are

the different methods terrorist organisations perform to fund their illegitimate and violent activities? (2) What are the legal measures taken, especially by the EU, to confront and mitigate those various funding channels?

The remainder of the paper will consist of two major sections: (1) The threat – different methods of funding by terrorist organisations. (2) The mitigations – the EU regulatory framework and enforcement mechanisms in combating the financing of terrorism, the “vulnerabilities” defined by the IMF - “While ML and TF differ in many ways, they often exploit the same vulnerabilities in financial systems that allow for an inappropriate level of anonymity and opacity in the execution of financial transactions” [3].

MATERIALS AND METHODS

To comprehensively analyse the threat and the mitigation, this study employs a qualitative research approach based on document analysis of:

Primary sources - Review of EU legislative documents, including directives, regulations, and official communications related to the financing of terrorism. Key documents will include the EU Anti-Money Laundering Directives (AMLDs), the EU Terrorist Financing Tracking Program (TFTP), and relevant European Commission reports.

Secondary sources - Analysis of academic articles, reports from various research institutions, media outlets, non-governmental organisations, and policy papers that critique or assess the EU's measures in this area. These sources provide insights into the strengths and weaknesses of the current regulatory framework.

By using this technique, the study aims to shed light not only on the various methods of terror funding but also on the EU's legal means to confront and mitigate those funding.

RESULTS

The Threat

Terror funding may include various methods: physical and modern, traditional and technological, oriental and Western. Some of the methods are:

Hawala – An informal, traditional and legitimate method of transferring money outside of traditional banking systems, without any physical money actually moving, based on trust between the two Hawala brokers and the balancing of their books [4]. The Hawala has been operated extensively in South Asia, the Middle East, and Africa for many centuries since it enabled cheaper and faster, convenient, versatile money transition, with a potential for anonymity since it leaves little to no paper trail [5].

The Hawala money transition had an extensive impact on states' economies. For example, in 2008, a report analysed the Hawala mechanism in Pakistan stated that “officials estimate that more than USD 5 to 7 billion enters into the country every year through Hawala channels”. In India, “Interpol estimates the size of Hawala at possibly 40% of the country's gross domestic product” [6].

The benefit of the Hawala was known to terrorist organisations. Experts argued that Al-Qaeda moved much of its money by hawala before 9/11 by “network operating in Pakistan, in Dubai, and throughout the Middle East to transfer funds efficiently” [7].

Charity – Experts and law enforcement agencies claimed that terrorist organisations used charities for fundraising and crowdfunding campaigns. One of the most notable cases was of the “Holy Land Foundation” (HLF), which was the most prominent Islamic charity in the United States. In December 2001, the US designated HLF a

terrorist organisation and, in 2004, charged the HLF and five former officers and employees with providing material support to Hamas and related offences [8]. Such activities were recorded during recent years as well [9].

Cryptocurrencies – as part of the terrorist organisations' attempt to find new, innovative and clandestine methods of funding, they discovered the potential of cryptocurrencies as a means to fund their activities [10]. Indeed, in a report from October 2023, Hamas was defined as “The first terrorist organization to use cryptocurrencies” [11], with funding campaigns being published on the web, social networks and telegram channels during recent years and especially during conflict and wars with Israel [12]. ISIS tried to raise funds using cryptocurrencies back in 2014 [13] until recent years [14].

Other methods of funding terrorism include scams, mainly 419 Fraud used by the Boko Haram in Nigeria, and even romance scams [15]. Other methods are trade in drugs [16], diamonds¹⁷ and human trafficking [18].

THE MITIGATION

The fight against terrorism is a top priority for the EU. Member States cooperate closely to prevent terrorist attacks and ensure the security of citizens.

Following a series of attacks in 2015, the European Union introduced various measures to end terrorism.

While the primary responsibility for fighting crime and ensuring security rests with the Member States, terrorist attacks in recent years have shown that this is also a shared responsibility that they must bear together. The EU contributes to the protection of its citizens by being a central center for cooperation and cooperation between member states.

In 2015, EU leaders issued a joint declaration guiding action by the EU and its member states. The declaration called for specific actions to focus on three areas, namely ensuring the security of citizens, preventing the destruction and protection of values, and cooperation with international partners.

In November 2020, following the terrorist attacks in France, Germany and Austria, EU Home Affairs Ministers agreed to step up their joint efforts to combat the European Union's forgotten peaceful values of democracy, justice and freedom of expression. In December 2020, EU leaders reaffirmed their unity in the fight against radicalization, terrorism and extremism.

According to EU law, terrorist offenses are acts committed with the intention of seriously intimidating the population, illegally forcing a state or an international organization to carry out or refrain from carrying out an action that significantly destabilizes or destroys political, constitutional elements, economic or social fundamentals. structures of the state or international organization.

Radicalization is nothing new, but it has become a greater threat in recent years.

Internet communication technologies have facilitated communication between terrorist countries and enhanced terrorist propaganda and the dissemination of terrorist content.

In April 2021, the EU adopted a regulation on preventing the dissemination of propaganda online. The new rules will come into effect on June 7, 2022.

One element of the European Union's response to terrorism after the attacks of 11 September 2001 was the establishment of a list of persons, groups and organizations that are involved in terrorist activities and subject to restrictive measures. The list is subject to periodic review, at least once every six months.

Since September 2016, the EU has been able to apply its own sanctions mechanism

against ISIL/Da'esh and Al-Qaeda, as well as individuals and companies associated with or supporting them.

Competent authorities in member states will be able to issue removal orders to service providers, requiring them to remove explosives or block access within one hour.

Effective information sharing between law enforcement, judicial and intelligence authorities in Member States is essential to combating terrorism, tracking foreign fighters and combating organized crime.

The EU has taken steps to improve data sharing between EU countries, including recently:

- an interoperability framework between EU information systems contributing to border control, security and migration (2019)
- updating the Schengen Information System, which is used by police and border guards to exchange notices of caught or lost persons and interests (2018)
- Passenger Names Directive, which regulates the transfer and use of personal data provided by air passengers (2016)
- creation of the European Counter-Terrorism Center in Europe to promote the exchange of information between national police authorities (2016)
- IT systems for fighting crime and securing EU borders (general information)

Following the terrorist attacks in Madrid on 11 March 2004, EU leaders adopted a declaration on the ban on the fight against terrorism. Among other things, they agreed to establish the position of Coordinator for Combating Terrorism in the European Union.

Coordinator responsible for coordinating counter-terrorism work in the EU, monitoring the implementation of the EU Counter-Terrorism Strategy and improving relations between the EU and third countries.

Money laundering and terrorist financing are a serious problem for the EU's financial system and the security of its citizens.

Since 2018, stricter rules against money laundering have been in force in the EU. These rules make it more difficult to hide illicit funds through shell companies and strengthen controls in high-risk third countries. The regulations also strengthen the role of supervisory authorities and improve access to information and circulation of information.

To close the legal loopholes that have made terrorism possible with the volume of use of modified weapons, in 2017 the Council adopted new regulations governing the purchase and possession of weapons.

These guidelines include measures to increase detection capabilities and stricter rules on the purchase and possession of the most dangerous weapons.

In June 2019, the Board adopted new regulations that restrict public access to explosives and ensure proper reporting of suspicious supply-side transactions.

Explosives are precursor chemicals that can be used for criminal purposes but can also be used to illegally make improvised explosives.

More and more criminals and terrorists are using technology to plan and commit crimes. As a result, authorities increasingly rely on electronic evidence to find and convict criminals. The EU is working on new rules that will streamline the process of obtaining electronic certificates in all countries.

The use of digital tools in criminal proceedings for terrorist offenses in the EU is important given the evolving security threat landscape and rapid technological advances.

In March 2017, the EU adopted the Counter-Terrorism Directive. New rules

strengthening the EU's legal framework to prevent terrorist attacks and combat the phenomenon of foreign armed forces. The directive criminalizes activities such as attending school or traveling for terrorist purposes, organizing or facilitating such travel and providing or collecting funds linked to terrorist groups or activities.

In March 2017, the European Union also adopted a resolution amending the Schengen Borders Law. The new rules require systematic checks to look for information on all people crossing the border abroad, including EU citizens and their family members.

DISCUSSION

Terrorism funding methods are diverse and constantly evolving, reflecting the adaptability and resourcefulness of terrorist organisations. Traditional sources such as Hawala and donations from sympathisers remain significant; however, terrorists increasingly exploit legitimate businesses and charities to funnel funds covertly. Criminal activities like drug trafficking, smuggling, and extortion also contribute substantially to their financial streams. Additionally, technological advancements have introduced new avenues for financing, including cybercrime and the use of cryptocurrencies, which provide anonymity and reduce the risk of detection. Understanding these varied methods is crucial for developing targeted and effective countermeasures within regulatory and enforcement frameworks.

CONCLUSION

The security of the Union and its citizens is directly linked to what happens outside Europe. In 2015, the Council decided to expand external counter-terrorism operations, particularly in the Mediterranean, the Middle East, North Africa, the Persian Gulf and the Sahel region, by strengthening cooperation with key partners by launching new capacity-building projects or by expanding measures to counter radicalization and violent extremism.

In 2014, the Council adopted the EU's counter-terrorism strategy for Syria and Iraq, with a particular focus on foreign fighters. This strategy identifies several priority areas, including improving cooperation with third countries to identify recruitment networks and foreign fighters.

To reaffirm its firm commitment to protect EU citizens from terrorism and extremism, the Council communicated in June 2020 a strengthening.

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CRIMINAL LIABILITY FOR CORRUPTION CRIMES IN LITHUANIAN COURT PRACTICE

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ABSTRACT

Corruption is a global phenomenon, and a high level of corruption in a country has a negative impact on various areas of state life, such as politics, economy, and law. In addition, due to the high level of corruption, the international prestige of the country is declining. The increasing number of corruption crimes is one of the most urgent problems in Lithuania. The aim of this research is to reveal the main issues of criminal liability for corruption crimes in Lithuanian court practice. To conduct the research, the methods of scientific literature and legal acts analysis were applied, as well as case studies of individual court practices were performed. It was found that one of the most common practical issues was the inappropriate classification of corruption crimes. Therefore, the inappropriate application of criminal liability resulted in the delay of court proceedings, and sometimes even the acquittal of persons charged with criminal liability. In judicial practice, a tendency has been observed that courts usually impose monetary fines and imprisonment on individuals who have committed corruption crimes, but at the same time usually suspend the prison punishment. Thus, the punishments for corruption crimes are lenient and this can create favourable conditions for the corrupt to avoid criminal liability and can cause dissatisfaction and distrust of the courts and law enforcement institutions. This article contributes to the growing number of investigations in the field of corruption prevention with a specific focus on the practice of Lithuanian courts. In practice, the identified problems in the decisions made by the courts can be useful to the country legislators in providing ongoing projects and to reduce corruption level in the country.

Keywords: Corruption, Criminal liability, Corruption crimes, Court practice.

INTRODUCTION

Corruption is a global phenomenon, prevalent in many countries around the world. High levels of corruption have a negative impact on the image of any country and on various areas of national life, such as politics, the economy and law, as well as undermining the country's own international prestige. The relevance of the topic is determined by the fact that the existence of corruption is one of the most pressing problems in Lithuania today. Corruption is one of the main factors hindering the implementation of the rule of law concept and the establishment of the foundations of a competent, transparent and open civil service. The recurrence of corrupt offences in state institutions has a devastating impact on the public: it encourages them to become disillusioned with and distrustful of the country's most important institutions. As a result, the growing corruption crime is the main reason why corruption is not curbed in Lithuania.

Usually, none of the parties involved in a corrupt transaction has an interest in reporting the criminal offence to law enforcement authorities or in cooperating with law enforcement authorities after the offence has been revealed. Due to this specificity, it is often difficult to detect and investigate cases of corruption, especially because, unlike ordinary employees, corruption-related offences committed by persons working in the civil service system are truly specific, as these persons are well versed in the peculiarities of criminal liability [1] and in particular, the establishment and application of criminal liability is perhaps the most important part of the fight against corruption. Therefore, when investigating corruption-related offences, it is important to properly identify and qualify the offences to be able to apply criminal liability for these offences.

In international level scholars have examined issues of criminal responsibility for corruption crimes [2]; criminal liability of political parties in cases of corruption and money laundering committed by their members [3]; environmental corruption and criminal liability [4]; investigated the most common types of corruption crimes in sports in the EU and made recommendations for legislation [5]. The problems of corruption in Lithuania were examined by [1, 6-10]. The authors delved into corruption measurement indicators [6]; corruption management and control using the media sector [7]; corrupt acts in the private sector [8]; political corruption in the activities of charity and support foundations [9]; criminal acts in the field of medicine in the context of digital technologies [10]; violations of the law committed by civil servants [1], emphasizing that the criminal acts committed by civil servants are really specific, unlike ordinary employees, because these persons are well aware of the specifics of criminal liability. However, there is a lack of Lithuanian court practice analysis with a specific focus on the problematic aspects of the application of criminal liability for corruption crimes.

The aim of the article is to reveal the main issues of criminal liability for corruption crimes in Lithuanian court practice.

To conduct the research, the methods of scientific literature and legal acts analysis were applied, as well as case studies of individual court practices were performed.

METHODOLOGY

Corruption is a social phenomenon that is talked about all over the world, so there is still no single and universally accepted definition of corruption. Corruption as a phenomenon varies in time and space and manifests itself in different forms in different spheres, and therefore, in the absence of a universally accepted definition of corruption, considerations on how to describe it remain one of the main topics of corruption in academic publications and in the practice of national and international institutions working in the field of anti-corruption [6]. Corruption is a latent activity, which makes it difficult to combat and almost impossible to eliminate it from public life [11]. It is still difficult for law enforcement officers to control corrupt behaviour; thus, the culture of corruption continues to flourish in almost all spheres of life [2]. There are many opinions, positions, concepts and even theories about corruption, but there is general agreement that corruption in all its forms is detrimental to a country's economic development [12]. Corruption is a major obstacle to the stable development of countries and regions [7]. Prevention of corruption in both the public and private sectors is primarily related to measures and sanctions imposed by public law, especially criminal law [8].

In the fight against corruption in Lithuania, very important legal acts are Criminal Procedure Code of the Republic of Lithuania [13] and Criminal Code of the Republic of Lithuania [14], which provides for criminal responsibility for crimes and misdemeanours against the civil service and the public interest.

The criminal responsibility for corruption crimes is regulated in Chapter XXXIII of the Criminal Code Criminal Code of the Republic of Lithuania, Articles 225 – 229 (Table 1).

Table 1. Objective and subjective elements of corruption crimes

Article XXXIII of the CC	OBJECTIVE FEATURES		SUBJECTIVE FEATURES	
	Object	Act	Subject	Completeness
CC 225 Bribery	Civil service and public interest.	Promising to accept a bribe, agreeing to accept a bribe, demanding a bribe, inducing a bribe, accepting a bribe.	Civil servant or equivalent. An entity may also be a legal person.	From the moment the act is committed (formal element).
CC 226 Trafficking in influence	Civil service and public interest.	A promise to a person to influence, in return for a bribe, an authority, etc., to further the interests of the bribe-giver (whether or not to act lawfully or unlawfully in the bribe-giver's favour), or the promise is made by means of the exercise of a person's perceived influence over the institution, body, organisation or official functionary concerned.	Natural person aged 16 or over. Liability may also attach to a legal person.	From the moment the act is committed (formal element).
CC 227 Bribing	Civil service and public interest.	An offer of a bribe, a promise to pay a bribe, an agreement to pay a bribe, the giving of a bribe.	Natural person aged 16 or over. Liability may also attach to a legal person.	From the moment the act is committed (formal element).
CC 228 Abuse	Civil service and public interest.	Abuse of office or excess of powers. Consequences Major damage to a State, the European Union, a public international organisation, a legal or natural person. Causal link between the act and the consequences.	Civil servant or equivalent. An entity may also be a legal person.	In case of consequences (substantive element).
CC 228¹ Illegal registration of rights to an object	Public service and public interest.	Illegal registration of rights in immovable property Illegal registration of rights in immovable property.	Civil servant or equivalent.	From trespassing to possession from the registration of the right (formal).
CC 229 Failure to perform official duties	Public service and public interest.	Failure to perform your duties or inadequate performance of your duties. Consequences Major damage to a State, the European Union, a public international organisation, a legal or natural person. Causal link between the act and the consequences.	Civil servant or equivalent.	In case of consequences (substantive element).

This article analyses the most relevant decisions of the Criminal Division of the Supreme Court of Lithuania [15] in relation to corruption crimes (Table 2).

Table 2. List of Court cases selected for the investigation

Supreme Court of Lithuania of 24 October 2023, criminal case No 2K-171-788/2023
Supreme Court of Lithuania of 3 May 2023, criminal case No 2K-121-511/2023
Supreme Court of Lithuania of 6 April 2023, criminal case No 2K-111-976/2023
Supreme Court of Lithuania of 13 October 2022, criminal case No 2K-176-489/2022

To identify the key problems faced by the courts in the application of criminal liability for corruption crimes, the case study of Lithuanian court practice was performed.

RESULTS AND DISCUSSION

Violations of the provisions of the Criminal Procedure Code of the Republic of Lithuania and incorrect qualification of acts are illustrated by the examples of the cases examined, for example, in the case before the Supreme Court of Lithuania, N.B. was charged under Article 22(2) and Article 226(5) of the CC for having committed a criminal offence in the following circumstances: he, in order to receive a bribe in exchange for allegedly influencing a person equivalent to a public servant, on 21 March 2020, at around 11.00 am. <...>, using his alleged influence on a person equal to a public servant - an employee of the technical inspection station M.T., directly agreed to accept a bribe of an unspecified amount from S.G. for his own benefit, by promising to influence M.T. not to act unlawfully in the exercise of his powers, i.e. to carry out a technical inspection of the car driven by S.G., not to record technical defects in the car which would prevent the vehicle from being driven and not to record them in the technical inspection results card (report). <...> The Court of First Instance accepted N. B. N.B.'s acquittal was upheld by the Court of First Instance, which found that there was insufficient evidence of his guilt, and the appeal lodged by the public prosecutor against the acquittal of the first instance was also dismissed, after the Court of Appeal found that, that the case does not establish that the use of the data obtained through criminal intelligence in the criminal proceedings was approved by the appropriate entity, as the actions taken in imitation of a criminal offence were provocative and the data collected were not validated by the actions provided for in the CPC. The prosecutor, disagreeing with the acquittal of the first instance in respect of N.B., requested in his cassation appeal to annul the decision of the panel of judges of the Criminal Division of the Kaunas Regional Court of 27 October 2022. The Court of Appeal of the Kaunas Court of First Instance, on 27.27.2022, reversed the decision of the Kaunas Court of Appeal of 27.27.2022 and referred the case back to the appellate court for a new hearing, stating that the Court of Appeal had made errors in the assessment of the evidence obtained in the course of the criminal reconnaissance and the pre-trial investigation and in the assessment of the content of that evidence by failing to recognise as evidence the data obtained during the course of the criminal investigation and the pre-trial investigation, ignored important data in the case when establishing the facts of the commission of the offence, thereby committing a fundamental violation of Article 20(5) of the CPC, which prevented the court from examining the case in a full and impartial manner and from adopting a fair verdict or decision. <...> However, the cassation appeal of the prosecutor Vitoldas Gulavičius was rejected, because in the case under consideration the accusation of N. B. for trading in influence was based only on the data obtained through

criminal intelligence - through the application of actions simulating a criminal offence, as well as on the testimonies of the officials who organised and carried out these actions. <...> Having considered the fact that no other evidence of N. B.'s guilt, which could be recognised as admissible, was found in the case, the Panel of Judges finds that N. B. was acquitted of the charge brought against him on reasonable grounds. Therefore, the panel of judges decided to reject the cassation appeal of Vitoldas Guliavičius, Chief Prosecutor of the Organised Crime and Corruption Investigation Division of the Kaunas Regional Prosecutor's Office (Supreme Court of Lithuania, 24 October 2023, ruling in criminal case No 2K-171-788/2023). In the present case, the prosecutor's cassation appeal was dismissed on the grounds that he had failed not only to properly and sufficiently substantiate the accusations against the accused N.B. of attempt to commit an offence (Article 22(2) of the Criminal Code) and trading in influence (Article 226(5) of the Criminal Code), but also to substantiate the grounds of the cassation appeal, which led to N.B.'s acquittal of the aforementioned offences.

A similar situation can be observed in another corruption case, where it was clarified that the Court of First Instance had, in principle, correctly applied Article 225(1) of the Criminal Code in assessing the act of S.D. as not having all the elements of a criminal offence. However, the Court of Appeal noted that the fact that the Court of First Instance had wrongly regarded the diesel fuel as a donation to a municipal event and that it had wrongly found that Mr D's private life had been disproportionately restricted did not justify finding that the judgment was not substantially in conformity with the requirements of a judgment of conviction. Therefore, summarising the foregoing, the Cassation Chamber of Judges concludes that the Court of Appeal, by failing to comply with the requirements of Article 20 of the CCP and the principle of *in dubio pro reo*, improperly assessed the totality of the evidence and incorrectly applied Article 225(1) of the CC <... > therefore, by a ruling of the judges of the Court of Cassation Instance, the verdict of the Court of Appeal, according to which, after the acquittal had been reversed and a new verdict had been passed, S.D. was sentenced under Article 225(1) of the CC in the amount of 120 MGL (EUR 6 000) <...>, it was decided to reverse the verdict of the court of first instance and to keep the verdict of the latter in force (Supreme Court of Justice, 6 April 2023, Criminal Case No 2K-111-976/2023).

The Court of Appeal's assessment of the evidence and the conclusions reached on the basis of that assessment, which led to the acquittal of two persons, as in the recent case No. 2K-171-788/2023, the Prosecutor of the Organised Crime and Corruption Investigation Department of the Prosecutor General's Office of the Republic of Lithuania, Gintaras Jasaitis, also disagreed with the decision, requesting that it be overturned and the sentences increased, arguing that the Court of Appeal had violated the requirements for the assessment of evidence set out in Article 20(1)-(4) of the CPC and, therefore, had applied the criminal law incorrectly in exonerating Mr L. T. for bribery (Article 225(2) of the CC) and D. B. for bribery (Article 227(2) of the CC). <...> Taking into account the above-mentioned circumstances and without assessing the content of the evidence contained in the case, the Cassation Chamber of Judges finds that in the case at hand there is no reason to conclude that the Court of Appeal assessed the evidence in violation of the rules laid down in Article 20 of the CCP and the principles formulated in the case law. In the absence of any fundamental breaches of the provisions of the CPC and incorrect application of the criminal law, there is no reason to amend or annul the judgment of the Court of Appeal. Therefore, the acquittal of L.T.

and D.B. was upheld, as the Cassation Court did not rule on the arguments of the prosecutor's cassation appeal, which requested the imposition of more severe sentences (Supreme Court of Lithuania, 3 May 2023, Criminal Case No 2K-121-511/2023).

The case law of the Supreme Court of Lithuania notes that an act committed for pecuniary or other personal gain, in the absence of signs of bribery, is qualified under Article 228(2) of the CC. It is the intention to obtain pecuniary gain and the intention to obtain other personal gain that qualifies abuse. The pursuit of both pecuniary and other personal gain must in all cases be clearly established and motivated, and not imaginary, implicit or conjectural. This aspect is discussed in the criminal case in which the cassation appeal of E.T.'s defence lawyer A. Mažeika requested: the annulment of the verdict of the panel of judges of the Criminal Division of the Lithuanian Court of Appeals of 15 November 2021, by which the verdict of 22 April 2021 was changed, in which the offence committed by E.T. under Article 228(1) of the Criminal Code was reclassified as Article 228(2) of the Criminal Code and a fine of 300 MGL (EUR 15 000) imposed. The appellant submits that the Court of Appeal unjustifiably qualified E.T.'s actions under Article 228(2) of the CC, arguing that it was not necessary to establish that there were particularly close links between the public servant who abused his office and the person for whose benefit the offence was committed. At the same time, it noted that the Court of Appeal did not correctly refer to judicial precedents in qualifying the actions of Mr E.T. The Court of Cassation of the Cassation Instance partially upheld the cassation appeal of the defence lawyer of E.T., Aidas Mažeika, noting that the objectives of the abuse of office had been changed several times and that it was on the initiative of the prosecutor and the court that the charge under Article 228 of the Criminal Code had been modified <...>. This abundance of searches for the correct charge showed that, by reaching opposite conclusions to those of the Court of First Instance, the Court of Appeal modified the charge in various circumstances in order to establish the benefits sought by E.T. in his abuse of office, but in the end reached essentially the same conclusion as that of the Court of First Instance, namely, that it was the aim of the abuse of office that sought to benefit the non-abuser, E.T., in a personal capacity, not for his close relatives or their family members, but to avoid inconveniencing V. V. <...>. This type of abuse, where unlawful assistance was provided to V.V. on the basis of friendship to a person known only by sight, in the light of the arguments set out above in this judgment on the possibility of qualifying the abuse under Article 228(2) of the CC, clearly did not comply with the content of the qualifying element of Article 228(2) of the CC, nor with the notion of seeking personal gain as referred to in it. For this reason, the part of the judgment of the Court of Appeal on the conviction of E.T. under Article 228(2) of the CC was annulled and the part of the judgment of the Court of First Instance was upheld, as the panel of judges of the Supreme Court of Justice held that the classification of E.T.'s offence established by the Court of First Instance was correct (Supreme Court of Appeal ruling of 13 October 2022 in Criminal case No 2K-176-489/2022). The present case shows that, in a case of this kind, it must be based on genuine evidence and facts, since it was the appellate judgment on the classification of the abuse under Article 228(2) of the CC that was overturned on the grounds of the incorrectness of the circumstances established in the case.

CONCLUSIONS

Corruption undermines the economic development of any country and public administration, erodes citizens' trust in public institutions and undermines international prestige. One of the measures aimed at protecting the public against corruption is the criminal law, which establishes criminal liability for corruption-related offences such as bribery, trafficking in influence, bribing, abuse, illegal registration of rights to an object, failure to perform official duties.

Violations of the provisions of the Criminal Procedure Code of the Republic of Lithuania and incorrect qualification of acts are one of the most frequent problems faced by both courts of first instance and courts of appeal when examining cases of corruption, which makes the court proceedings complicated, the acts difficult to prove, and leads to situations where persons suspected of having committed acts of corruption are eventually acquitted, thus escaping criminal liability.

The results of this research can be used in the field of Lithuanian legislation for the improvement or adoption of new legal acts to fight more effectively against criminal acts of a corrupt nature.

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CYBER STUDIES IN ROMANIA

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ABSTRACT

There are many issues in cyberspace that have an impact on people and society overall in different ways, affecting all industries and nations. Part of what makes cyberspace so unique is how creatively it uses modern technologies. The research emphasises the need for a proliferation of cyber studies among academic institutions in Romania: The cyber domain is related to every area of our modern lives and affects them in an immediate and far-reaching way, being a space based on technology. Cyber programs should focus on Bachelor's degrees to enable a broad and well-trained cyber Master students. Such programs should be part of a broader spectrum of academic institutions in Romania and in more cities, covering various themed academic institutions, including those that allegedly are not technology-oriented. Even though some academic institutions are specified on allegedly non-related cyber domains (Arts, Music, Theatre and Film, Sports, Religion, Agricultural Sciences and Veterinary and Healthcare), at least some of the others should have cyber-related programs, for example, Engineering, Urban, Petroleum-Gas, and even Healthcare. Due to the holistic nature of cyberspace, such cyber programs should not only be part of various academic institutions but also part of various faculties, and not necessarily the technology or economic-related faculties. Thus, dedicated programs must be established for cyber-related domains as part of multidisciplinary studies and in the faculties of Humanities and Social Sciences, where the emphasis will be placed on relevant aspects of cyberspace. Cyber studies at Romanian academic institutions need to take a more comprehensive approach, emphasizing that cyberspace is a far bigger topic that should be covered by every faculty and not just something connected to cybersecurity and technology.

Keywords: cyberspace innovation; contemporary technologies; digital space; Ministry of National Education

1. INTRODUCTION

Cyberspace presents a number of difficulties that have an impact on people and society at large in many different ways across all industries and nations. Cyberspace is characterized in part by its inventiveness and use of contemporary technologies.

In addition, it addresses concerns about policies and working practices, the human element, and suitable training.

Cyberspace innovation has a significant impact on many facets of life, thus it is necessary to understand this topic and how it affects other industries. This includes educating the general public about cyberspace and providing training for experts in a range of domains. This entails educating students in a variety of academic areas about cyberspace and digital space in order to prepare them for careers in the industry and to become digitally literate

members of the general public who are aware of the potential and threats inherent in online.

2. Literature review

2.1. Education System in Romania

Three undergraduate and postgraduate levels make up the Romanian higher education system: bachelor's, master's, and doctoral degrees.

The Ministry of National Education oversees higher education in Romania.

The Public, Cultural, and Scientific Diplomacy Directorate of the Romanian Ministry of Foreign Affairs collaborates with the Ministry of National Education to enable educational exchanges and guarantee international students the opportunity to study in Romania at their own expense in Romanian state universities or private Romanian universities in Romanian, with an additional year of preparation for language study if the applicant does not speak Romanian already, or in foreign languages only if the specific university offers this option.

The Ministry of National Education, through the General Department for International and European Relations, oversees the scholarships that the Romanian state offers in accordance with active bilateral treaties or with unilateral offers made by Romania to other states. These offers are made based on recommendations from the pertinent authorities of the candidate's home country.

The Ministry of Foreign Affairs of Romania's government offers several scholarships to nationals of non-EU nations every year. Candidates who have demonstrated academic excellence—that is, an average of their study years for their most recent graduating school that is at least 7 (seven) on the Romanian scoring system, depending on the situation—are the only ones who qualify.

Scholarships for study in recognized Romanian higher education institutions are generally awarded only through a competition for applications, in accordance with rules enforced by the Ministry of Foreign Affairs (MAE) and the Ministry of Education (ME). All non-EU citizens are eligible to apply for them, with the following exclusions: citizens of Romanian descent or members of historically significant Romanian communities in the vicinity of Romania, eligible for various scholarship programs; citizens who have applied for or obtained protection in Romania; stateless individuals whose presence in Romania is officially recognized by law; members of the diplomatic and consular bodies or their family members, accredited in Romania; employees of international organizations with a Romanian base or their family members; and recipients of a scholarship from the Romanian state for the same period of time. A complete file must be submitted, study documents from accredited or recognized educational institutions in the country in which they were issued must be presented, the application deadline must be met, and the applicant must have good academic grades that is, an average of the years of study for the most recent completed school of at least seven (seven) according to Romania's scoring system or equivalent - as well as to adhere to the application submission guidelines. The medical and pharmacy fields do not grant scholarships.

Only Romanian-language bachelor's and master's degree programs are offered, supporting Romanian language and culture. At the PhD level, candidates may choose to enroll in a program offered by the doctoral school that is either in English or a foreign language. For individuals who do not speak Romanian, a year of preparation in the

language is also provided before enrolling in the preferred course of study. Diplomas, transcripts, birth certificates, passports, and resumes are among the required documents; these are all listed in the application procedure.

Only the Study in Romania portal may be used to submit the scholarship application.

Through <https://scholarships.studyinromania.gov.ro>, <https://studyinromania.gov.ro>.

All of them are based on the Erasmus Mundus and Ceepus university collaboration and mobility programs in Europe.

In addition to numerous attempts aimed at establishing a common framework for cyber academic research, numerous studies have looked at the connection between cybersecurity and academic institutions.

For example, the "Cybersecurity Curricula 2017" initiative of the Association for Computing Machinery (ACM) and the IEEE Computer Society (IEEE-CS) (among others) to form the "Curriculum Guidelines for Post-Secondary Degree Programs in Cybersecurity" (CYBERSECURITY CURRICULA 2017: Curriculum Guidelines for Post-Secondary Degree Programs in Cybersecurity, 2017) [3]. This article defines the goals of the task force and offers a thorough overview of the "Content of the Cybersecurity Curricular Framework". The knowledge categories that comprise this framework individually identify the disciplines and domains required to teach cybersecurity in academic settings. This framework is made up of multiple knowledge categories that, taken alone, specify the subjects and domains of knowledge needed to teach cybersecurity in academic settings. Data security, software security, component security, connection security, system security, human security, organizational security, and societal security are some examples of non-technological issues that fall under this category. This may be a reflection of McCumber's model (McCumber, 1991)[8], which views information security (confidentiality, integrity, availability) as a compound with three components: policy and practice; technology; and education, awareness, and training. While analyzing such government initiatives academically, other government initiatives include those of the National Cyber Security Center in the UK (National Cyber Security Centre, 2017) [10] and the US Cyber Career Pathways Tool (National Initiative for Cybersecurity Careers and Studies, no date) [11].

It should be highlighted, nonetheless, that all of these references to cyberspace are specific to cybersecurity and have nothing to do with educating the public in general about this field's features, prospects, and difficulties.

Numerous research projects have examined the state of cybersecurity in academic institutions (Chapman, 2019) [1]; the degree of cybersecurity involvement and primary concerns of senior college leaders (Gearhart G. David et al., 2019) [4]; the necessity of cybersecurity awareness in academic institutions and strategies for improvement (Hunt, 2016; Muniandy et al., 2017; Zwilling et al., 2019)[5,9,16]. This is accomplished, among other things, by providing practical advice in this area, such as the necessity of integrating cyber teaching in all age groups, including primary and secondary schools, and by educating trained individuals in the cyber field (Kay David J. et al., 2012) [7]. Furthermore, a number of studies (Kapitzke, 2000; Said Samuel Essa, 2018; Tims et al., 2009) [6,12,14] looked at various aspects of cyber teaching, various teaching materials in higher education institutions, and various themes that should be included in these kinds of academic studies (Cohen Brian et al., 2018) [2]. In a different study, Sombuntham and

Theeraroungchaisri (2006) [13] examined the Thailand Cyber University (TCU) as a test case for applying pertinent knowledge.

This study aims to map cyber studies in Romanian academic institutions by analysing the following research questions: (1) How many cyber-related programs exist in Romanian academic institutions? (2) Which academic institutions and faculties offer cyber-related programs, and as part of which degrees (Bachelor/Master/Doctorate)? (3) Is there a relation between cyber-related programs and basic features of the academic institutions (Public/Private, ranks, specific domain of the academic institution, city)?

3. Methodology

The research aims to explore the extent of designated cyber programs in academic institutions in Romania, including the names and numbers of cyber-related programs, faculties, and academic institutions.

To this end, double filtering was implemented: (1) The study analyses only academic cyber studies and avoids cyber studies given by non-academic and private colleges and various business companies. (2) The study analyses only designated cyber studies programs and avoids individual courses. Besides, the study did not include academic conversion programs, part-time studies, diploma studies, preparatory courses, courses for the general public, academic and non-academic events, cyber competitions, as well as research institutes or cyber laboratories in these institutions. Moreover, this study does not analyse the level of awareness of cybersecurity defence in those academic institutions.

The following steps were performed:

1. **Stage 1 – Academic Institutions** - Search the Internet (using Google search) for lists of higher academic institutions in Romania. The following sources were found:

Name	Address	Type	Number				Updated
			Public	Private	Others	Total	
Study in Romania	https://studyinromania.gov.ro	Governmental	48	3	-	51	2023
Study in Romania – Catalogue of Higher Education Institutions in Romania	http://www.upt.ro/img/file/Studenti%20straini%20la%20studii%20complete/2022/220719_Catalogue_of_higher_education_institutions_in_Romania.pdf	Governmental	46	29	7 (Military)	82	2022
List of universities in Romania	https://en.wikipedia.org/wiki/List_of_universities_in_Romania	Free Encyclopedia	53	51	-	104	25 January 2024

2. Stage 2 – Cyber Programs

1. **"Study in Romania"** – Search for the term "Cyber" in each program among the 48 public and three private academic institutions in Romania, as mentioned by the official website "Study in Romania".
2. **Academic Institutions Websites** – Search for the terms "Cyber" (in the English version of the website) and "Ciber" (in the Romanian version of the website)

on each website of the 104 academic institutions listed on the "List of Universities in Romania" by Wikipedia since it consists of the largest dataset of academic institutions in Romania. The search is performed as follows:

- i. On the program list for each faculty
- ii. A general search of the terms on each website
3. If found, indicate:
 - i. The name of the program
 - ii. The name of the faculty
 - iii. The degree – Bachelor, Master, Doctorate
4. In case of no ability to retrieve the web address, omit the relevant record.

3. **Ranking** – Search the Internet (using Google search) for rankings of academic institutions in Romania. The following sources were found:

Name	Address	Methodology	Number
Scimago Institutions Rankings	https://www.scimagoir.com/rankings.php?country=RO	"The SCImago Institutions Rankings (SIR) is a classification of academic and research-related institutions ranked by a composite indicator that combines three different sets of indicators based on research performance, innovation outputs and societal impact measured by their web visibility."	46
Edurank – List of 79 best universities in Romania	https://edurank.org/geo/ro	"Independent metric-based ranking of 14,131 universities"	79
UniRank – Top Universities in Romania	https://www.4icu.org/ro	"uniRank aims to provide a non-academic <i>League Table</i> of the top Romanian Universities and Colleges based on valid, unbiased and non-influenceable web metrics provided by independent web intelligence sources rather than data submitted by the Universities themselves"	75

4. Create a unified list of all academic institutions in Romania, their ranks, and the presence of cyber-related programs.
5. Count the number of the appearance of each characteristic.

4. Findings

The research revealed 104 academic institutions in Romania, which can be divided as follows;

Online Availability –

Online Availability of Academic Institutions	Number of Academic Institutions
Website / Institution Available	88
Website / Institution Unavailable	16

This means that from the unified list of 104 academic institutions in Romania, 85 per cent are available and active online.

Type of Academic Institution –

Type of Academic Institution	Number of Academic Institutions
Public	53
Private	35

This means that 60 per cent of 88 academic institutions in Romania are public.

City –

City	Number of Academic Institutions
Alba Iulia	1
Arad	2
Bacău	2
Braşov	2
Bucharest	30
Cernica	1
Cluj-Napoca	9
Constanţa	5
Craiova	2
Galaţi	2
Iaşi	8
Lugoj	1
Oradea	4
Petroşani	1
Piteşti	2
Ploieşti	1
Satu Mare	1
Sibiu	2
Suceava	1
Târgovişte	1
Târgu Jiu	1
Târgu Mureş	3
Timişoara	6

This means that Bucharest consists of 34 per cent of academic institutions in Romania, followed by Cluj-Napoca 10 (10 per cent) and Iaşi (9 per cent).

Domain –

Domain of Academic Institutions	Number of Academic Institutions
Agricultural Sciences and Veterinary	1
Arts, Music, Theatre and Film	7
Economy	1
Engineering	1
General	49
Healthcare	7
Life Sciences	2
Maritime	1
Military and Police	7
Petroleum-Gas	1
Political Studies	1
Religion	4
Sports	1
Technology	4
Urban	1

This means that general studies consist of 56 per cent of domains of academic institutions in Romania, followed by Arts, Music, Theatre and Film (8 per cent) and Military and Police (8 per cent).

Cyber Programs –

Name	City	Type	Domain	Rank			Program			Faculty
				Scimago (out of 46)	UniRank (Out of 75)	EduRank (out of 79)	Bachelor	Master	Doctorate	
Polytechnic University of Bucharest	Bucharest	Public	Technology	4	2	3	-	Cyber-Physical Systems	-	Faculty of Automatic Control and Computers
Bucharest Academy of Economic Studies	Bucharest	Public	Economy	14	5	6	Economic Cybernetics	Cybernetics and Quantitative Economics	Cybernetics and Economic Statistics	Faculty of Economic Cybernetics, Statistics and Informatics
Technical Military Academy of Bucharest	Bucharest	Public	Military	-	-	-	-	Cyber defense technologies, Cyber defense management, Planning cyber defense activities	-	Faculty of Computer Systems and Cyber Security
Technical University of Cluj-Napoca	Cluj-Napoca	Public	Technology	16	7	5	-	Cyber-Physical Systems	-	Faculty of Automation and Computer Science
Babeş-Bolyai University	Cluj-Napoca	Public	General	2	1	2	-	Cybersecurity (Faculty of Mathematics and Computer Science)	Cybernetics and Statistics (Doctoral School of Economic Sciences and Business Management)	
Ovidius University	Constanța	Public	General	29	16	19	-	Cyber Security and Machine Learning (CSML)	-	Faculty of Mathematics and Informatics

Maritime University of Constanța	Constanța	Public	Maritime	-	53	58	Cyber Security	Maritime Cyber Security and Risk Management	-	Naval Electromechanical Faculty
University of Galați	Galați	Public	General	23	12	13	-	Combating Cybercrime	-	Faculty of Law and Administrative Sciences
Alexandru Ioan Cuza University	Iași	Public	General	11	3	4	-	-	Cybernetics and Statistics	Doctoral School of Economics and Business Administration
Lucian Blaga University of Sibiu	Sibiu	Public	General	20	13	12	-	-	Cybernetics and Statistics	Doctoral School of Social Sciences
Ștefan cel Mare University of Suceava	Suceava	Public	General	21	10	15	-	Cyber Security	-	Faculty of Electrical Engineering and Computer Science
Constantin Brâncuși University	Târgu Jiu	Public	General	-	36	53	-	Cybernetics, Statistics and Economic Informatics	-	Faculty of Economics
Politehnica University of Timișoara	Timișoara	Public	Technology	19	9	7	-	Information Security and Cyber-Systems	-	Faculty of Automation and Computing
Titu Maiorescu University	Bucharest	Private	General	26	45	32	-	Cyber Security Challenges - From Paradigm to Implementation	-	Faculty of Informatics, School of Advanced Studies

Cyber Program - 14 out of all 88 academic institutions in Romania offer cyber programs (16 per cent), 13 of them are public (93 per cent), and only one is private.

Domain – Out of the 14 academic institutions, eight are general studies oriented (57 per cent) with no dedicated specialisation, and three (21 per cent) specialise in technology.

City - Four academic institutions are located in Bucharest (29 per cent), two in Cluj-Napoca (14 per cent) and two in Constanța (14 per cent).

Degree – The 14 academic institutions offers a total of 18 different cyber programs, two for Bachelor (11 per cent), 12 for Master (67 per cent) and 4 for Doctorate (22 per cent).

Civilian vs Military Institutions – Out of 7 military and police academic institutions, only one military academic offers a cyber program (14 per cent).

Faculties – Out of the 14 academic institutions, 10 of them (71 per cent) are technology-oriented faculties (including the Faculty of Automatic Control and Computers, Faculty of Computer Systems and Cyber Security, Faculty of Automation and Computer Science, Faculty of Mathematics and Informatics, Naval Electromechanical Faculty), while only four (29 per cent) are in no-technology-oriented faculties (including, Faculty of Law and Administrative Sciences, Faculty of Economics).

5. CONCLUSIONS

The analysis of the findings enables us to draw the image of cyber education in academic institutions in Romania regarding dedicated cyber programs in these institutions. Therefore, the findings enable us to answer the research questions by determining the following:

Research Question 1 – 14 of all 88 active academic institutions in Romania (28 per cent) offer students a cyber-related academic program.

Research Question 2 – 93 per cent of those are public academic institutions, and only one is a private one. The total 18 different cyber programs are mainly part of the Master's degree (86 per cent), followed by a Doctorate (29 per cent) and Bachelor's degree (14 per cent).

Research Question 3 – 29 per cent of the academic institutions that offer cyber programs are located in Bucharest, while the rest are in other major cities such as Cluj-Napoca and Constanța (14 per cent each). The other six academic institutions (43 per cent) are located in the following cities: Galați, Iași, Sibiu, Suceava, Târgu Jiu and Timișoara.

The findings point to a diversity in the ranking of the academic institutions in Romania that enable cyber programs; some are the highest ranked, and others are medium-ranked. The conclusion is that no low-ranked academic institutions in Romania enable their students with cyber programs.

The research emphasises the need for a proliferation of cyber studies among academic institutions in Romania: The cyber domain is related to every area of our modern lives and affects them in an immediate and far-reaching way, besides being a space based on technology. Cyber programs should focus on Bachelor's degrees to enable a broad and well-trained cyber Master students.

Such programs should be part of a broader spectrum of academic institutions in Romania and in more cities, covering various themed academic institutions, including those that allegedly are not technology-oriented. Even though some academic institutions are specified on allegedly non-related cyber domains (Arts, Music, Theatre and Film, Sports, Religion, Agricultural Sciences and Veterinary and Healthcare), at least some of the others should have cyber-related programs, for example, Engineering, Urban, Petroleum-Gas, and even Healthcare.

Due to the holistic nature of cyberspace, such cyber programs should not only be part of various academic institutions but also part of various faculties, and not necessarily the technology or economic-related faculties. Thus, dedicated programs must be established for cyber-related domains as part of multidisciplinary studies and in the faculties of Humanities and Social Sciences, where the emphasis will be placed on relevant aspects of cyberspace.

The research aims to analyse the state of cyber programs in academic institutions in Romania; further research will be able to delve deeper and analyse the cyber courses taught in these institutions and the syllabi. Such future studies may also analyse the training of cyber-related experts, professionals and teachers for the education system in Romania, including preliminary and high schools.

A more holistic approach must be implemented in cyber studies in academic institutions in Romania, stating that cyberspace is not only cybersecurity and technology-related but a much broader domain that should be part of every faculty.

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HERITAGE AND DIGITAL ASSETS – LEGAL CHALLENGES IN THE AGE OF TECHNOLOGY

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ABSTRACT

This article explores emerging legal challenges in managing the legacy of digital assets in an increasingly connected world. In the age of technology, assets such as cryptocurrencies, online accounts, software licenses, and digital intellectual property are becoming increasingly relevant in inheritance processes. However, the lack of a clear and unified legislative framework creates difficulties in transferring these assets post-mortem. Heirs often face technological and legal barriers to accessing assets, including privacy issues, encryption, and different policies between digital platforms. The article highlights the urgent need to adapt succession legislation to the new digital realities and legal solutions that can protect the rights of heirs. It also discusses the importance of proactive estate planning, which includes properly managing digital assets, given the risk of their loss in the absence of appropriate regulations. The article's conclusion emphasizes the crucial role of legal professionals in guiding individuals toward effective and comprehensive estate planning that integrates both physical and digital assets.

Keywords: digital assets, inheritance, legal challenges, estate planning, succession law.

INTRODUCTION

In the digital age, the nature of personal and financial assets has evolved significantly. Once limited to tangible properties like real estate, cash, and physical possessions, assets now encompass a wide array of digital resources that hold both personal and monetary value. These digital assets - ranging from cryptocurrencies, online accounts, and digital intellectual property, to virtual goods - have become an integral part of modern life. As people increasingly rely on digital platforms for everything from communication and entertainment to banking and investing, these assets are becoming as valuable as traditional forms of wealth. However, despite their growing importance, digital assets present unique challenges when it comes to inheritance and estate planning.

Traditional inheritance laws, which are largely based on the transfer of physical assets, often fail to adequately address the complexities involved in managing and passing down digital property. Unlike physical assets, digital assets are intangible, often protected by passwords, encryption, and the privacy policies of third-party platforms. This makes it difficult, and sometimes impossible, for heirs to access and manage these assets after the owner's death. For instance, social media accounts may be locked permanently due to strict privacy policies, and cryptocurrencies may be lost forever if access information is not properly documented and passed on. These gaps in legal and practical frameworks

can lead to significant losses for heirs, both in terms of monetary value and sentimental importance.

As the number of digital assets continues to rise, the need for estate planning to adapt becomes increasingly urgent. With proper planning, individuals can maintain control of their digital legacies, leaving their heirs to navigate a maze of legal and technological obstacles. Estate planning practices must evolve to incorporate digital assets, ensuring that they are accounted for, properly managed, and accessible to the rightful heirs upon the owner's death. This requires not only updating legal documents such as wills and trusts to include digital property but also adopting practical measures like creating inventories of digital assets and securely storing access credentials.

The evolution of estate planning in the digital age is essential for preserving both the financial and personal legacies of individuals. By recognizing the significance of digital assets and addressing the legal and logistical challenges they pose, estate planning can help individuals ensure that their digital and physical worlds are transferred smoothly to the next generation.

UNDERSTANDING DIGITAL ASSETS

Digital assets have emerged as a vital part of personal and financial portfolios in recent years, reflecting the increasing shift toward a technology-driven world. Digital assets encompass a wide range of intangible items that exist in electronic form, yet carry significant value, both in monetary and personal terms. This chapter aims to define the various types of digital assets and explore the unique challenges they present regarding ownership, management, and transferability, especially in estate planning.

At its core, a digital asset is any content or resource that exists in digital form and can be owned, controlled, or accessed electronically. These assets are typically stored on digital platforms, cloud services, or local devices. Unlike physical assets, digital assets have no tangible presence but still hold considerable value - often even exceeding that of traditional assets in certain portfolios.

Digital currencies like Bitcoin, Ethereum, and other blockchain-based assets have transformed the financial landscape. Cryptocurrencies are decentralized, meaning they are not governed by any central authority or bank, and their value can fluctuate rapidly. While these assets can represent significant financial value, they are also among the most challenging to manage in estate planning due to their encrypted nature and the strict security measures surrounding them. Without access to the private keys or wallets, cryptocurrencies can be irretrievable upon the owner's death¹.

Individuals increasingly store important personal and professional files - such as photographs, music, documents, and videos - in digital formats. These files may be stored on cloud-based services like Google Drive or Dropbox, or locally on devices like laptops or smartphones. While some files are sentimental, others may have commercial value, such as intellectual property, making their preservation and transfer critical in estate planning.

¹ I. A. Seres, O. Shlomovits and P. R. Tiwari, *CryptoWills: How to Bequeath Cryptoassets*, 2020 IEEE European Symposium on Security and Privacy Workshops (EuroS&PW), Genoa, Italy, 2020, pp. 417-426, DOI: 10.1109/EuroSPW51379.2020.00062.

Virtual goods are items that exist in online environments or video games, such as in-game currency, rare virtual collectibles, or digital characters. While these assets might seem trivial, their value can be significant, especially in cases where virtual economies and online gaming communities thrive. Certain virtual items can be sold or traded, providing real-world financial returns. However, the transfer of these assets often depends on the terms of service of the platforms on which they are hosted.

One of the defining characteristics of digital assets is their intangible nature. Unlike physical assets, which can be easily identified, located, and transferred, digital assets are often harder to pinpoint. They exist in multiple places - on personal devices, online servers, or even decentralized networks. This makes them more challenging to organize and track, especially for individuals who may not have comprehensive records of their digital holdings².

The intangible nature of digital assets also complicates the question of ownership. Ownership of digital assets is often tied to passwords, encryption keys, or personal access credentials, rather than physical possession or legal title. This presents a challenge for heirs who may not have access to these crucial pieces of information, thereby making the digital assets effectively inaccessible after the owner's death. Moreover, certain digital assets, such as social media accounts or cloud storage, may be governed by user agreements that limit the transferability of the account, further complicating inheritance processes.

Unlike traditional assets, which are governed by well-established legal principles, the ownership and transferability of digital assets are not always straightforward. Many digital assets exist in an environment regulated by private companies with their terms of service, which may override or complicate legal mechanisms for transfer upon death³. For example, while a house or car can be clearly passed on through a will, a Facebook account or an iTunes library may be subject to different rules that restrict post-mortem access.

Cryptocurrencies, for instance, are governed by blockchain technology, which operates without central authority and uses cryptography to secure transactions. While this decentralization provides significant benefits in terms of security and privacy, it creates enormous challenges in estate planning. Without the proper credentials - such as private keys or recovery phrases - the cryptocurrency is unrecoverable, and there are no intermediaries who can assist heirs in retrieving it.

CURRENT LEGAL FRAMEWORK

The legal framework surrounding digital assets in Romania is still in its infancy, as the country's laws regarding inheritance primarily focus on traditional, tangible assets such as real estate, money, and physical possessions. As digital assets have grown in importance, Romanian laws have yet to comprehensively address the complexities of managing and transferring these assets after death. While some legal principles related to

² Lesavre, L. et. al., A taxonomic approach to understanding emerging blockchain identity management systems, Computer Security Division, Information Technology Laboratory, DOI: <https://doi.org/10.6028/NIST.CSWP.01142020>.

³ Reynolds, L., *Estate planning for digital assets: A practical guide for attorneys*, Journal of Legal Technology Risk Management, 8(3), 2013, pp. 54-66.

property and inheritance can be applied to digital assets, there are significant gaps, particularly concerning privacy regulations and the rights of heirs to access digital accounts.

Romanian inheritance law is governed by the Civil Code⁴, which regulates the transfer of assets upon death. The code defines how estates are divided among heirs, and outlines the probate process, but makes no specific mention of digital assets. Under current Romanian law, digital assets are treated as intangible personal property, but the procedures for transferring them are not clearly defined.

For example, while cryptocurrencies such as Bitcoin and other digital currencies are considered private property under Romanian law, the legal process for including them in an estate remains ambiguous. Since cryptocurrencies are typically secured by private keys, if heirs do not have access to these keys, the assets may become permanently inaccessible. The absence of a legal framework that specifically addresses this issue leaves significant room for legal uncertainty.

Additionally, online accounts and digital files stored on third-party platforms, such as cloud services, are governed by the terms of service agreements of these platforms, not by Romanian inheritance laws. As a result, heirs may find it difficult to access social media accounts, email, or digital libraries like iTunes or Google Play without clear instructions from the deceased in their will.

CHALLENGES IN ESTATE PLANNING

Digital assets have become an integral part of modern life, representing a wide range of intangible resources, including cryptocurrencies, social media accounts, digital files, and virtual goods. In Romania, as in many other countries, the importance of digital assets continues to grow, yet their treatment in legal and financial contexts remains unclear. This chapter defines what constitutes digital assets and outlines the key characteristics that make them unique, highlighting the challenges they pose for ownership, management, and inheritance under Romanian law.

The ownership of digital assets can be complex. For instance, while cryptocurrencies are considered private property in Romania, accessing them without the necessary private keys is impossible. Many online accounts, such as social media or cloud storage, operate on a licensing model, where the user does not own the content but has a license to use it. This complicates inheritance, as these accounts may not be transferable after death⁵.

Digital assets are becoming increasingly significant in both personal and financial contexts, but their unique characteristics pose significant challenges for ownership, management, and inheritance in Romania. The lack of clear legal definitions and frameworks further complicates their integration into estate planning. The following

⁴ Codul Civil Român (The Romanian Civil Code), retrieved from <https://legislatie.just.ro/Public/DetaliiDocument/175630>, accessed on October 23rd, 2024.

⁵ Bera, L., *e-Proprietatea: Cum va schimba noul sistem digital evaluarea și impozitarea proprietăților în România*, Ziarul Unirea, 2024, retrieved from https://ziarulunirea.ro/e-proprietatea-cum-vaschimba-noul-sistem-digital-evaluarea-si-impozitarea-proprietatilor-in-romania-895288/#google_vignette, accessed on October 23rd, 2024.

chapter will examine the current legal framework in Romania, highlighting the gaps and inconsistencies that make it difficult to address digital assets in inheritance law.

STRATEGIES FOR INCLUSION IN ESTATE PLANS

Given the increasing importance of digital assets in personal and financial spheres, it is essential to proactively address them in estate planning. In Romania, where the legal framework surrounding digital assets is still developing, individuals must take extra steps to ensure that their digital legacy is properly managed after their death. This chapter provides practical strategies to help individuals incorporate digital assets into their estate plans, safeguarding their value and accessibility for future generations.

The first and most crucial step in estate planning for digital assets is to create a comprehensive inventory. This inventory should include all digital assets, from cryptocurrencies and online accounts to digital files and virtual goods. For each asset, it is important to note key information such as usernames, passwords, and access keys. For example, a cryptocurrency wallet requires private keys, while a social media account may require a combination of email access and passwords⁶.

Additionally, it is beneficial to categorize the assets by their nature - financial (e.g., cryptocurrencies, online banking), personal (e.g., social media, cloud storage), and entertainment (e.g., online game items, digital media libraries). This organized approach allows estate executors and heirs to easily identify and manage the assets.

To ensure that digital assets are passed on according to the individual's wishes, it is important to include specific provisions in wills or trusts. In Romania, a will can designate who will inherit tangible assets, and the same should be done for digital assets. For example, a will can specify which heirs will receive access to online accounts, digital currencies, or cloud-stored files.

However, because online accounts are often governed by terms of service agreements rather than inheritance laws, individuals must clearly specify how these accounts should be handled. In some cases, individuals may need to leave instructions for account deletion or appoint a "digital executor" to manage their online presence after death⁷.

Another recommended strategy is to appoint a digital executor - a person responsible for managing the digital estate after death. While not officially recognized in Romanian law, a digital executor can be named in a will to handle the specific tasks of closing accounts, transferring digital property, and preserving online assets such as social media profiles or websites. The digital executor should have access to the digital asset inventory and the necessary login credentials to carry out these responsibilities.

⁶ Lynner, N. B, *Inherit the cloud: The role of private contracts in distributing or deleting digital assets at death*, Fordham Law Review, 83(799), 2014, pp. 1-57, SSRN: <https://ssrn.com/abstract=2561871>.

⁷ Pew Research Center, *What happens to your digital life after death?*, 2013, retrieved from <https://www.pewresearch.org/short-reads/2013/12/02/what-happens-to-your-digital-life-after-death/>, accessed on October 23rd, 2024.

FUTURE TRENDS IN DIGITAL ASSET LEGISLATION

While current laws offer limited guidance on these matters, emerging trends suggest a potential shift towards more comprehensive regulations that could better protect individuals' rights and clarify the legal status of digital assets. This chapter explores the anticipated developments in Romanian legislation concerning digital assets, the potential impact of technology on legal frameworks, and the growing awareness of the need for clear policies in this area.

In recent years, there has been an increased recognition of the importance of digital assets within legal and financial contexts, prompting discussions among policymakers and legal experts in Romania. Proposed reforms aim to create a more structured approach to digital asset management, including defining the legal status of various types of digital property and establishing clearer rules for their inheritance⁸.

One anticipated change is the formal acknowledgment of digital assets within Romanian property law. This would involve creating a legal classification for digital assets that distinguishes them from traditional property. Such reforms would clarify the rights of heirs and facilitate the transfer of digital assets after death, ultimately providing a more robust legal framework for individuals and families⁹.

Educational initiatives aimed at informing the public about digital asset management and inheritance are becoming more prevalent. Legal practitioners are increasingly encouraging clients to consider their digital legacies and integrate them into their estate planning processes.

Advocacy for clearer legal frameworks is also gaining momentum. Legal associations and interest groups are beginning to lobby for legislative changes that would address the gaps in current laws concerning digital assets. This advocacy is essential for promoting reforms that ensure the protection of individuals' rights to their digital legacies.

Internationally, several countries have begun to adapt their inheritance laws to better accommodate digital assets. For example, states in the U.S. like Virginia and California have passed legislation that explicitly recognizes digital assets in probate law. These developments may serve as a model for Romania, highlighting the need for legislative updates to meet contemporary challenges.

Romania can look to these international examples when crafting its approach to digital assets. By learning from the experiences of other jurisdictions, lawmakers can develop a framework that addresses the unique characteristics of digital assets while protecting the rights of heirs and preserving the intentions of asset owners.

⁸ Nițu, M., & Negruțiu, C., *The digital assets and their role in the management of the estate*, Proceedings of the International Conference on Business Excellence, 15(1), 2021, pp. 601-610, DOI: <https://doi.org/10.2478/picbe-2021-0056>.

⁹ McKinnon, L., *Planning for the succession of digital assets*, Computer Law & Security Review, 27(4), 2011, pp. 362-367, DOI: <https://doi.org/10.1016/j.clsr.2011.03.002>.

CONCLUSION

In an increasingly digital world, the significance of digital assets in personal and financial domains cannot be overstated. As we have explored throughout this article, the current legal framework in Romania inadequately addresses the complexities of digital inheritance, leaving many individuals vulnerable to the loss of valuable digital property. The necessity for adapting estate planning practices to include these assets is paramount. Proactive measures such as creating a comprehensive inventory of digital assets, securing access information, and including specific provisions in wills and trusts are essential steps that individuals can take to safeguard their digital legacies.

The emerging trends in legislation, highlighted by the growing awareness of the challenges surrounding digital assets, signal a potential shift towards more comprehensive legal frameworks. By drawing inspiration from international models and incorporating innovative technologies like blockchain, Romania has the opportunity to streamline the management and transfer of digital assets, ensuring that they are recognized and protected under the law.

Ultimately, as society continues to navigate the complexities of the digital landscape, legal professionals will play a crucial role in guiding individuals toward effective estate planning that encompasses both physical and digital assets.

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INTERNATIONALIZATION AND EUROPEANIZATION OF THE GENERAL PRINCIPLES OF LAW THROUGH STANDARDIZATION

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ABSTRACT

Purpose: Establishing the place and importance of the General Principles of Law in the European context, with the connotations they have at the level of the Member States, as well as at the level of other states, in order to establish the indestructible link between them and the rules or norms of fundamental law or only of law private. Starting from the definitions of the General Principles on all the specified levels, the objectives to be achieved for a correct interpretation of the application of the law are to be established.

Objectives: Bringing the General Principles to the fore and correlating them with the legislation agreed by states worldwide and, of course, European. The consideration of the General Principles in the context of the already established existence of Fundamental Human Rights, in the TFEU Charter and the provisions of the Statute of the International Criminal Court, in the absence of other international provisions in private law.

Proposals and methodology: Establishing a unitary legislative framework in the field of General International Principles that is subject to the approval of the states and that is compatible with the General principles at the European level accepted as such by the Member States and not only. As a methodology, it should be discussed at the level of world legal forums and then recommended to states for approval.

Results and implications: The results would be immediate and would involve world and regional forums that would interpret under the auspices of these General Principles the manner of applying the rules and norms, because the limiting function of the rules and rights in force in the Law system, delimits the essential core of it, or the content depending on the adoption of one theory or another, and theories abound in the field.

Keywords: General Principles, Human Rights, European Union, TFEU Charter, sources of law

INTRODUCTION

The general principles of Community law have been consolidated on the basis of an abundant jurisprudence of the Court of Justice of the European Union (CJEU), charged with the interpretation and application of the rules inscribed in the Treaties (art. 19(1) of the Treaty on the European Union). At the moment, a bipartite classification of European law operates, so that the treaties – the TEU, the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights of the European Union – constitute the

primary law of the union, while regulations, directives and decisions represent secondary law.

The essential interest of this paper lies in the analysis of an "intermediate area" of Community law, where the general principles of the Union seem to be distributed, they are not - explicitly - part of either the primary or the derived law, although they have an undeniable relevance. Moreover, the fragile distinction between general principles and fundamental community rights creates difficulties of interpretation in the matter of European civil law, as their *modus operandi* has not been precisely established.

The general principles of law ensure unity, homogeneity, coherence and the ability to develop some associative relationships. A principle of law is the result of social experience, and the practical usefulness of knowing the general principles consists in the fact that they draw the guidelines for the entire legal system and exert a constructive action, orienting the legislator's activity.

On the other hand, general principles have an important role in the administration of justice, because those empowered to apply the law must know not only the legal norm, but also its spirit, and the principles of law determine precisely the spirit of the laws. In other words, in certain situations, the principles of law take the place of the regulatory norm. Consequently, the judge cannot refuse to solve a case, invoking the lack of legal text, on the basis of which he can judge, because he would be accused of denial of justice and will solve that case based on the principles of law.

The action of the principles of law results in the certainty of the guarantee of the law against the unpredictability of coercive norms and the assurance of the concordance of the laws and their appropriateness. The principles of law are extracted from the constitutional provisions or are deduced through interpretation from other norms having the role of ensuring the balance of the legal system with social evolution. Unlike legal concepts and categories, which serve as mediating elements for the application of principles, principles give concrete content to legal categories, ensuring their functionality.

The principles of community law

A first aspect worth pointing out has in mind the nuance differences between two notions of Community law, namely "principle" and "rule". Thus, while the rule designates the provisions of positive European law, the principle indicates broader concepts that guide the interpretation of the law. Once they become sufficiently specific and restrictive, the rules give rise to rights and obligations in civil contractual relations, and European law bases the whole theory of direct effect on this process of "engagement". The principles, being more flexible, do not have such an effect, knowing tangents with civil law only to the extent that they are implemented by the court.

The distinction is interesting because there are controversies in the doctrine regarding the horizontal effect of the provisions of Community law in relation to the autonomy of the member states and the security of civil ties. The Charter of Fundamental Rights does not actually deify rights from principles, even outlining the interdependence of the two notions (art. 51(1) of the Charter provides that principles are important to the extent that the law must be interpreted or revised). In this sense, the principles governing the interpretation of European civil law are:

- The principle of "bounded" autonomy, enshrined in art. 17 and 18 of the Charter, which states that entrepreneurial freedom must be exercised in accordance with national and community legal provisions.
- The principle of protecting the disadvantaged party in employment and consumer contractual relationships (art. 31 and 38 of the Charter).
- The principle of non-discrimination, very pronounced in the Court's jurisprudence, regulated by art. 21 and 23 of the Charter, respectively art. 18 TFEU.
- The principle of effective legal protection (art. 47(1) and 19(1) TEU).
- The principle of balancing conflicting interests in civil law relations (stated indirectly in articles 51, 52 and 54 of the Charter).
- The principle of proportionality, essential for the implementation of Union law, limiting the measures taken in this regard to what is necessary and useful (art. 5(4) TEU and 52(1) of the Charter).
- The principle of good faith in civil law relations (the last chapter of the Charter).

As far as fundamental rights are concerned, it is of their essence to limit their applicability their participation in situations aimed at the implementation of Union law. It should be emphasized that the provisions of the Charter do not give rise to independent "European" rights.

The relationship between union and private law is intensely discussed in doctrine. Thus, in the opinion of some authors, the effects of European law in contractual relations of a civil nature must be essentially indirect and channeled towards preserving the normative coherence and predictability of private law. Other authors emphasize the tendency to convert the aforementioned indirect effect into a direct one. The doctrinaires, however, seem to share a reserved attitude vis-à-vis the role of fundamental rights in private law relationships.

Analyzing the relatively recent practice of the CJEU, one notices the lack of a general theory regarding the distinction that operates between rights and fundamental principles, which leads to the conclusion that there is no major difference between these two concepts in the matter of private law: both require a pre-existing set of legal provisions to be applicable, and produce only direct effects. Their role is limited to the interpretation and control of legality, so we can conclude that the fundamental rights of the Union have not yet been converted into rules, but remain principles.

General international principles

The main general principles of Law are the most general normative statements which, although they have not been formally integrated into certain legal orders, collect in an abstract manner the content of a group of them. They are concepts or propositions of an axiological or technical nature that inform the structure, form of operation and the very content of norms, normative groups, normative ensembles and the Law itself as a whole.¹

¹ Francisco Carpintero, Norm and principle in "jus commune", Journal of Historical-Legal Studies XXVII, 2005, pp. 283-308

These principles are used by judges, legislators, creators of doctrine and by jurists in general, either to integrate legal rights or to interpret legal norms whose application is doubtful.

The general principles of Law are normative statements that express deontological reasoning about the conduct to be followed in a certain situation or about other norms of the legal order. Each of these principles is a criterion that expresses a duty of behavior for individuals, the principle or a standard for the rest of the norms. Enforcing the individual's duties is his priority. Moreover, it applies in the absence of any law or custom.

As regards the general principles of Law, a controversy has developed as to whether they are foreign or external to positive law, or whether they are part of it.

The rationalist school of law

According to the position of the rationalist natural law school of the 17th and 18th centuries, general principles would be a structure of rational principles separate from and superior to positive law. Classical natural law understands that Law, natural and positive, is reasonable and therefore there are principles of common sense that give unity and coherence to the legal system. That which is totally devoid of common sense or unreasonable is not Law for this school.

According to the positivist doctrine, the principles mentioned above would be part of positive law. However, they could never impose an obligation that was not sanctioned by the same positive order, which is why it is understood that each positive order has its particular general principles and that there are no universal legal principles.

The rationalist position divides Law into two specific and distinct legal orders: the natural and the positive - the first conforms to reason, i.e. they are norms that emanate from the nature of things and are of an axiological nature, and the second is a product of the will of the political system. Another position indicates that Law, a typical human product, is a work of human intelligence: it is the one that discovers, develops and combines criteria that enunciate a behavior understood as just; for this reason, Law is also called jurisprudence, i.e. of what is just, and prudence is understood as a prerogative of intelligence. Even if Law, with all its criteria, is a work of intelligence, its fulfillment, the behavior of people according to legal criteria, is a work of will.

Thus, it is clear that the principles of Law are of a rational nature, they are not principles that exist from a material point of view. From a technical point of view, the principle of Law constitutes a logically previous proposition, on a matter of Law. This sentence must precede a mental process, a reasoning: it can be, for example, an anticipation of a legal effect or *fattispecie* for which it is sanctioned. Thus, from the *Pacta sunt servanda*² principle it follows that the lease signed today must be fulfilled tomorrow, and the *neminem laedere* principle justifies the fact that injuries deserve imprisonment. These principles are the first arguments from which the rest of legal reasoning starts, anticipating the justification of laws, subjective rights, duties and legal interconnections.

²Humberto Ávila, *Teoría dos princípios* - 18 ed./2018, Marcial Pons, Madrid, Barcelona y Buenos Aires, 2011, pp. 172

The first principles are extracted from the reality that predefines legal reasoning. And since the most complex reasonings are nothing but a composition of simpler ideas, the most primordial principles will be a simple value judgment, an affirmation of what is worth, a pro (something)³. Thus, for example, there is pro homine, pro natura, which rationally processes that man and nature are estimated as very high values. From there derives in dubio pro..., in case of doubt over two norms, over two interpretations, over two punishments... the most favorable of what is considered more valuable will be chosen. And all principles pro ... must also be assembled with the first principle of practical reason, by which good must be done and evil avoided: consequently, what is pleasing to God, the human species, and nature is to be done and protected (of nature), and avoided that which harms them.

According to the formulation of Riofrío, legal goals, values and goods support and give content to the first principles of Law and, in turn, these principles support norms, contracts and the entire legal system, endowing them with a basis of sensitivity and rationality.⁴

The general principles of Law have three functions that have an important impact on the rules of legal systematization, these being: the creative function, the interpretive function and the integrative function.

- The creative function establishes that before promulgating any legal norm, the legislator must know the principles in order to be inspired by them and to be able to make them positive
- The interpretative function assumes that when interpreting the rules, the operator must be inspired by principles, in order to guarantee a thorough interpretation.
- The integrative function means that whoever is going to fill a legal vacuum must be inspired by the principles so that the law becomes a hermetic, i.e. impenetrable, system.
- Informative function of the entire legal order, filling legal voids and legal loopholes.
- The limiting function of the rules and rights in force in the Law system, which delimits its essential core, or content, depending on the adoption of one theory or another.

Some authors mention only the first three functions, integrating other aspects into them. Others instead talk about seven, eight or nine functions. In any case, basically, it is the functions mentioned above.

The general principles of Public International Law serve not only to guide order, but also in situations where it is not regular, principles such as custom serve to guide two countries at war.

Article 38 of the Statute of the International Court of Justice talks about how to apply conventions, customs, general principles of law recognized by civilized nations and court decisions for the interpretation of norms.

³Robert Alexy, „Legal System, Legal Principles and Practical Reason”, 2012, pp. 1-26, <https://doi.org/10.1093/acprof:oso/9780199582068.003.0001>

⁴Riofrío Martínez-Villalba, Juan Carlos. „La exigencia del trato igual. Rediseño del test de igualdad”. *El costo de la Justicia, Juan Castañeda Méndez (ed.)*, pp. 96-100, Oxford Academic, <https://academic.oup.com/book/3491/chapter-abstract/144681269?redirectedFrom=fulltext> accessed on October 20, 2024

A few general principles of Law should also be mentioned, such as the principles of equity, freedom, justice, fraternity, equality, innocence, hierarchy, among others.

German jurisprudence, North American jurisprudence and that of the vast majority of countries have included as constitutional principles, but which, however, are not always expressly provided in the constitution of the countries, the following principles:

- The principle of equality, whereby equals must be treated equally and unequals unequally. The requirement of this equal treatment falls primarily on public authorities, although more recent jurisprudence imposes similar obligations on the private sector as well. Such an identification between public and private has been questioned in doctrine.⁵
- The principle of hierarchy, which determines the supremacy or inferiority of norms. It is discussed whether, apart from norms, the purposes, values and principles of law, as well as people's rights, can also be ranked. Doctrinaires like Alexy⁶ are reluctant to take such positions, while for Riofrío⁷ everything is hierarchizable.
- The principle of proportionality in punishments and taxes or also called the "principle of proportion" according to Humberto Ávila⁸, by which it is necessary to maintain a proportion between the seriousness of crimes and punishments, as well as between wealth and tax.

The principle of proportionality also called "reasonableness", which was born as a remedy against excesses in the decisions taken by the legislative and executive powers. The German Constitutional Court divided proportionality into three sub-principles intended to control a measure, such as a law, a general decision, an administrative act with general effects, etc. emanating from a subject with power as, for example, is the representative of the executive power, Parliament, the rhymer or other authority, to the extent that this attitude is considered disproportionate, unreasonable, unnecessary and inappropriate. This triple test aims to check that the authorities' decisions are not arbitrary. Certain jurisprudence has applied the principle of proportionality to other things, such as private relationships, rights, values, etc. in a way that is not always appropriate.⁹

- The principle of subsidiarity, by which superior public entities are incompatible to intervene in what people and/or hierarchically inferior societies are capable of achieving on their own, adequately.

⁵Robert Alexy, „Legal System, Legal Principles and Practical Reason” In Doxa, Notebooks of Philosophy of Law, No. 5, Seminar of. Philosophy of Law of System, <https://academic.oup.com/book/3491/chapter-abstract/144681269?redirectedFrom=fulltext> accessed on October 20, 2024

⁶ Idem

⁷Riofrío Martínez-Villalba, Juan Carlos. „La exigencia del trato igual. Rediseño del test de igualdad”. *El costo de la Justicia*, Juan Castañeda Méndez (ed.), pp. 92-94 (în engleză), Oxford Academic, <https://academic.oup.com/book/3491/chapter-abstract/144681269?redirectedFrom=fulltext> accessed on October 20, 2024

⁸ Humberto Ávila, *Teoria dos princípios - 18 ed./2018*, Marcial Pons, Madrid, Barcelona y Buenos Aires, 2011, pp. 172

⁹<https://www.universuljuridic.ro/iccj-principiul-proportionalitatii-prevaleaza-chiar-si-in-fata-unei-directive-europene-avocatii-bancila-diaconu-si-asociatii-obtin-anularea-unui-act-de-impunere-in-materia-accizelor/> accesed on October 20, 2024

General principles of private law

The principle of good faith: requires upright or honest conduct in relation to the parties concerned in a deed, contract or process. Apart from putting the public good over the private, implying that public causes will prevail over those of the rulers or the private sector.

It refers to acting honestly, truthfully, loyally, which involves the belief that one is acting in accordance with what the legal order prescribes.

The principle of good faith is of paramount importance in matters of interpretation of the law, contracts, possession, prescription, matrimony.

Pacta sunt servanda¹⁰: it is of absolute character, contemplated in the 1969 Vienna Convention on the Law of Treaties. In its Article 26 it states comprehensively: "Any treaty in force binds the parties and must be performed by them in good faith."

Post-factum and ante-factum solidarity: it is defined as the union of interests or goals between countries, and the social cohesion between them, based on interdependence between States.

International humanitarian aid: Humanitarian aid is a form of solidarity or cooperation, which is generally intended for poor populations or those who have suffered a humanitarian crisis, such as that caused by a natural disaster or war. It must follow the humanitarian principles of impartiality, neutrality, humanity and operational independence.

Intervention: the term has to do with one or more States that on their own authority, without a special legal title, interfere in the internal or international affairs of another State or States.

Non-intervention: Non-interventionism is the foreign policy doctrine that indicates the obligation of States to refrain from or intervene, directly or indirectly, in the internal affairs of another State with the intention of affecting its will and obtaining its subordination.

Article 38.1.c of the Statute of the International Court of Justice considers the general principles of law to be a formal source of international law, along with international customs and international treaties, which is why the court would be obliged to apply them without the need to have any gap in the field of these last two sources; that is, it functions as an autonomous and non-subsidary source.

The old Civil Code of the Argentine Nation, drawn up by Dalmacio Vélez Sarsfield¹¹, enshrined -since 1871- in its article 16, the following statement: "If a civil problem cannot be solved, neither by words nor by the spirit of the law, the principles will be followed analogous laws; and if the question is still in doubt, it will be resolved by means of the general principles of Law, taking into account the circumstances of the case" Much of the national philosophical doctrine understood this statement as a manifestation of the denial of the legal gaps in Argentine law, while other doctrinaires see it as guidance to the judge

¹⁰Ion Galea, *The Law of Treaties*, Ed. Ch. Beck, ISBN 978-606-18-0507-5, p. 240-245

¹¹<https://www.lawbookexchange.com/pages/books/60375/dalmacio-velez-sarsfield/codigo-civil-de-la-republica-argentina-redactado-por-el-dr-d-dalmacio> accessed on October 20, 2024

in specific cases where there is no law to govern the case, to fill gaps in the law with a basis in Natural Law.

The Colombian Political Constitution of 1991, in its article 230, teaches that the general principles of Law are auxiliary criteria in case of insufficiency of the law, that is, in case of obscurity or normative gaps, an anti-formalist position that has influenced Colombian jurisprudence since 1936 - the "Golden Court" era - in a new interpretation of Article 8 of Law 153 of 1887, which, from a point of view eminently influenced by the school of free scientific research and German conceptualism, adopted equity and the other general principles of Law as a spearhead for the fair resolution of legal disputes.

In Spain, according to Article 1.1 of the Civil Code¹², the sources of the legal order are the law, custom and general principles of Law. And in its article 1.4 it is specified: "The general principles of the Law will apply when the law or custom is missing, without prejudice to its informative character to the legal system".

In Mexican Law, since Article 14 of the current Political Constitution provides that civil lawsuits must be resolved in accordance with the letter or interpretation of the law, and in its absence, it will be based on general principles of Law. This submission, according to Rafael Preciado Hernández¹³, connects Mexican Law to the best natural law tradition of Western civilization. Also, in the Federal Labor Law, in Article 17, reference is made to the general principles of Law and equity, which is one of them. In the same way, they are established in the Federal Civil Code, in the Commercial Code, in the General Law of Electoral Institutions and Procedures, in the General Law of Health, in the General Law of Education and, practically, in all federal and local legal regulations, either nouns or adjectives.

CONCLUSIONS

Just like customs, the principles taken into account as a source of civil law must be in accordance with public order and good morals.

Both the general principles of Romanian law, sources of civil law, and the principles of civil law, which do not have the character of a source of civil law, have a pronounced ideological character. They give ideological expression to the pillars of Romanian society and have not only the role of regulating conduct, but also of planting attitudes in people's consciousness.

The obligation of the European legislation in relation to the Member States gave the possibility of approaching the general principles uniformly by these states. The same cannot be said about the General Principles of civil law at the international level, which even if they are introduced in national legislation, this fact is nuanced in each individual state.

Innovation, novelty, change, pretense, ensure the permanent transformation of law according to new social requirements. The principles of law become starting points of reference, of support in modifying the legal system.

¹²<https://www.legi-internet.ro/civil/spania.htm> accesed on October 20, 2024

¹³ <https://www.legi-internet.ro/civil/spania.htm> accesed on October 20, 2024

The theoretical importance of the general principles of law also results from the fact that they are the basis of branch and interbranch principles.

The practical importance of the principles of law results from the following concepts:

- the general principles of law are creative sources of law. The content of legal norms is determined by the general principles of law;
- the general principles of law require "justice to be done," "justice to prevail," no one to be favored, because "no one is above the law," "everyone is equal under the law and before laws" etc.;
- the principles of law concern man, his freedom and dignity, including the defense of these universal rights recognized by all civilized nations, organized by the state;
- in certain cases, the principles of law take the place of regulatory norms. When the law is silent in a case, the judge resolves the case based on the general principles of law.

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ISLAM AND RADICALISM FROM THE PERSPECTIVE OF HUMAN RIGHTS

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ABSTRACT

Radicalism and its association with Islam have become a global concern due to the threats it poses to international peace and security. To understand this association and its dynamics, it is important to examine both the factors leading to the rise of radicalism and how it is related to Islam. To counter the radicalism associated with Islam, a comprehensive approach is needed that addresses both the underlying causes of radicalization and distorted interpretations of the religion.

Examining the association between radicalism and Islam from a human rights perspective is essential to ensure that our responses to this problem are fair, effective and respect fundamental human rights principles. Government approaches to countering radicalism can often violate human rights.

To protect and promote the fundamental rights of all individuals, it is essential to approach this issue with sensitivity, balance and respect for human rights.

Keywords: Radicalism; Islam; Human Rights; International Law; Theology and Science.

INTRODUCTION

Radicalism, especially in the religious context, has become a global concern because of the threats it poses to international peace and security. In recent decades, the association between radicalism and Islam has captured public attention and been the subject of extensive academic and political debate. To understand this association and the dynamics behind it, it is crucial to examine both the factors leading to the rise of radicalism and how it relates to Islam.

Radicalism is an extreme form of ideological commitment that can take various forms, including violence and terrorism. The factors leading to the rise of radicalism are complex and interconnected. These include socio-economic frustrations, marginalization, political and social conflicts, ideological manipulation and online radicalization. Many of these factors are found in the context of Muslim communities around the world.

Islam, as a religion with a vast and diverse following, is often associated with radicalism due to the presence of radical groups and movements that invoke Islam to justify their violent actions. It is important to emphasize that these groups represent an extremely small minority within the global Muslim community, and their radical ideologies are generally rejected by the majority of Muslims.

However, there are some aspects of the interpretation of Islam that can be exploited to justify radicalism. Literal or fundamentalist interpretations of religious texts, especially when manipulated by radical leaders, can lead to extremist ideologies and the justification of violence in the name of faith.

To better understand the complexity of this issue, academic research has been essential. Works such as "Radical Reform: Islamic Ethics and Liberation" by Tariq Ramadan or "Stealth Islamist" by Khaled Abou El Fadl offer deep and subtle analyzes of the relationship between Islam and radicalism, highlighting the variability of interpretations and contexts that influence radical dynamics. [1] [2]

To counter the radicalism associated with Islam, a comprehensive approach is needed that addresses both the underlying causes of radicalization and distorted interpretations of the religion. This may involve efforts for social integration, education, combating poverty, promoting intercultural and interreligious dialogue, as well as effective approaches to combat radical online propaganda.

The rise of radicalism and its association with Islam is a complex and multidimensional problem. Deep understanding of these phenomena is essential for developing effective strategies to prevent and counter radicalism and terrorism in the contemporary world.

Examining the association between radicalism and Islam from a human rights perspective is essential as this issue affects not only global security but also the fundamental rights of individuals. It is crucial to focus our attention not only on the security or geopolitical aspects of the phenomenon, but also on its impact on human rights, such as freedom of religion, minority rights, equality and non-discrimination.

MATERIAL AND METHOD

Study material

This study is based on an exhaustive review of the literature, including:

1. Religious Texts and Islamic Interpretations: Analysis of primary sources in Islam such as the Qur'an and Hadith and their interpretations by various Islamic scholars.
2. International documents and treaties: Relevant human rights conventions and declarations, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).
3. Academic and journalistic literature: Books, scholarly articles and relevant media reports dealing with the topic of radicalism in an Islamic and human rights context.

Study Method

To understand the intersection between Islam, radicalism and human rights, the study used a mixed methodology, including both qualitative and quantitative approaches:

1. Content Analysis:
 - Textual: Interpreting religious texts and analyzing how they are used to justify radical actions or promote human rights.
 - Legal: Examining international human rights documents to assess compliance with Islamic practices and principles.

1. Comparative study:

- Comparison of various interpretations of Islam and their influence on radicalism in different geographical and cultural regions.
- Analysis of various governmental and international responses to Islamic radicalism, with a focus on respect for human rights.

2. Analysis of public policies:

- Evaluation of government policies and programs aimed at combating radicalism, as well as their impact on human rights.

By using these methods, the study aims to provide an in-depth and well-grounded understanding of the interplay between Islam, radicalism and human rights, while also providing recommendations for policies and practices that can contribute to the promotion of social justice and sustainable peace.

The study revealed that interpretations of Islamic religious texts vary significantly, directly influencing attitudes and behaviors related to radicalism and human rights. The Qur'an and the Hadith, the primary sources of Islamic teachings, are interpreted differently by various schools of thought (madhabs), leading to diverse conclusions regarding the justification of violence and respect for human rights.

Legal analysis of international documents such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) show a discrepancy between universal principles of human rights and certain strict interpretations of Islamic law (Sharia). However, there are also modern and reformist interpretations of Islam that support compatibility between Sharia and international human rights standards. [3]

Comparing the various interpretations of Islam in different geographical and cultural regions has shown that Islamic radicalism is more pronounced in areas of political and socio-economic instability. For example, in the Middle East and North Africa, radical groups use strict interpretations of Sharia to justify violence and human rights violations. In contrast, in countries such as Indonesia and Malaysia, where there is a more moderate application of Islamic law, radicalism is less prevalent and human rights are more respected. [4]

Government and international responses to Islamic radicalism range from repressive measures to deradicalization and reintegration initiatives. The study found that repressive measures, while often necessary for national security, can exacerbate tensions and lead to human rights violations. On the other hand, deradicalization programs involving education, interfaith dialogue and social support have proven more effective in reducing radicalism and promoting peace.

The evaluation of government policies and programs revealed that initiatives that combine security measures with development and education strategies are most effective in combating radicalism. For example, deradicalization programs in Saudi Arabia, which include religious counseling, education, and economic support, have shown promising results in reducing radical recidivism. In contrast, exclusively repressive policies in some Western countries have led to the marginalization of Muslim communities and increased feelings of alienation and resentment. [5]

DISCUSSIONS

The results of this study highlight the complexity of the relationship between Islam and radicalism, highlighting both divergences and commonalities between religious interpretations and human rights principles. On the one hand, strict interpretations of Islamic religious texts can be used to justify acts of violence and extremism. On the other hand, there are many reformist and moderate interpretations of Islam that promote peace, justice and respect for human rights. This duality underscores the need for continued and open dialogue between religious leaders and human rights defenders to find common ground and combat extremism.

Compatibility between Sharia and human rights

One of the most controversial topics is the compatibility between Sharia and human rights. Our analysis has shown that while there are tensions between these two legal systems, they are not necessarily irreconcilable. For example, certain elements of Sharia, such as zakat (obligatory charity) and principles of social justice, are in line with the economic and social rights promoted by the UDHR. However, strict interpretations of Islamic law in areas such as women's rights and religious freedom can directly conflict with international human rights standards. Reforms in the interpretation and application of Sharia, as well as adaptation to the contemporary context, can contribute to greater compatibility and mutual respect. [6]

The role of interfaith education and dialogue

Interreligious education and dialogue are essential tools in combating radicalism. The results underscore the importance of education in promoting a fair and balanced understanding of Islam. Educational programs that include comparative studies of religions and promote universal human rights values can diminish the influence of extremist ideologies. In addition, interfaith dialogue between Muslim, Christian, Jewish and other faith leaders can help build bridges of understanding and cooperation, reducing interfaith tensions. [7]

Socio-economic and political factors

Islamic radicalism cannot be understood outside the socio-economic and political context. Political instability, poverty and lack of economic opportunity are factors that fuel feelings of alienation and resentment, often leading to extremism. The results of our study show that in regions with relative political and economic stability, radicalism is less prevalent. Therefore, government policies aimed at improving living conditions, creating jobs and promoting social inclusion are essential to prevent extremism.

Governmental and international responses

Government and international responses to Islamic radicalism vary considerably, from repressive measures to deradicalization and reintegration programmes. Our analysis found that repressive measures, while sometimes necessary for national security, can exacerbate radicalism and human rights abuses. In contrast, deradicalization programs involving religious education, psychological support and social reintegration have been more successful in reducing extremism and promoting peace. Positive examples such as deradicalization initiatives in Saudi Arabia and Indonesia demonstrate the effectiveness of holistic approaches that combine security with human development.

The long-term impact of religious practices and public policies

Reformist religious practices and inclusive public policies have a lasting impact in combating radicalism and promoting human rights. Our results suggest that, in the long term, promoting a moderate and progressive interpretation of Islam that is compatible with human rights can help build a peaceful and inclusive society. Also, public policies that favor social justice, equality and economic development can reduce the appeal of extremist ideologies.

CONCLUSIONS

This study has looked in depth at the complex relationship between Islam and radicalism through the lens of human rights, highlighting a number of critical issues that require a multidimensional and nuanced approach. Islam, a religion with a vast diversity of interpretations and practices, cannot be simplified into a single narrative in terms of radicalism. While certain strict interpretations of religious texts are used to justify acts of violence, there are also numerous reformist interpretations that promote peace, justice and respect for human rights.

It is essential to understand that Islamic radicalism is not an intrinsic manifestation of Islam, but the result of multiple factors, including extremist interpretations of the religion, the socio-economic and political context, as well as external and internal influences. Radicalism must be tackled not only from a security perspective, but also from a holistic perspective that includes education, economic development and interfaith dialogue.

An essential aspect discussed in this study is the compatibility between Sharia and human rights. Despite the tensions between these two legal systems, they are not irreconcilable. The positive elements of Sharia, such as zakat and principles of social justice, can be aligned with the economic and social rights promoted by the Universal Declaration of Human Rights. However, continued reform in the interpretation and application of Sharia is needed to ensure compliance with international human rights standards, particularly with regard to women's rights and religious freedom.

Education plays a crucial role in combating radicalism. Educational programs that promote a fair and balanced understanding of Islam and that encourage the comparative study of religions and universal values can diminish the influence of extremist ideologies. In addition, interfaith dialogue between Muslim leaders and those of other faiths can build bridges of understanding and cooperation, reducing tensions and promoting mutual respect.

In the long term, promoting a moderate and progressive interpretation of Islam that is compatible with human rights is essential to building a peaceful and inclusive society. Public policies that promote social justice, equality, and economic development can reduce the appeal of extremist ideologies. In conclusion, combating radicalism and promoting respect for human rights requires an integrated approach that includes security measures, educational, social and economic initiatives. It is crucial to support moderate religious leaders and develop deradicalization programs that address the root causes of extremism.

To ensure the success of these efforts, continued collaboration between governments, international organizations, religious communities and civil society is necessary. Only

through a comprehensive and coordinated approach can we hope to effectively combat radicalism and promote a world where human rights are respected and protected for all.

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KNOWLEDGE AND EDUCATION IN SEXOLOGY IN THE POLICE FORCES IN SLOVAKIA

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ABSTRACT

In the study, the authors present information from a survey of the Academy of the Police Force in Bratislava, in which members of the police force commented on their awareness of sexology. Basic knowledge of sexology is a necessary condition for investigative work, not only for sexual crimes, but also for many threatening crimes. Results on very well-known survey results in this area. The study is the result of testing during the Special Interrogation Rooms project, and was created thanks to the EU project "Bridge" no. 101084355, call ISF-2021-TF1-AG-CYBER

Keywords Sexuality, sexology, investigator, police officer, education in sexology, projects Special interrogation rooms and Bridge.

INTRODUCTION

Sexuality affects every individual and in some professions (investigator, authorized officer, doctor, psychologist and others) orientation in it becomes an essential part of them. [1] Therefore, we decided to examine the knowledge in the field of sexology of members working in the police force in Slovakia during the Special Interrogation Rooms program taking place at the Academy of the Police Force in Bratislava. At the beginning, we need to remind you that the intention of the article is not to disqualify the members of the police force of Slovakia in the sense of pointing out their information gaps in the field of sexology. Rather, we want to point out the important fact that even in their work it is necessary to constantly learn and thus keep up with the times, which since the first industrial revolution have been developing faster and faster and the distances between individual revolutions are getting shorter and shorter. That's why we tried to immediately provide them with basic information in the field of sexology as part of the Special Interrogation Rooms program, which they will be able to build on and further expand in their police practice. [2]

MATERIALS AND METHODS

Briefly about the program Special interrogation rooms

The Special Interrogation Rooms (ŠVM) program was held at the Police Academy in Bratislava (APZ). The program started in April 2019 and ended in November 2022 (reaktivation to 2023). The program was suspended due to the viral disease COVID-19. Several departments of the APZ in Bratislava participated in the teaching: Department

of Social Sciences, Department of Criminal Law, Department of Criminology and Forensic Sciences and Department of Investigation, but also employees from the Police Force (PZ). [2]

The ŠVM program was also created as a reaction to Act 274/2017 Coll. – Act on Victims of Crimes and Amendments to Certain Acts. [3] Act 274/2017 entered into force on 1.1.2018 since it began to be applied in practice.

The ŠVM program consisted of two parts, which together made up 40 teaching hours. The first block was theoretical, where the participants became familiar with exploitation, human trafficking, investigation, ontogenetic psychology or forensic sexology. The second longer block (3 days) was practical, where course participants in smaller groups got to know the practical part, which took place at least from the beginning of the course in a special service room, specially adapted for the needs of the course, but its use is also possible after the end of the course, respectively during further teaching at APZ. A special interrogation room should be imagined as a rectangular room, which is divided into one larger and another smaller room, which are also connected by a one-way mirror. It is also stated to minimize the number of people in a smaller room with a particularly vulnerable victim. The rest of the people (lawyers and others) are in the second (larger) room from where they can observe the interrogation. The rooms are also acoustically isolated from each other to avoid unwanted artifacts. The entire interrogation is recorded using audiovisual technology. At the end of the program, the participants received a certificate of completion of the ŠVM course. In the SVM course, we worked with concepts such as a particularly vulnerable person. The requirements of the ŠVM course were based on Act 274/2017 § 2 par. 1 letter c) are considered to be a particularly vulnerable person:

1. child; child means a person under the age of eighteen years, and if the age of the person is not known and there is reason to believe that he is a child, he shall be deemed to be a child until the contrary is proved,
2. a person older than 75 years,
3. a person with a disability
4. victim of the crime of human trafficking, the crime of involuntary disappearance, the crime of torture of a close person and a trusted person, a crime committed by an organized group, one of the crimes against human dignity, one of the crimes of terrorism or the crime of domestic violence,
5. a victim of a crime committed by violence or the threat of violence because of his or her gender, sexual orientation, nationality, racial or ethnic origin, religion or belief,
6. a victim of another crime who is exposed to a higher risk of repeated victimization or secondary victimization determined on the basis of an individual assessment of the victim and his personal characteristics, relationship to the perpetrator or dependence on the perpetrator, type or nature and circumstances of the commission of the crime.

The plan of the PZ was to establish a special interrogation room in every district town in Slovakia. The reality, however, is that police departments suffer from an acute lack of spatial capacities, so even the established special interrogation rooms, unfortunately, do not serve their well-intentioned purpose. The course was intended for members of the police force (investigators, authorized officers) from police departments from all over Slovakia. They attended it based on the order. Education was carried out in group meetings where 12-15 participants were planned and on average 9 participants attended. The Department of Criminalistics and Forensic Sciences was also part of the ŠVM program, where it provided participants with information on tactical methods, especially

interrogation and forensic sexology in the scope of two class hours (90 minutes). At the beginning, the participants were given an anonymous questionnaire, in which they had to express themselves in their own words and according to their current knowledge to both closed and open questions. We inform readers of the results below.

An important area of use of knowledge from sexology is the investigation of child pornography and related processes. [4] Knowledge in this area is particularly important for this very sensitive area, not only for the purpose of subsequent prosecution of crimes, but especially for the purpose of overcoming this criminality. [5] One of the possibilities is also a diversion in the processes of investigation and punishment of users of child pornography in order to encourage and ensure their search for a way to remedy and reduce the risk and consequences of using child pornography (CSAM).

Briefly about the program Bridge

With Project Bridge offer six countries research team professional services to individuals who are concerned about their thoughts or behaviors involving children and who ask themselves if they want to make a change. We meet them where they are online (both on clearnet and darknet) and we guide them to take the next steps to treatment. This is done by supporting and encouraging their motivation for change by providing psychoeducation, resources, and motivational interviewing to help them move forward in the treatment process. [6] Participants who search for child sexual abuse material on the Darknet and Clearnet will find a link to the RightDirection Chat. If they are interested in receiving help with thoughts or behaviors involving children, they will first go through an auto generated self-assessment which asks inclusion criteria, current mental health status, and the frequency and current impact of their thoughts or behaviors. We will also continue collaborations with different social media platforms, such as Facebook.

A recommendation will be auto generated after the answers are submitted, advising the next steps. Participants will first receive ReDirection's self-help program. After completion, participants will be invited to an online chat where a professional will give them information about their options and answer any questions they have. The next step is signing up for an online meeting with a professional for personalized psychoeducation and Motivational Interviewing. Motivational Interviewing is conducted over four to six sessions, which will help encourage the participants to seek face to face therapy. The final step is referring to in-person therapy at a clinic in the participant's country. The first session is registered by the staff in Project Bridge.

If Project Bridge is successful, the clinical implications are far reaching including for children at risk of being used for online exploitation. The lesser the demand for the CSAM material, the fewer children are exploited. Because this project's goal is to increase the number of at-risk individuals going to treatment, the main objectives for this study include the percentage of patients that show up to the booked in-person appointment, as well as the percentage of high-risk patients that show up to the booked in-person appointment. For recruitment individuals we fervently use police services in team countries, due to situation police information about users. In more of countries has problem with child pornograpfie and CSAM using on different social and law basis. But only police have relatively complex of information in this area. Opposite those, we present in this study, on very simply realized survey, basic information about insufficient knowledge in the practice of executive police officers and investigators. [2]

RESULTS

A total of 450 participants were supposed to participate according to the plan of the ŠVM program, but the reality was different, as at the time of the course there were e.g. sick, had work obligations or for other reasons. Finally, a total of 378 participants took part in the ŠVM program from April 2019 to November 2022. Their average age was 36.2 years, with a minimum age of 22 years and a maximum age of 62 years. Based on gender, we can divide them into 202 men, 176 women, and two respondents did not comment on gender. The average length of service of the course participants was 11.5 years, with a minimum of 1 year and a maximum of 28 years. If we look at the participants of the course from the point of view of function (classification) in the PZ, then 261 (69%) were investigators, 110 (29%) were authorized members and 7 (2%) did not comment on the question in question. In tab. no. 1 it is possible to see the distribution of the survey sample by individual regions. The most participants were from the Prešov region (57) and the least from the Bratislava region (33). Two participants did not comment on the given question.

Tab. no. 1 – Composition of the sample by region

Territory	Numbers	%
Bratislavský	33	8,5
Trnavský	46	11,9
Trenčiansky	44	11,4
Nitriansky	48	12,4
Žilinský	62	16
Banskobystrický	49	12,7
Prešovský	57	14,7
Košický	46	11,9
Not listed	2	0,5
ALL	387	100 %

The next question was - Did you participate in a course or did you receive information about sexuality in PZ? 375 participants commented on the mentioned question (table no. 2). One man and one woman did not comment on the question in question. 24 respondents spoke positively, while some also stated where they got the information: 1x Office of Social Affairs and Family, 1x Methodology for detecting sexual abuse, 1x partially at the PZ Secondary School, 1x victims of sexual violence and 8x APZ. The remaining 352 respondents did not participate in the course related to human sexuality and information about it.

Tab. no. 2 – Did you participate in a course or did you receive information about sexuality in Police Force?

answ	Number	%
yes	24	6,2
no	352	91
Not listed	2	0,8
ALL	378	100%

There were also open questions in the questionnaire. The first of them were: Describe in your own words what sexual dysfunction is and Describe in your own words what paraphilia (deviation) is. A total of 378 participants commented on the first open question (Table No. 3). Three said it was a glitch. Most listed various options such as: non-functionality; physical or mental disorder; illness; inability to get excited, have sex; disorders and others. If we add the answers I don't know and not stated, the total is 93 (24.5%) participants, which represents one quarter of the total percentage of answers.

Tab. no. 3 – Describe in your own words what sexual dysfunction is

answ	Numbers	%
don't know	49	13
Not listed	44	11,5
disorder	3	0,8
other	282	74,7
All	378	100%

The second open question was - Describe in your own words what paraphilia (deviation) is. According to tab. no. 4 we see that mostly it was not primarily a question of giving a definition, but rather a definition of their own, under which the participants mentioned the following: deviation; abnormal manifestations; deviant behavior; illness; non-standard sex. behavior; something that deviates from the norm and others (only some of the written answers are listed). More than one quarter of the percentage either did not say anything or gave the answer I don't know.

Tab. no. 4 – Describe in your own words what paraphilia (deviation) is

answ	Numbers	%
don't know	72	19
Not listed	40	10,7
other	266	70,3
All	378	100%

More than half of the participants are aware of the existence of sexual dysfunctions (table no. 5). If we look at what the individual participants of the course stated about what they imagine under sexual dysfunction, it was as follows (tab. no. 6): absence of erection; asexuality; fetishism; homosexuality; bisexuality; gender; transsexuality; vaginismus; pedophilia; exhibitionism; zoophilia and others (only some of the written answers are listed).

Tab. no. 5 – You knew about the existence of sexual dysfunctions

answ	Numbers	%
yes	209	55,3
no	160	42,3
Not listed	9	2,4
All	378	100%

Tab. no. 6 - Did you know about the sexual dysfunctions If so, please state which ones

answ	Numbers	%
Not listed	99	26,2
don't know	15	4
nothing	154	40,7
Fill in	110	29,1
All	378	100%

With the knowledge of the existence of sexual paraphilias, more than half of the respondents have such knowledge, which represents 60.6% (table no. 7). They wrote the following about the question, let them mention them (tab. no. 8): BDSM; fetish; pedophilia; zoophilia; homosexuality; impotence; frigidity; LGBTI; necrophilia; masochism; sadism; gerontophilia; hebephilia and others (only some of the written answers are listed).

Tab. no. 7 – Did you know about the existence of sexual paraphilias (deviations)

answ	Numbers	%
yes	229	60,6
no	141	37,3
Not listed	8	2,1
All	378	100%

Tab. no. 8 – Did you know about the existence of sexual paraphilias (deviations) - If so, please state which ones

answ	Numbers	%
Not listed	69	18,3
don't know	8	2,1
nothing	129	34,1
Fill in	172	45,5
All	378	100%

More than half of respondents still consider homosexual orientation to be a disease (table no. 9). 7 respondents took a neutral position on the given question.

Tab. no. 9 – You are aware that homosexuality is not a paraphilia

answ	Numbers	%
yes	146	38,5
no	226	59,7
Not listed	7	1,8
All	378	100%

As we can see from tab. no. 10, so the overwhelming majority of respondents subjectively and voluntarily do not search for information about paraphilias. Only 16 of them stated such a need of their own.

Tab. no. 10 – You searched for information about paraphilias on your own initiative

answ	Numbers	%
yes	16	4,1
no	361	93,4
Not listed	9	2,3
other	1	0,2
All	378	100%

We asked the participants of the course about their current need for additional information in the field of sexuality (tab. no. 11). Altogether, almost three-quarters of the percentage (sum of options not stated, I don't know, none) expressed that they do not have such a subjective need. If there was a need to obtain information from the field of sexology, it was basic, random or complete information. Under the option Other, the respondents imagined: dealing with the perpetrator of a traffic violation, as part of police work; how to work with the victim; investigation methodology; deviations; paraphilias; complete; none; recognize when it is criminal and when it is not and others (only some of the written answers are shown).

Tab. no. 11 – What information would you need to add in the area of sexuality

answ	Numbers	%
Not listed	175	46,4
don't know	71	18,9
basic	9	2,5
none	21	5,6
No matter what	5	1,3
complete	13	3,4
professional	1	0,2
sex. dysfunction	1	0,2
paraphilia	1	0,2
every new information useful	1	0,2
other	80	21,1
All	378	100%

As part of the feedback, we were interested in whether the presentation expanded the knowledge and information of the listeners. The overwhelming majority expressed that the presentation broadened their knowledge (tab. no. 12). The feedback was also related to an open question in which the participants had to express themselves in what way the presentation broadened their horizons. 330 respondents commented on the question. 48 did not state anything. For those who commented on the given question, they commented on the benefit of the presentation as follows (some were repeated and only some answers are given from the capacity options): basic information with expansion; obtaining new information; significance of deviations; debunking certain myths; general overview; clarification of concepts; in sexuality; in terminology; clarification of the concept of sex. dysfunctions; broadening the view of the issue and others.

Tab. no. 12 – The knowledge and information presented on the course broadened your horizons

answ	Numbers	%
yes	373	98,7
no	2	0,5
Not listed	2	0,5
No idea	1	0,3
All	378	100%

We were also interested in what information the course participants recommend adding to it in the future. The recommendations were as follows (only some of the capacity reasons are listed): how to communicate with people who suffer from paraphilia; how to communicate with deviants during interrogation; were sufficient; exhausting; supplement with case studies; more information on tactical investigation; false accusations; communication with victims, types and tricks; USA, Asia, EU statistics; extend the lecture time; children's sexuality and others.

DISCUSSION

Education is a part of every profession, and one should not forget that it is lifelong. It is a fact that sexuality is already ubiquitous and is constantly evolving. That's why we decided to educate police officers and future police officers - students, especially investigators, at the Police Academy in Bratislava in the Forensic Psychology subject with one lecture for full-time and part-time students and other APZ students also in the field of Forensic Sexology. We start from a biological perspective as described by e.g. Zvěřina (2003). [7] He talks about 3 components of human sexuality: 1. sexual identification – identity and that is male – female, 2. sexual orientation and that is heterosexual – homosexual 3. sexual role – gender and that is male and female. We consider such a division to be clear, graspable and immutable.

In clinical, academic and police practice, we encounter the fact that various abstract constructs are difficult for individuals to understand and understand, so they do not orient themselves in them, they are confused by them, which leads to unnecessary misunderstandings and mutual clashes with the "other, or other" opinion.

Of course, within the framework of education, closer cooperation with several experts from practice is necessary, as well as sustainability over time. We are also trying to create and adapt education at APZ to this, as we want to provide students and police officers with relevant information so that we do not fall behind. Therefore, the Department of Criminology and Forensic Sciences joined the international project BRIDGE, which focuses on consumers of CSAM (Child Sexual Abuse Material). It involves a total of 6 countries (Denmark, Finland, Germany, Spain, the Czech Republic and Slovakia). It is about prevention in the sense of working with future as well as current consumers of child pornography who are, or are not, investigated or convicted for consuming child pornography. The results from it should serve to create a preventive support network for consumers of child pornography. [2]

CONCLUSION

Acquiring new knowledge is an integral part of every person. It takes place at home, academically, but also with self-help. During our testing of executive police officers, we

encountered a significant problem of lack of information and a significant element in proving criminal activity related to sexuality and knowledge of sexology. We assume that the situation is not very different in other European countries. One of the solutions is to continue education at APZ, introducing an optional subject for both full-time and part-time students, Sexology for police officers. Our experience with the dissemination of knowledge in other countries shows that specific awareness and involvement in preventive activities is higher than in Slovakia. Therefore, another solution is preventive programs such as the BRIDGE project. The BRIDGE project is intended for preventive prevention and diversion from the consumption of child pornography, which is considered a criminal offense according to current legislation. Also, so that consumers have the opportunity to change their behavior and thus avoid criminal proceedings.

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LEGAL MODALITIES FOR ENSURING THE BALANCE BETWEEN PROFESSIONAL AND PRIVATE LIFE IN THE EUROPEAN UNION

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ABSTRACT

The demands of the contemporary society revealed the necessity to create a legislative framework that would be able to provide concrete solutions to ensure the balance between professional and private life. To achieve this, it was emphasized at the European Union level that workers ought to gain from suitable policies that would motivate them to keep their jobs or go back to work after carrying out responsibilities imposed by their personal lives, such as being parents or family caregivers.

The European Union's legislation has made it clear that in order to achieve these aims, it is crucial to both create new worker rights and reinforce and unify the ones that already exist, such as paid parental leave and maternity leave.

In the studies conducted so far has been revealed that appropriate measures will create the premises for achieving a high-level occupancy in the labor market and, at the same time, workers will be able to provide care for children and other family members.

This article contains the analysis of the legal measures adopted by the European Union regarding the caregiver leave, motivated absence in case of family emergencies and the possibility of requesting flexible work programs. Romania, as a state member, enacted Law No. 283/2022 in order to adhere to these principles. This law changed the legal framework that governs employees and public officials and added new guidelines for the circumstances under which these rights can be used.

Keywords: professional life; private life; workers; caregiver leave; legal framework.

INTRODUCTION

The dynamics and context of modern society provide workers with a variety of challenges when it comes to balancing work and home obligations; these aspects can have detrimental effects on relationships at work, on personal life, or even on both.

The relationship between work and private life has been the subject of many studies, which reveals the concern to find a balance in order to increase the quality of life. The basic analysis focused on the elements that should be balanced: the amount of time spent on job and family, the level of involvement, and the level of satisfaction that each of these two aspects provides [1].

In this article, we will refer to the applicable legal norms in the field of social law that aim at establishing rights for workers, so that they can maintain the balance between family and professional life.

MATERIALS AND METHODS

This study aims at analyzing the rights conferred on workers to enable them to fulfill their family life obligations and maintain their job-specific role. From this perspective, the methodology involves the study of the legislation in force, also aiming at conducting a comparative analysis of the legislation adopted at the level of the European Union with that adopted in the Romanian legal system.

Considering the theoretical nature of this article, the study is based on the analysis of the legislation adopted in this field and the doctrinal studies in the specialized literature.

THE PRINCIPLES ESTABLISHED IN EUROPEAN UNION LAW REGARDING THE BALANCE BETWEEN PROFESSIONAL AND FAMILY LIFE

The European Union is founded and promotes social values meant to ensure an optimal working climate for workers and, at the same time, protecting family life.

The Charter of Fundamental Rights of the European Union regulates aspects of private, family and professional life, stating in the content of art. 33 the need to find solutions for balancing the obligations imposed by job-related tasks with those meant to protect family life. In this context, it is shown that *“everyone has the right to be protected against any dismissal on the grounds of maternity, as well as to paid maternity leave and parental leave granted following the birth or adoption of a child”* [2].

The European Union has created policies to establish a basic framework in which workers' rights are protected and exercised in accordance with the pursued goals, starting with the principled norms on equality between women and men. From this perspective, the European Union has shown a constant concern for finding the best solutions for adapting to the new social framework and changes in the demographic structure of the population.

To this end, it was adopted Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on the balance between the professional and private life of parents and carers and repealed Council Directive 2010/18/EU [3].

Through this normative act, the rights of workers are reinforced, strengthened, and new elements are added that help to respect gender equality and increase employment by encouraging workers to adjust their work schedules to accommodate their family responsibilities.

The deadline for incorporating these regulations into national legislation was August 2, 2022. The EU directive lays out the broad framework and the minimal requirements that the member states must consider when establishing the norms of domestic law.

In the Romanian legislative system, the measures imposed at the level of the European Union were transposed into the national legislation by Law no. 283/2022 [4] which amended and supplemented both the Labor Code [5] and the Administrative Code [6].

Among the rights stipulated in the European directive and incorporated into national laws, we suggested that the provisions pertaining to carer's leave, absences due to family emergencies, and flexible work arrangements to be covered in this article.

RULES APPLICABLE TO CARER'S LEAVE

In order to respond to the needs related to the provision of care for family members, art. 6 of Directive 2019/1158 establishes the obligation of member states to adopt the necessary legislative framework to create the possibility for workers to benefit from a carer's leave. This type of leave is designed so that workers have the opportunity to provide support to family members in the cases prescribed by the national law.

According to art.3 of Directive 2019/1158, carer's leave is described as time off given to a worker to assist or care for a family member or someone who resides with them and has needs resulting from significant health issues. Establishing the conditions that justify the granting of this type of leave is the responsibility of the member states. In Romania, the list of medical conditions for which carer's leave can be granted was established by Order no. 2.172/2022 [7].

The European legislation sets a minimum period of 5 working days annually; the member states are free to determine the exact duration and conditions under which this kind of leave might be provided.

The Romanian labor code has taken over the European regulation regarding the definition and duration of 5 days established in the content of art. 6 of the Directive. At the same time, the internal legislation states that a longer duration can be established by law or by collective labor contracts.

The establishment of this kind of leave by legislation has positive impacts on labor relations by allowing employees to maintain their positions while also fulfilling the obligations imposed by the need to care for family members [8].

Moreover, the regulation contained in the EU Directive also took into account the aspects related to the increase in life expectancy in the European Union, which will increase the need for care from family members. For this reason, it is considered that, without the adoption of appropriate measures, there may be negative consequences for the ability of workers to keep their jobs.

According to preliminary statistics for the year 2023, life expectancy at birth in the EU is 81.5 years, 0.9 more than in the previous year. Romania has one of the lowest life expectancy rates among the member states, averaging 76.6 years from birth [9].

Related to national legislation, this type of leave is provided for in art. 1521 of the Labor Code. While member states are not required by Directive 2019/1158 to provide an allowance or compensation for the time an employee is on caregiver's leave, it is recommended that such procedures be established in order to keep employees from being dissuaded from exercising their rights and from their becoming meaningless paper rights.

After the adoption of Law no. 283/2022, the regulation from Romanian law was criticized in the specialized literature for the fact that it did not contain sufficient provisions regarding the remuneration due to employees in these situations and it did not consider the aspects related to data protection in the context where it is necessary to attach evidence of the conditions suffered by family members who require care [10].

In view of the difficulties arising in practice as a result of the application of the carer's leave provisions, national legislation has been amended and supplemented. Therefore, the legislatively authorized law stipulated that employees have the right to paid days off

during the period associated with this sort of leave, which do not count against the yearly rest period and represent seniority in work and specialty. In this way, we appreciate that the premises considered for the establishment of this type of leave are respected, precisely those that involve ensuring a balance between private and professional life.

In the matter of the public function in Romania, the Administrative Code was completed with special provisions regarding the performance of the telework service report. Of these, relevant for the present study are the provisions of art. 374 paragraph 8, which show that one of the scenarios in which the application for carrying out the activity in this manner can be authorized if the official is taking care of a relative with whom he lives [11].

THE SITUATION OF ABSENCES DUE TO FORCE MAJEURE

As it has been proven over time, during the development of employment relations, various unforeseen situations may arise that involve the impossibility of presenting the employee at the workplace. In order to cover such unforeseen situations, which involve the absence of the employee from the workplace for family emergencies, regulating the legal system for such situations became necessary.

According to the European rules contained in Article 7 of the EU Directive, the member states must establish rules allowing the worker to be absent from the workplace “for reasons of force majeure in situations of family emergency, in case of illness or accident which makes the immediate presence of the worker indispensable”. At the same time, it is stated that the member states have the possibility to establish certain limitations regarding the duration in which the employee can be absent from the workplace for these reasons, a period that can be related to a calendar year.

As indicated in the draft directive, the right to absences can be limited to a certain period of time, per year or per case or both [12].

The provisions of Directive 2019/1158 are reflected in national law through the provisions of art. 1522 of the Labor Code. Additionally, the Romanian legislator imposed the requirement that the employee notify the employer in advance of the situation that dictates his absence from work, in order to establish the reasons for these absences.

At the same time, the domestic law regulation limits the period for which the right of absence is recognized on the grounds indicated above to 10 working days calculated per calendar year.

Unlike the carer's leave, according to internal legislation, an employee who takes a legitimate leave of absence will be reimbursed for the time they missed, according to a plan that they and their employer agree upon.

These rules allow employees to assist in solving family emergencies and then make up for the lost time.

If the maximum number of days established exceeds the maximum number established by the legislator, the employee has the right to request leave without pay for personal situations, under the conditions of art. 153 paragraph 1 of the Labor Code.

ASPECTS REGARDING FLEXIBLE WORK FORMULAS

Positive results came from establishing a normative framework for creating flexible working formulas in terms of ensuring a fair balance between the requirements of professional life and those of private life.

At the level of the European Union, according to art. 9 of Directive 2019/1158, national legislation must be adapted in such a way as to allow workers who have children up to a certain age (at least 8 years old) and those who have the capacity of carer for a member of the family to request the adaptation of the work schedule in various ways so that they can carry out the care activities. Requests to establish a flexible schedule will be decided by the employer, who has the obligation to justify the refusal or postponement of such requests.

In the Romanian legal system, art.118 of the Labor Code provides for the possibility of establishing individualized work programs for employees by agreement of the parties, either at the initiative of the employee or at the initiative of the employer. In both cases, the establishment of an individualized program involves the agreement of the parties [13].

In order to comply with the provisions imposed by the EU rules, art. 118 was completed in 2022, with the express provision inserted according to which all employees, including those on carer's leave, can request the establishment of individualized work schedules.

The individualized work schedule is characterized by the fact that the working time is divided into two periods: a fixed period and a variable period, in which the employee chooses the time of his arrival and departure, observing the daily working time [14].

Flexible working formulas can also be established for a certain limited duration, in which case the employee returns to the normal working schedule at the end of the period for which it was established. Also, according to art. 9 paragraph 3 of the Directive, the employee has the possibility to ask the employer to return to the previous working schedule and before the expiration of the stipulated period, to the extent that the initial conditions have changed.

In the national legislation, the way of flexible organization of working time is defined in art. 118 paragraph 7 of the Labor Code as representing “*the possibility for employees to adapt their work schedule, including through the use of remote work formulas, flexible work schedules, individualized work schedules or work schedules with reduced working hours*”.

Flexible working formulas allow the exit from the usual patterns of the classic schedule and allow employees to carry out their activity in conditions that allow combining work obligations with the activities related to family life.

DISCUSSION

As previously indicated, we have analyzed the social rights guaranteed by EU regulations to workers who fulfill the role of parents or caregivers for family members. We have also considered a comparative analysis of the rules of Romanian law incident to this matter, aiming to establish whether the national legislation complies with the provisions of Directive 2019/1158, leading to the regulation of the legal means by which workers are

guaranteed the ability to uphold the equilibrium between work and personal responsibilities.

CONCLUSION

Based on the study, we may conclude that European Union member states should prioritize measures that guarantee people's ability to work and, at the same time, to be able to carry out their activities in family life. At the same time, concerns regarding the observance of the principle of equality between men and women and the pursuit of a correct balance between professional and private life must lead to the establishment of subsequent norms that are able to permanently adapt to social conditions.

It should be noted that the dynamics of work and family relationships in modern society must be taken into consideration in all policies and initiatives enacted by the European Union and its member states. Thus, we appreciate that this field must be subject to the analysis of the competent authorities. We also believe that it is necessary the adoption and implementation of optimal measures that correspond to the needs generated by the concrete realities in society.

The dynamics of social relations will require a continuous adaptation of the legislation, so that it can respond to concrete situations in an efficient way.

Given that the legislative changes in national law are relatively recent, their effectiveness for the situation of workers in Romania is to be revealed. We believe that the regulation in national law of the rights regulated by Directive 2019/1158 will produce beneficial effects in terms of the development of employment relationships, while emphasizing respect for family life.

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MANIFESTATIONS OF DIGITAL TRACES AS A PERSONAL AND CRIMINALISTICS OBJECT

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ABSTRACT

This study analysis object digital traces and their influence on the content of modern Criminalistics and the Privacy of individuals. The broad in context and highlight the purpose both of the objects can be useful for better understanding those partly new phenomena in modern live. Basis of the study is to analyze different aspects of the digital traces, including its creation, collection and use. Very complicated is in actual law regulation to correctly capture the balance between the freedom to use information, especially the Internet, and the necessity of control, which is mainly mediated by the tools of Criminalistics. How to examine, and what consequences it has from a Criminalistic point of view and for the privacy and security of users of the online environment. The basic methods used in the study are the analysis from the individual's behavior to the Criminalistics and the wider cyber environment, the analysis of actual literary sources, and the knowledge of the authors, which leads to a main finding in the article - evaluation of the concept of the digital trace theory. The study was created as after study thanks to the research activity 3.3., Center for Excellence in Security Research, ITMS code: 26240120034, co-financed by the Operational Program Research and Development.

Keywords: Digital trace, law regulations, Criminalistics, privacy, Internet.

INTRODUCTION

Our live, and all of the human activity apply electronics objects and connection through digitalized applications. The actual circumstances and near future will be characterized by greater and deeper integration of information and communication technologies with other devices, at home and office [1]. If we analyze the processing of data and information that penetrates everywhere known as internet of things, it is clear the development of modern human society is currently based on the use of digital technologies. Technology will surround us at every turn and it will still be honey. [2]

Simultaneously, it is new and unused or unknown technologies as a means or goal of the activity that often raise doubts as to whether this is a proceeding that is criminal or, for various reasons, punishable or still permitted [3]. The absence of corresponding provisions in criminal law raises and may raise doubts about the criminality of such a procedure, or about the need and possibility of sanctioning such activity otherwise. Knowledge of socially unacceptable processes related to the misuse of communication and information technologies (we use in Criminalistics and in the text CaI). has been the subject of Criminalistics for a long time. In many countries, often under the strong

influence of English-speaking IT professionals, it is combined with a forensic approach, as, according to several criminalistics scientists, "criminalistics does not have its own methods of examining trace related to Cal technologies. [4]. In our opinion, this "non-existence of our own methods of criminalistics" was associated primarily with a theoretical and practical shortcoming - the failure to process knowledge about the existence of a traces in general, especially digital trace. The forensic concept of digital recording or digitized object has been used in English-speaking countries for quite some time, a comprehensive concept of the digital trace as a separate type of trace has not yet been full developed in Criminalistic. Only if we accept the division of all material criminalistics traces into substance traces, field traces and memory traces, presented in last years, we accept this knowledge and evolution including Criminalistic. Then, in connection with digital traces, we can talk about one of the groups of field traces, in addition to traces related to electric, magnetic and other various forms of radiation.

Digital traces are typical for crime related to the misuse of information and communication technologies. The authors in the dissertations and studies distinguish a number of divisions in the residues of criminal activities - many types of digital traces. Extensive research during and after the project in research activity 3.3., Center for Excellence in Security Research, ITMS code: 26240120034, co-financed by the Operational Program Research and Development, shows a great diversity of basic features of digital traces. [5, 6, 7]

MATERIALS AND METHODS

Problems of digital trace research. To the "long-term" we can find attempts to characterize the content of digital trace in the monograph, which we characterized as a basic and unsurpassed source for the theory of digital forensic and criminalistics trace. The Czech criminalistics scientists Porada and Rak, who were also co-authors of the monograph [3], have a significant share in the analysis of the digital trace. One of the significant problems that many forensic scientists pointed out in connection with the digital trace was the fact of relative rigidity to individual identification. Meteňko, J. [3] however, they also point to a solution in the form of the use of metadata, which was later elaborated by their successors into actually used methods enabling individualization in criminalistics research here as well. Data files often contain, in addition to primary content that is expressed through peripherals, such as text, photos, audio, video, and so on, and the so-called metadata that characterizes important information about the file that characterizes it - individualizes it, among other objects. Maybe then e.g. determine when the picture was taken, under what lighting conditions, with what settings and type of digital camera, or even the owner of the device is marked, etc. This information, found on a computer that is in some way related to the crime, can provide essential information for forensic and criminalistics investigations and the processing of their results as well as for police investigations.

Digital trace. Diversity of the concept? The different perceptions of the digital trace, often contradictory, result from its nature and the breadth it covers. There are a large number of different views that are more or less correct. However, in any case, they affect the overall knowledge in this area. However, we will deal with only two of them, namely the Criminalistic and private view. We emphasize, considering the text written in English, that this study includes a forensic, but only a criminalistics point of view.

Digital trace Criminalistics understanding. Every technological device that acquires, processes, transmits or stores data leaves records - in terms of forensic those are evidence and off criminalistics those are trace, as reflections on its activities. These records are forensic evidence. According to the classical theory of reflection, a person (or another object or subject related to his activity) triggers, modifies, etc. software, such as its settings, or otherwise controls electronic technology. These activities and the changes caused by them are then reflected in the material environment, inside the technology and out of the environment of the technology [8]. In terms of communication and information crime, the problem of devices working with data is much broader than just computer activity. [9] In some works by renowned Czech or Slovak authors, we encounter the term computer trace, which is intuitively used rather than factually defined. The concept of computer trace originated in the same period of time as the concept of computer crime, ie approximately in the second half of the 1980s [10]. It is clear that the term "computer" (footprint) is no longer sufficient today, because other electronic devices leave traces that have the same or similar nature, character, general or individual characteristics in the past as a computer trace

In English - in relation to forensic practice - the primary meaning is "evidence". We do not find the word "trace" in connection with modern technologies in foreign literature (we can find the meaning of "potential digital evidence", which has a close meaning of the term "trace"). The reason is simple and pragmatically based - foreign theory and practice are strongly oriented to the outcome of the criminal process, t. j. the trace must be acceptable to the court. [11] Therefore, in the perception and subsequent use of terms in English, there is an automatic identification of the terms trace and evidence (English evidence). Today, it is most often used in foreign literature, and it can be said that even the widest circle of forensic specialists accepted the definition, which was proposed in 1999 by the working group SWGDE - Scientific Working Group on Digital Evidence. Digital evidence / evidence is any information with informative value, stored or transmitted in digital form. Another definition showing the development of the term is from the lecture of its author in 2011: A digital trace can be defined as any information that is stored or transmitted in digital form and that is related to the investigated event and can be secured, fixed and decoded by current forensic or technical means and methods. Our concept is more criminalistically oriented, in terms of the priority of the concept of criminalistics trace: forensic trace: A digital trace is any change in a digitized environment, characterizing any information related to a criminalistics relevant event that is searchable by criminalistics informatics methods, is available, stored, or transmitted in digital form. [3] This definition is open to any digital technology. The digital trace defined in this way covers both the area of computers soft and hardware and computer communication, as well as the area of digital transmissions, but also for the needs of the commercial base, for the needs of independent internal or external audits and under. [12] To a similar extent, we define the digital trace even today. In connection with digital traces, other processes and entities are defined, which are logically connected with digital traces and are important for the whole further process of working with digital traces, as a Securing digital traces, Data objects, Physical objects, Digital trace originals, Duplicate digital trace, a copy of a digital trace. [3]

Individual understanding of the digital trace. One of the goals of examining the digital trace is to increase the protection of the security of users of the digital space. For an individual understanding of the problem, it is possible to perceive the concept and

content of a digital trace significantly differently than in a criminalistics understanding, although it is the same object. By using the traces, we leave behind in the digital environment, we enable others to follow us in the digital environment. Other network participants can thus see what places we visit in the digital world, what our journeys are, where we come from, what our behavior patterns are, what our most intimate conversations are, or what the main changes in our lives are [13]. In the broadest individual concept, a digital trace is anything that is recorded in the process of digital communication and captured in a suitable way, usually it is also a condition that it is stored on a suitable carrier. The collection of digital footprints creates a huge data set. The development of the digital footprint in individual use has led to its commercial abuse in recent years. Applications for "data mining" create a promising tool for commercial tracking and use for marketing purposes, often outside the control of the trace creator and, as a result, for its abuse. Monitoring can usually result in numerous risks associated with the protection of personal data and their possible misuse. Data mining technology based on digital traces has various purposes. These include private commercial purposes, national security, and public interests [14]. Users leave a digital footprint when they are online. Among the actions that users leave while leaving the movement in the computer and other online environment are e.g. history of Internet activity, various clicks, browsing websites, creating personal profiles, "liking" on social networks, etc. Many browsers (e.g. Google), social networks (e.g. Facebook, Instagram) or e-shops (e.g. Amazon) use artificial intelligence (AI) systems, which include machine learning algorithms that serve to collect data and which further proceed to develop formulas that serve to analyze our preferences, interests and goals. The goal of these algorithms is to implement such a process in which the digital footprint is monitored and where personal preferences, interests, goals, etc. are derived. This process is called algorithmic tracking. According to researchers Zanker [15] and Youyou [16] during algorithmic tracking, computer systems make "judgments," "psychological inferences," and "assumptions about an individual's interests, goals, and preferences." It can therefore be argued that that algorithmic tracking is based on a sample of the subject's observable behavior. According to Peters [17], algorithmic tracking can be of two types, which we analyze in discussion - algorithmic tracking, and psychometric monitoring.

RESULTS as application of Digital trace categorization and classification as Criminalics view

According to one of the above definitions, a digital trace is any information of informative value relevant to the investigation of a particular act or activity, stored or transmitted in digital form. Information is essentially intangible. However, for our case, it is created, transmitted and stored and archived in digital form, in the form of electrical, magnetic, optical or other similar manifestation of the field. At the moment of its storage, it materializes in the environment of the storage medium, and its recording has the character of an array. In order to be able to analyze the transmitted information, we must first capture it technologically and then store it permanently or temporarily on a storage medium. **The digital trace has a non substantive, but material character.** In general, the characteristics of the internal structure of the acting, reflected object are transferred to the reflecting object. Thus, the **digital trace is a trace of the internal structure of the reflected object, the external characters are manifested in the format in which it is currently stored.** The digital trace is in its primary form, ie. in the "form" in which it is

stored or transmitted, with some minor exceptions, it is, according to the [18] a micro-trace. Technological equipment or user, system and especially subsequently criminalistics, forensic or informatics software are needed for its visibility. The simplest, user-friendly technologies include monitors or displays displaying digital information in a human-acceptable (perceptible) format (font, images, sound, video, vibration, etc.). These "communication peripherals" also allow the transfer of digital data to a native storage medium suitable for the needs of users - e.g. office paper, classic photography. We are able to perceive such transformed digital (information / data) tracks with our senses, especially sight and hearing, or tactile (Braille). User software (text, graphic editors, spreadsheets) can display common traces, similar to system software, which is significantly remote for ordinary users in terms of perception and possibilities of use. Specialized software of criminalistics and forensic nature can also read information about deleted files, break passwords protecting access to encrypted information, etc. [19]. The digital trace is created mainly by the action of physical forces and energies. We classify the digital trace among the physical traces of the field of technological character as a reflection of the direct or indirect action of artificial artefacts or external natural forces of a physical nature. By direct action of artificial artefacts, we mean direct, automatic, random or pre-programmed action of one technological element (artefacts) on another. In the case of indirect action, we mean human action on the artefact (in the form of software or technical equipment or technology). Theoretically and practically (so far to a limited extent determined by research and development workplaces) the technology of storing or transmitting a digital trace can be based on principles other than physical - ie chemical or even biological. For today's technologies and trends in the transmission, processing and storage of digital information, it is striking to strive for maximum miniaturization of devices and the highest possible density of stored information (the largest possible data volume in the smallest possible physical volume of the storage medium).

The concept of a Criminalistics digital trace. Every technological device that acquires, processes, transmits or stores data leaves records – from the perspective of a criminal trial, reflections of its activity. These records are clues from a criminalistics point of view. According to the classic theory of reflection [10], a person (or another object or subject related to his activity) initiates, modifies, etc. software equipment, such as its settings, or otherwise controls electronic technology. The term computer trail was created in the same time period as the term computer crime, i.e. approximately in the second half of the 1980s. It is clear that the term "computer" (trace) is no longer enough today, because other electronic devices also leave traces that have the same or similar essence, character, general or individual characteristics as a computer trace. In foreign literature, there are several very similar definitions, defining them by the commonly used term digital evidence - in the sense of a digital trace (digital evidence). (SWDGE) Today, the most frequently used definition in foreign literature, and it can be said that it is accepted by the widest range of forensic specialists, is the definition that was proposed already in 1999 by the SWGDE - Scientific Working Group on Digital Evidence. Digital evidence/records are any informative information stored or transmitted in digital form. [20] Another definition showing the development of the term is from a lecture by the author of the study in 2018 [5]:

A digital trace can be defined as any information that is stored or transmitted in digital form and that is related to the investigated event, while it can be secured, fixed and decoded by current forensic or technical means and methods.

Our concept is more criminalistically oriented, in the sense of the priority of the term criminalistics trace: A digital trace is any change in the material digitized environment, characterizing any information - a change related to a criminalistics relevant event, which can be investigated by the methods of forensic informatics, is available for examination, stored or transmitted in digital form. [1] This definition is open to any digital technology. [18] The digital trace defined in this way covers both the area of computers and communication, as well as the area of digital transmissions (mobile phones, but in the future also digital TV, etc.). We define a digital trace to a similar extent even today. [21]

Digital traces and their properties and features [22] Digital traces, after all, like any other type of criminalistics traces, have their general and individual species characteristics and characteristics, which from the point of view of law enforcement or other authorities have typical positive and negative aspects and consequences. These aspects then need to be kept in mind at all times and at all stages of working with digital traces. Digital traces are created by human - user / perpetrator action, application or system software, digital device functionality, or automatic action from one device to another. This should be the most important element determining the success of their usability for individual criminalistics identification. Unfortunately, given the current level of knowledge, this is not the case at all. Digital traces therefore, to an unusually high degree, reflect the specific characteristics of high-tech with the rich diversity of the human spirit of their users who use them. The specifics of digital traces are reflected in their more as 25 features, different from classical traces. [3], as the mass of digital traces as field traces, Latency, Time traceability, etc.

DISCUSSION

We concern in discussion to the Influence new Forms of manifestations of digital traces on the criminalistics theory. Digital traces can take different forms and there are different ways of dividing them. The first introduced way of dividing digital trace forms will be one of the following three forms: **Records (logs)**: correspond to event documentation and relate to a specific system that is automatically generated at a certain time. Records are generated by virtually all software. The use of protocols requires full access to the core of the digital instrument in order to extract the protocols. **Tags**: these are elements of information (such as web page bookmarks, computer files or databases). **Text elements**. These are any written elements that are generated through a digital solution (e-mails, PDFs, electronic books, etc.)

Another division of the digital traces is into active and passive. An active digital traces is one in which the user actively participates, for example by creating profiles on social networks, sharing photos, writing emails, filling out registration forms, etc. Passive digital traces are those that we unintentionally create just by using the Internet. These traces are also called by some authors a digital fingerprint. This includes e.g. cookie files, website activities, IP address records or records of the device used, etc. Example of a passive digital trace is various public lists, where everyone can be relatively easily found.

From the point of view of private access to the digital traces, it is important to characterize the sources of the traces: There are a large number of sources that help shape the digital traces. According to usefulness for **different** users, it is all activities on the Internet that help to track and record. The tools used to create a digital footprint can be divided into functional elements in the online space and hardware equipment. First, the functional

elements in the online space will be presented. **Cookies.** Cookies are data files that are stored when you visit a website. Website operators use cookies for the reason that they help them e.g. in analyzing how web users behave. The collection of data from cookies is particularly useful for SEO, setting the right UX or for online marketing. Thanks to cookies, web operators can obtain information, e.g. about the number of visits to the website, which URLs are the most visited on the website and which are not. For users, cookies have the benefit of personalizing the content on the website (e.g. setting language preferences or preventing the contents of the basket from being deleted when you leave the e-shop). Overall, cookies help to get an overview of what is happening on the web. In relation to the creation of a digital traces, the advantage of cookies is that it is possible to get rid of them relatively easily. If a website uses cookies, it must ask for permission to use them (due actual EU legislation).

The following elements are used to monitor the movement of people in physical space: **Bluetooth.** It is a protocol for wireless connection over a short communication distance of up to 100 meters using radio waves. Thanks to the fact that smartphones are ubiquitous and usually have bluetooth turned on, they become a very promising candidate for digital surveillance. **GPS** (Global Positioning System). It provides geographic location and time information as GPS equipment moves through a set of radioactive GPS satellites. GPS provides the means to track any smartphone. This is a very good prerequisite for following a digital trail, as most smartphones around the world support GPS. GPS tracking fails in two ways. The first of them is the question of privacy ("Am I being watched?"). Another disadvantage of GPS is that it fails in tunnels and in indoor spaces, where the error rate of determining the position reaches a range of up to 10 meters. **Wi-Fi.** As already mentioned, GPS tracking can be used especially in outdoor areas. Since people spend approximately 80% of their time indoors, there is a need to find a solution to track contacts while they are indoors. WiFi networks are available in most indoor areas. With corporate WiFi, there are several connection methods (Access Points = AP) and user devices are constantly connecting and disconnecting and moving between individual APs. Inside businesses, most people carry their mobile phone with them. Thanks to this, it is possible to derive the trajectory that the workers perform. At the same time, it is possible to observe the time spent by workers disconnected from individual APs. For tracking - searching for private digital traces to a typical variation of options. Peters [17] names two types of algorithmic tracking and they are simple algorithmic tracking and psychometric tracking:

Simple algorithmic tracking. This method is used, by Amazon or Netflix, and is used to track past purchases made by a given user, ratings, items viewed, or behavior as a web user. Based on this information, it is then possible to create a user profile and find other similar users whose ratings, purchases and viewed items are similar. During this simple tracking, the algorithms do not work with psychology, they only track similar user behavior. The goal of the work of these algorithms is to maximize the number of actions that the user takes (likes, purchases, etc.). Even if simple algorithms do not work with psychology, they work because they are based on the facts of how typologically similar users behaved. **Psychometric monitoring.** This is processing in which artificial intelligence systems measure and explicitly attribute psychological traits, including personality traits, to website users. It does so based on their online behavior or other user data. [15] Considering the importance for the common user, it is appropriate to distinguish between good and bad digital traces. Some digital traces can be beneficial to the user and can improve their time spent online, as the search engine offers a more convenient and

adaptive functioning to the user thanks to the digital traces. In practice, it looks like if the user wants to order the same meal as last time, for example, the browser simply remembers it. Another positive benefit of the digital traces in personal life can be that the user can create an impressive self-presentation that will put the given user "in a good light." Compared to the house, a "bad" digital traces can bring a whole range of negatives and can lead, for example spamming with unsolicited offers, loss of privacy or identity theft. However, even in this case, ambivalence is a typical sign of a digital trace in its individual private use. Digital traces can also be divided into: public, non-public: information can only be used authorized users, hidden: technical records or cookies.

CONCLUSION

Authors analyze in this study the theoretical aspects and practical use of digital traces in the Criminalistic and Private from the usability of digital traces. They concern on this problem from criminalistics points of view, including a brief description of the digital traces in actual theory. They point to the possibilities of exploring the digital traces and its content, as a new part of criminal activities. The basis for this analysis is so far probably not only comprehensive work in Slovakia in this area. The detailed processing of the knowledge was carried out as part of the research within the project of the Center for Excellence in Security Research, including three large outputs of dissertates involved in the project. Digital traces are typical of crime related to the misuse of information and communication technologies, this is a typical opinion of most experts. But, they already make up a significant part of the trace of any crime. Some results show that in reality there are 80-90% of cases where digital traces occur and our estimate is similar. Not only inconsistent knowledge of digital trace theory, its forms and types is a theoretical burden for its use / non-use. There are more shortcomings in the field of police and law applicants use of the knowledge about digital traces, according to previously published research. But as reality shows, these traces are part of non-virtually every activity in our lives today.

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NEW ROMANIAN LEGISLATIVE LANDMARKS ON THE ACQUISITION OF PRIVATE PROPERTY RIGHTS FOR MINORS AND PEOPLE ASSOCIATED TO THEM

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ABSTRACT

The present study starts from the broad context of the recent legislative changes introduced by the entry into force of Law no. 140/2022 regarding some protection measures for people with intellectual and psychosocial disabilities, a law that amended and supplemented the provisions of the Civil Code and the Code of Civil Procedure in the matter of the protection of natural persons. The normative act modified these measures in a more nuanced and comprehensive manner, by referring also to European and international legislation, ratified by Romania, establishing new mechanisms for the protection of minors and other categories of persons who, although they are adults, require support either to take care of one's own person, or for the administration of the patrimony and the full exercise of civil rights and liberties. The new regulation therefore highlights both previous doctrinal experience and similar provisions of some international pacts and treaties.

In this broad context of legislative reform, we analyse only a particular and somewhat adjacent aspect of the law mentioned above, namely, the ways of acquisition by minors and by adults who benefit from legal protection of the right to private property, with an emphasis on the area of concluding legal acts of disposition free of charge. Therefore, the acquisition of the right to private property in the case of liberalities has undergone some changes in both substantive law and procedural law through the new law. We will also issue personal points of view regarding the alternative procedure of sharing control and validation of these legal acts between the guardianship authority and the guardianship court.

Keywords: minor, special guardianship, legal advice, act of disposition, protection

INTRODUCTION

By its content, Law no. 140/2022 on some protection measures for persons with intellectual and psychosocial disabilities and the amendment and completion of some normative acts [1] had as its stated purpose to agree the provisions of the national legislation with incidence in the matter of the protection of the natural person with the constitutional provisions in force and with those of the international conventions and pacts, ratified by Romania. Two years after this decision, the long-awaited new normative framework was drafted. The Constitutional Court of Romania accepted the objection of unconstitutionality with which it had been referred regarding the measure

of placing under judicial interdiction ordered by art. 164 of the Civil Code by Decision No. 601 of July 16, 2020 [2].

This normative act, in accordance with the decisions of the Constitutional Court, introduced a true reform regarding the protection measures of vulnerable persons suffering from a total or partial deterioration of the mental faculties, with multiple implications in various institutions of material law, as well as of law procedural. Without going into details, but related to the subject we will analyse, instead of the old measure of putting under a judicial ban, widely criticized, four new measures have been introduced to protect the natural person, especially the adult's physical entity. These measures are established gradually, depending on the degree of impairment of the discernment of the subject of law, namely, assistance for the conclusion of legal acts - the only measure that can be ordered by the notary public, judicial counselling and special guardianship, these last two measures can be ordered only by the court of guardianship and the mandate of protection, thought as a form of advance protection, of a contractual nature, for the hypothesis that a person would no longer be able to make the best decisions about himself and his assets in the future.

In this broad context of legislative reform, we analyse only a particular and somewhat adjacent aspect of the aforementioned law. The acquisition of the right to private property in the case of liberalities has undergone some changes in both substantive law and procedural law through the new law. We will first develop the changes in the matter of acquiring the capacity of exercise, to be able, later on, to emphasize the theory of concluding legal acts of disposition free of charge. This is the objective of the present paper, that from the interpretation of the legal provisions we find sufficient reasons and reasoning to validate in which situation a person without exercise capacity or with limited exercise capacity could acquire a property right on his own, without being required any prior consent from the legal representative and whether this new perspective of the legislator was a visionary one.

MATERIALS AND METHODS

As a rule, any legislative change is claimed about by a social component, either as a novelty or as a modification of an existing rule. Incident in the case of our study is the second aspect, which forces us to highlight to what extent the new configuration of the legislator captures this social reality, clarifies it from a legal point of view and offers optimal solutions to ensure, finally, the rule of Law.

As we have specified previously, the objective we provide relevant and convincing answers to the following situations of a legal nature: the extent to which the Civil Code rethinks/reformulates the relationship between the concept of natural person and civil exercise capacity, to what extent the gratuitous acquirer of a real right must be assisted at the conclusion of that legal act, what role does the discernment play that accompanies the decision to contract, why do we still have a different legal regime applicable to the acceptance of a donation compared to the acceptance of an offer of donations?

In this endeavour, we used the comparative method, doubled by the method of analysis and interpretation of the relevant legal text in the matter.

BRIEF CONSIDERATIONS REGARDING THE CIVIL CAPACITY TO EXERCISE IN THE CURRENT ROMANIAN CIVIL REGULATIONS

As we have stated, Law no. 140/2022 did not only bring changes in terms of the nuances of the forms of protection for people with intellectual and psychosocial disabilities, but also in the establishment of a new paradigm of the institution of the civil exercise capacity of the natural person. According to art. 37 of Civil Code, the exercise capacity of the natural person consists in “its ability to conclude civil legal acts on its own”. Against this succinct and condensed definition of the legislator, the doctrine nuanced its content, adding the specification that, through the exercise capacity, the natural person concretely exercises his ability to acquire, exercise subjective civil rights and assume and execute obligations civil, personally concluding civil legal acts, without legal representation, without prior authorization or consent from the legal representative [3].

The rule of full exercise capacity has not undergone any change and requires its acquisition upon reaching the age of 18, the two exceptions to this rule being well-known. The first assumes that the minor can acquire the full exercise capacity from the age of 16, through the effect of a validly concluded marriage (art. 39 of Civil Code), while the second exception is also applicable to the minor with the age of 16, but who, for valid reasons, requests the guardianship court to acquire full capacity in advance (art. 40 of Civil Code).

It was also suggested that there are two prerequisites for acquiring the capacity to exercise, namely, that the natural person has the capacity to use, on the one hand, and, on the other hand, that he has discernment. By discernment, as a state of fact, is understood the mental aptitude of an individual to be aware of the effects produced by his acts/deeds, to discern what is relevant or not, useful or harmful [4]. We agree with the doctrinal opinions according to which the existence and quality of discernment will undoubtedly depend on the conscious and assumed decisions of the person regarding the conclusion of a legal act knowingly, at least from the perspective of not harming oneself.

As a person develops his psychic capacity and acquires experience in any area of life, discernment progressively takes shape [5]. Capable of “nuance[ing]” the exercise capacity with respect to both its existence and content, the discernment “fractures” this civic capacity exercise, establishing two presumptions. Furthermore, Law No. 140/2022 changed each of the two divisions that we will briefly discuss.

What does exercise capacity look like and what forms does it take in this aspect? The legislator presumes that the non-existence of the exercise capacity or its only partial existence appears conditioned by the non-existence of the discernment necessary for the person to evaluate the significance and consequences of his acts or the existence of only a certain level in his development. Therefore, for minors under the age of 14, as well as in the case of people who benefit from the measure of special guardianship [6], we are in the presence of an absolute presumption of lack of discernment, these categories being therefore also devoid of exercise capacity. As established by article 43 para. 1 of Civil Code, as amended by art. 7 point 3 of Law 140/2022. Although it is not the objective of the present analysis, we should mention that the special guardianship replaces the old measure of placing under judicial prohibition. Regarding the age of the person who can benefit from the measure of special guardianship, we specify that it can

be both an adult and a minor with limited exercise capacity, who suffers from a serious deterioration of mental faculties, of a permanent or total nature, i.e. insufficient for them to conclude civil legal acts by themselves, i.e. to exercise their rights and assume their correlative obligations. In their case, when they need to be concluded, the categories of important legal acts in terms of the effects they will produce are to be concluded, on their behalf, by the legal representative, according to art. 43 para. (2) of the Civil Code.

Instead, as an intermediate category, the limited exercise capacity is established in the case of minors who have reached the age of 14, to which the new law added the subcategory of adults who benefit from the measure of judicial counselling (art. 7 point 1 of the law). In their case, the legislator operates with two distinct criteria: 14-year-old minors are assigned a discernment in formation, and adults who benefit from judicial counselling have their discernment slightly and temporarily affected, due to partial damage to their mental faculties. Persons with limited exercise capacity can exercise their rights by themselves and thus execute their obligations, concluding legal acts in person. However, as a measure to protect the interests of these persons, for the validity of legal documents, both the prior approval of their legal representatives, parents or guardians, and in the cases provided by law, and the authorization of the guardianship court are required [7].

We have sequentially highlighted the most important changes brought by the recent normative act, to create the necessary legal support to reveal the essential aspects of our analysis. Thus, relying on the previous statements, we will be able to show who are the actual people who can personally or not acquire a private property right free of charge, and subsidiarily, under which legal conditions. We therefore have in mind both the case of *inter vivos* liberalities, the donation contract, as well as *mortis causa* liberalities, legal inheritance or types of legacies contained in a will.

LEGAL AND PRACTICAL ASPECTS OF ACQUISITION OF THE RIGHT OF PRIVATE PROPERTY BY MINORS AND BY ADULT PERSONS WHO BENEFIT FROM LEGAL PROTECTION. THE CASE OF LIBERALITIES

Permanently, the human spirit was stirred by the question of property and the multiple forms of its acquisition, being developed a whole theory of the utilitarianism of the appropriation of property rights, which, making a common front with legal and moral norms, become acceptable to the extent that the acceptance and compliance bring happiness to the individual [8].

Related to this type of “patrimonial happiness”, let's say, and breaking away from the brief introductory context but judiciously stated by the author, the Civil Code in force enumerates restrictively in article 557 the ways of acquiring the real right of private property. Without indicating all the situations, we distinguish that private property can also be acquired through legal acts of liberality type, the classic forms of acts with a free title being the donation convention and through legal or testamentary inheritance.

As the main real right, the right of private property confers on the holder, natural or legal person, in our case and in legal situations, and the minor and the categories of persons whose protection measures were brought by Law no. 140/2022, the possibility to possess, use and dispose of a good exclusively, absolutely and perpetually, within the legal limits and conditions (art. 555 of Civil Code).

By liberalities we mean those legal acts with a free title by which the disposer reduces his patrimony with the patrimonial benefit procured to the gratified [9]. The only forms of liberality allowed by the provisions of art. 984 of Civil Code are the donation and bequest contained in the will, appearing as types of wills (civil legal acts) through which the disposer transfers a property right or other rights to a beneficiary. In this way, the acts listed above differ from another type of acquisition of property or even an entire patrimony, namely, successions *ab intestate* (rules of legal inheritance). As a common point for the three forms of ownership acquisition, it is essential to highlight that *animus donandi* is the intentional support to gratify. The lack of *animus donandi* leads to the lack of liberality, the intention to gratify being the very cause of the act and consists in the will of the disposer, animated by an altruistic and disinterested thought, to make a material sacrifice in favour of another [10].

Returning and reiterating the previous clarifications, the ability to exercise corresponds to the quality of being a subject within these legal relations that have in their content the acquisition of the right of ownership through liberalities by the categories of persons listed in the previous paragraph, as beneficiaries.

The first question intended to facilitate our approach would be how a minor without capacity or with limited exercise capacity can accept a donation, a legacy or a legal inheritance, under the current legislative changes brought by Law no. 140/2022? Also, under what conditions could a minor without or with limited exercise capacity with a vocation to a certain inheritance exercise the succession option on his own, including if the concrete situation arises to conclude an act of liquidation of the matrimonial regime, as an heir? And finally, under what conditions can a minor accept a donation offer?

We will further make a correlation of the provisions of art. 987 para. 1-4, art. 1013 para. 3 and 4 Civil Code with the provisions of art. 41 and art. 43 Civil Code, amended by Law no. 140/2022.

First, we will refer to the situation of the donation contract, which is an act of *inter vivos* disposition with a free title. The moment at which the exercise capacity condition must be fulfilled is that of the achievement of the agreement of will. Thus, it is necessary to analyse two hypotheses: the situation of the conclusion of the donation contract between those present and that of the conclusion of the donation between those absent. We make it clear that in both situations, as the disposer, he must be a person with full exercise capacity. As a beneficiary, however, things are more nuanced.

In the first hypothesis of the conclusion of the contract between those present, the donation is concluded by a single act in authentic form, and the moment when the legislator appreciates that the beneficiary, in our minor case, must fulfil the condition of the capacity to receive is, according to art. 987 para. 3, the one at which the donee accepts the donation. The following scenarios derive from direct reference to the requirements of art. 43 para. 2 of the Civil Code and art. 41 para. 3, as amended:

- in the case of the minor lacking legal capacity, but also of the person benefiting from special guardianship, the act of donation will be concluded in the name of the minor/protected person by their legal representatives, without the need for prior authorization from the guardianship court (43 para. 2 Civil Code). Also, it does not matter in this case whether the donation is encumbered or not, the “legal filter” of the legal representative being able to assess whether the amount and nature of the entrusted tasks exceed the value of the donation or not, being able in extreme situations not to

validate such a donation with excessive encumbrances. By way of exception, however, the above-mentioned categories may only receive liberalities of small value, manual gifts, appropriate to the age, etc.;

- in the case of the minor with limited exercise capacity, the donation contract without encumbrances will be concluded by the minor beneficiary alone, in authentic form, no longer needing the consent of the legal guardian, as it was required until recently - art. 41 paragraph 3 of Civil Code, as amended by art. 7 point 2 of Law no 140/2022;

- on the other hand, in the case of the same with limited exercise capacity, the donation contract with burdens will be concluded personally by the minor beneficiary, but also with the condition of the consent of the legal guardian - *per a contrario* interpretation of the provision of art. 41 para. 3 of Civil Code, as amended by art. 7 point 2 of Law no 140/2022

- in the case of the person who benefits from legal advice, under the condition of another provision of the guardianship court, the same closing circumstances as the beneficiary of the donation are maintained: if he is free of burdens, he accepts it himself, if he is burdened and the court does not order otherwise, with the consent of the guardian. Here we are determined to appreciate, however, that the one who benefits from judicial counselling is not always assimilated to the minor with limited exercise capacity, a welcome feature of the law's current configuration: according to art. 168 para. 4 "the guardianship court establishes, depending on the degree of autonomy of the protected person and his specific needs, the categories of acts for which approval is necessary" or even order that the protection measure target a certain typology of acts.

In the second hypothesis, of the conclusion of the donation contract between absentees, the donation is concluded through a mechanism of separate documents, the donation offer, respectively, the acceptance of the donation offer, documents issued at distinct times. In the sense that he did not order tasks according to how the donation offer is made or not, such as for a minor with limited ability to exercise or for someone who needs legal advice to be able to authentically accept the donation offer on their own, the legislator was not as consistent and did not maintain the same unity of vision.

We view it as a legislative shortcoming since nothing modifies the donor's behaviour in terms of their ability to exercise judgment or their capacity to actively practice it. Furthermore, we cannot see what circumstances or types of circumstances may prohibit an acceptance in the same true, private, and singular form of an offer of a donation when the law permits everything, the entirety, that is, the direct and genuine conclusion of the full contract. Why would the consent of the representative/guardian be needed in this situation as in the situation of the minor lacking capacity? Also, given the fact that there are not many points of view issued in relation to this aspect, not many opinions have been published in the specialized literature, we can accept a possible criticism of the opinion stated above, with a justified argument. In this sense, by carefully studying the few studies that have been published up to this point, we have identified a different point of view, the argument for the further justification of legal consent being built on the *specialia generalibus derogant* principle. Thus, special provisions of art. 1013 para. 3 and 4 of the Civil Code would apply with priority over the general provisions of art. 41 and art. 43 of the Civil Code [11].

Returning to the opinion expressed earlier, we examine the necessity of *de lege ferenda* proposal and taking a comprehensive approach, using the same legal tools, to the

situation of accepting a donation offer made by an adult who benefits from legal advice, a minor with limited capacity for exercise, and any minor who accepts the donation offer alone and without personal burden.

CONCLUSION

Compared to those highlighted above and under the amendment that this topic will concern us in the future, we can conclude that where the social creates relationships, it is the role of the legal norm to regulate them, giving them effectiveness, establishing new rules and behaviours. The adoption of Law no. 140/2022 on some protection measures for persons with intellectual and psychosocial disabilities and the amendment and completion of some normative acts was essential and important especially in the context of harmonizing our legislation with the requirements established by the Convention on the Protection of Persons with Disabilities, but also to comply with the considerations of Decision No. 601/2000 of the Constitutional Court which found the previous legislation to be unconstitutional.

It is encouraging that the legislator has stepped in to help gradually regulate the four protective measures for individuals with intellectual and psychosocial disabilities. This has clear implications for exercise capacity as well.

By assigning the exercise capacity to the natural person, the legislator had in mind a first level of safety (protection) that an individual has the reflection of the consequences of the acts he concludes, but also a level of first legal exercise of maturity in contractual matters. As beneficiaries of unencumbered liberties, minors with limited legal capacity and adults who benefit from judicial advice can accept on their own and thus consolidate a right to private property, without the need for further formalities. The legislator's involvement in this matter is appreciated and holds the civil circuit participant accountable. However, even though the organization has a new legal provision, the same legislative vision is not maintained in the case of donations made by absentees, which retains the outdated restrictions. We feel that it is legally required to close this legislative loophole, particularly where an adult person in the situation of legal advice would be the recipient of the donation offer.

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PARTICULARITIES OF REMEDIES IN THE MATTER OF AWARDING PUBLIC PROCUREMENT CONTRACTS IN ROMANIA

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ABSTRACT

The overall purpose of this paper is the analysis of remedies in the matter of awarding public procurement contracts, with emphasis on the Romanian case, in the context of EU law. Methodologically, the study aims to analyse Romanian Law no. 101/2016 on appeals and remedies for the award of public contracts, sectorial contracts and works concession contracts and service concession contracts, as well as for the organization and operation of the National Council for the Settlement of Complaints. This law transposes the Directive 89/665/EEC on the coordination of laws, regulations and administrative provisions on the application of review procedures for the award of public supply contracts and public works contracts and Directive 92/13/EEC on the coordination of laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities engaged in activities in the sectors of water, energy, transport and telecommunications. The critical approach also takes into account doctrinal studies, given that remedy legislation has been applied in Romania since 2016. The results of the research highlight that Romania has transposed the European directives and the case law reflects certain peculiarities of remedies in public procurement that are a continuous challenge for theoreticians and practitioners.

Keywords: legal remedies, awarding public procurement contracts, Law no.101/2016, Directive 89/665/EEC, Directive 92/13/EEC

INTRODUCTION

The jurisprudential character is a traditional feature of administrative law [1], which in particular implies the right of effective access to justice. The concept of effective legal protection is deeply entrenched in the European Union's legislation and in the case law of the European Court of Justice and is also familiar in the jurisprudence of the European Court of Human Rights [2]. In accordance with this principle, art. 1 of Directive 89/665/EEC requires Member States to take the measures necessary to ensure that, as regards public procurement contracts, regulated at EU level by Directive 2014/24/EU, decisions taken by the contracting authorities may be reviewed effectively and, in particular, as rapidly as possible. Also, Directive 92/13/EEC requires Member States to take the measures relating to the application of EU rules on the procurement procedures of entities engaged in activities in the sectors of water, energy, transport and telecommunications. The rights of tenderers are reinforced by this Directive in

particular, subsequent to the changes made to them by Directive 2007/66 of 11 December 2007 [3].

Romanian Law no. 101/2016 [4] transposes Directive 89/665/EEC and Directive 92/13/EEC. The object of this law is regulation of appeals and remedies for the award of public contracts, sectorial contracts and works concession contracts and service concession contracts, as well as for the organization and operation of the National Council for the Settlement of Complaints.

As per the provisions of art. 2 par. (1) and (2) of Law 101/2016, the administrative contentious court may be referred to by any person, as well as any of the members of an association of economic operators, with no legal personality, who consider themselves to be the aggrieved party with regard to a right or a legitimate interest by the act of a contracting authority or by a request not having been resolved within the legal deadline, in order to *“cancel the contract, force the contracting authority to issue a document or adopt remedial measures, recognising the claimed right or legitimate interest, through administrative-jurisdictional or judicial channels”*.

From the abovementioned provisions, one can deduce that the object of the administrative contentious proceedings, as per Law 101/2016 may be one of the following: a) voiding the act; b) forcing the contracting authority to issue a document or adopt remedial measures; c) recognising the claimed right or legitimate interest.

Both the **administrative-jurisdictional channel** and **judicial procedure** are regulated as procedural channels to achieve the object of an aggrieved party's claim, while claims filed in accordance with Law 101/2016, to which the provisions of art. 2 par. (1) of the law refer, are terminologically known as “appeals” or “claims”.

ASPECTS OF THE ADMINISTRATIVE-JURISDICTIONAL PROCEDURE IN THE MATTER OF AWARDING PUBLIC PROCUREMENT CONTRACTS

Law no. 101/2016 regulating administrative-jurisdictional procedure is not a novelty, as it is based in the provisions of art. 21 par. (4) of the Constitution of Romania, which, after its 2003 revision, consecrates the optional and gratuitous nature of administrative special jurisdictions. The phrase **“administrative special jurisdictions”** takes into account the litigation resolution activities which are carried out by an administrative-jurisdictional body through issuing an administrative-jurisdictional act [5].

Administrative-jurisdictional procedure regulated by Law 101/2016 has as its focus the National Council for the Settlement of Complaints (NCSC) founded by E.G.O. no. 34/2006, currently repealed [6]. Therefore, The National Council for the Settlement of Complaints (NCSC-in Romanian, *Consiliul Național de Soluționare a Contestațiilor*) is an independent body with administrative-jurisdictional activity, whose organization and operation is now regulated by Chapter V of Law no. 101/2016.

Chapter III of Law no. 101/2016 regulates a complaint filed through the administrative-jurisdictional channel. Thus, as per the provisions of art. 8 par. (1) of Law no. 101/2016, as altered by E.G.O. no. 45/2018, the person who considers themselves to be injured by an act of the contracting authority may file a complaint with the NCSC in order to obtain the annulment of the contracting authority's act, to force the contracting authority

to issue a document or adopt remedial measures, as well as to have their claimed right or legitimate interest recognised.

Law no. 101/2016 contains explicit provisions regarding respecting the parties' right to gain access to the file generated by NCSC as well as regarding the limits to the exercise of this right. The principle of free access in the matter of public procurement implies free and impartial access to public procurement, as the contracting authority does not have the permission to allow for a non-competitive environment to be generated [7]. For instance, in NCSC jurisprudence it was noted that a potential reiteration of the request to file updated justifying documents or to replace the invoked contract as a similar experience would have made for an evident advantage in favour of the claimant [8]. The principle of equality is also taken into account, which, according to Article 6 of the Administrative Code [9] is a general principle of public administration [10].

When *a case is analysed in substance*, NCSC examines the act in question from the point of view of its legality and merits and may: a) give a *decision* by which said act is *partially or entirely cancelled*; b) *forces the contracting authority to issue an act/adopt the required measures in order to re-establish legality*, with the clear and precise indication of the *steps* which are to be taken by the contracting authority; c) *cancel the awarding procedure*, if the act cannot be remedied.

The decision by which the claim is resolved by the NCSC or by which the latter declares itself no longer competent in the matter without resolving the complaint is called a **resolution**. Resolutions issued by the NCSC are compulsory for the parties, in accordance with the provisions of art. 28 par. (1) of Law 101/2016.

THE TYPOLOGY OF JUDICIAL PROCEDURES IN THE MATTER OF AWARDING PUBLIC PROCUREMENT CONTRACTS

As in other European countries [11], in Romania the development of judicial review of administrative action has been a slow but steady process. This process has developed through the general Law of administrative contentious- Law no.554/2004 and though the special administrative contentious of public procurement, regulated by Law no. 101/2016.

The first category of requests which may be filed with administrative contentious courts on the grounds of Law 101/2016 are **judicial complaints against NCSC resolutions**, which, as per art. 29 of Law 101/2016, may be filed by *the contracting authority or/and by any other party injured by the measures taken by the Council, within 10 working days from notification to the parties involved, or from the date other aggrieved parties take note*; the right to remedy at law is expressly provided in the content of the resolution.

In accordance with art. 29 of Law 101/2016, „Council resolutions regarding a complaint may be appealed by the contracting authority and/or by any other party injured by the measures taken by the Council, by filing a complaint with the competent court, for reasons both of non-legality and of lack of merits, within 10 days from notification to the parties involved, or from the date other aggrieved parties take note”. According to art. 31 par. 1 of Law 101/2016, „the party who files a complaint is obligated to provide a copy of the complaint as well as copies of the proof documents to the other parties

involved in the Council appeal procedure, within the deadline specified in article 29; proof of notification is to be filed with the court before the first hearing, otherwise complaint will be rejected as late.”

At the same time, as per art. 5 par. 1 of Law 101/2016 „the procedural periods established by the present law, expressed in days, begin from the first hour of the first day of the period and end upon the expiry of the last hour of the last day of the period”. Paragraph 2 of the same article stipulates that “the day in which a procedural act was communicated is not taken into account when calculating the procedural period. If the last day of a period expressed in a unit of measurement other than hours is a holiday, then the period ends upon the expiry of the last hour of the next working day.”

Related to the previously detailed legal provisions, the claimant has the obligation to file the claim with the court, but also to send it to the other participants appearing before the Council within 10 days from the day the NCSC resolution was given. Regardless of the purpose of this regulation, the law is imperative when it comes to the obligation to respect the deadline for cumulative filing of a complaint, both with the competent court and with the other parties to the procedure being carried out before the administrative-jurisdictional body, otherwise it will be rejected as late. If the complaint is filed before the deadline but only with the court, this does not waive the late sanction, which is imposed every time the cumulative filing condition is not met before the deadline[12].

In the case of this type of litigation, special material and territorial competence is established for the courts, so that they will be competent to rule on such litigation: a) the court of appeal, Administrative and Fiscal Contentious Administrative department, on the territory of which the contracting authority’s registered office is; Bucharest Court of Appeal, Administrative and Fiscal Contentious Administrative department, competent to rule on the complaint filed against the resolution given by the Council regarding awarding procedures for services and/or works associated with the national interest transport infrastructure, as defined by the legislation in force.

The resolution by which the court resolves the complaint is **definitive**, which is in agreement with the principle of the double degree of jurisdiction consecrated in the matter of administrative contentious, and also in agreement with the fact that in such litigation, a resolution given by the NCSC as an administrative-jurisdictional body is appealed before the competent administrative contentious court.

The second category of requests through which public procurement contract awarding procedures can be contested is **appeals filed through a judicial channel**, addressed to the competent administrative contentious courts (fiscal and administrative contentious departments of tribunals and courts of appeal, to a panel specialised in public procurement).

The third category of requests which can be filed with administrative contentious courts on the grounds of Law 101/2016 is proceedings and requests regarding granting compensation in order to recover damages caused during the award procedure, as well as those related to the cancelation or nullification of contracts.

Thus, in accordance with the provisions of art. 53 par. (1) of Law 101/2016, as altered by Law 212/2018, **the competence of administrative contentious courts** covers “the processes and requests related to the granting of compensation in order to recover damages caused during the award procedure, as well as those related to the execution,

cancelation, nullification, termination, rescission or unilateral denunciation of contracts, which are settled in lower court, urgently and pre-eminently by the fiscal and administrative contentious department of the court on the territory of which the contracting authority's registered office is, or on the territory of which the claimant's registered office/residence is, by panels specialised in public procurement, within 45 days".

Compensation for damages caused by an act of the contracting authority, issued while disregarding legal regulation in the matter of public procurement, sectorial procurement or concession or as a consequence of a claim regarding said award procedure not being resolved within the legal deadline can be granted only after the act in question has been cancelled or, as applicable, after any other remedial measures have been taken by the contracting authority. This rule, specific to administrative contentious, means that a claim for compensation is conditioned by the annulment of the damage causing administrative act [13].

SPECIFICITY OF ENFORCEMENT OF JUDGMENTS IN THE REGULATION OF LAW NO.101/2016

With regard to enforcing the sentences given by the competent administrative contentious courts for the resolution of claims filed in accordance with Law 101/2016, we note the special provisions included in this law in the case of administrative contentious acts the object of which is *"to ascertain the absolute nullity of a contract/addendum drawn up in breach of the required conditions, as applicable, by the legislation regarding public procurement, the legislation regarding sectorial procurement or the legislation regarding works concession and services concession, as well as to bring the parties to their former status"* [art. 58 par. (1)]. Paragraph (2) of art. 58 of Law 101/2016 names the cases in which a court ascertains the absolute total/partial nullity of a contract/addendum and rules on reinstating the former status of the parties, as follows:

- a) the contracting authority has awarded the contract without fulfilling the obligations referring to publishing a participation notice, as per the regulations on public procurement, the legislation on sectorial procurement or the legislation on works and services concession;
- b) when the contracting authority aims to obtain the execution of works, certain services or products, which would put the contract in the category of contracts subject to public procurement legislation, sectorial procurement legislation or works and services concession legislation, but the contracting authority concludes a different type of contract, disrespecting the legal awarding procedure;
- c) the contract/addendum was concluded in less favourable conditions than those provided in the technical and/or financial proposal which constituted the winning offer;
- d) the qualification and selection criteria and/or the evaluation factors provided in the participation notice which formed the grounds for declaring the winning offer were not respected, leading to an alteration to the result of the procedure, by eliminating or reducing competitive advantage [14];
- e) the contract was concluded before the complaint resolution was issued by the NCSC or without respecting the complaint resolution;

f) the contracting authority awarded the contract as a result of an award procedure which was subjected to ex ante verification and in which the National Agency for Public Procurement (ANAP) [15] issued a conditional permit, and the contracting authority carried out and finalised the award procedure without remedying the offences noted by ANAP.

In the case of such claims, Law 101/2016 states that the judicial decision by which the competent administrative contentious court admitted the action in ascertaining the absolute nullity filed on the grounds of art. 58 par. (1) of this law and by which it was ruled that the parties be reinstated to their former status is an enforceable title, and the head of the contracting authority is responsible for fulfilling the court decision. Not least, in the case of such court decisions, the contracting authority notifies ANAP of measures regarding the fulfilment of the definitive court decision.

CONCLUSION

Romanian Law no. 101/2016 [4] transposes Directive 89/665/EEC and Directive 92/13/EEC. The object of this law is the regulation of appeals and remedies for the award of public contracts, sectorial contracts and works concession contracts and service concession contracts, as well as for the organization and operation of the National Council for the Settlement of Complaints.

The procedural channels for realising the object of an aggrieved party's claim are the administrative-jurisdictional channel and the judicial procedure, while actions filed on the grounds of Law. 101/2016 are called "appeals", or „complaints". The administrative-jurisdictional procedure in appealing the awarding of public procurement contracts has at its core The National Council for the Settlement of Complaints, which is an independent body with administrative-jurisdictional activity. With regard to appealing the awarding of public procurement contracts through the channel of judicial procedure, Law 101/2016 provides several judicial means of appeal, as follows: judicial complaints against NCSC resolutions, judicial appeal and processes/claims for compensation in order to recover damages caused during a public procurement contract award procedure.

The case law of NCSC and administrative courts of litigation reflects certain peculiarities of remedies in public procurement that are a continuous challenge for theoreticians and practitioners. For example, in NCSC jurisprudence, it has been noted that a potential reiteration of the request to file updated documents in proof or to replace a contract invoked as similar experience would have constituted an obvious advantage in favour of the claimant, which we believe reflects the principle of free access in the matter of public procurement. Also, according to the jurisprudence of administrative contentious courts, if a complaint is filed before the deadline but only with the court, this does not waive late sanctions, which are incident every time the cumulative filing condition – both with the court and with the other parties in the procedure – is not met.

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PERSPECTIVES ON THE EXERCISE OF CIVIL LEGAL CAPACITY BY THE ADULT SUBJECT TO A PROTECTIVE MEASURE IN ROMANIA

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ABSTRACT

The scientific approach aims at analyzing the legislation in Romania regarding the recognition of the exercise of civil legal capacity under the conditions of equal opportunities in favor of vulnerable adults against whom a special protection measure has been taken. As a first step, we will give arguments for the need of protecting the civil legal ability of an adult natural person with intellectual and psychosocial disabilities, even if protective measures have been implemented. In addition, the concept of legal capacity will be explained in the light of EU rules. The study will investigate how far our country has complied with international human rights requirements, as well as whether adequate state-level measures have been taken to ensure that the beneficiaries of the protection measures have the best possible protection of their fundamental rights and freedoms. At the same time, we will assess relevant national and international court practice in the context of vulnerable Romanian adults.

Keywords: legal capacity, protective measures, intellectual disability, vulnerable adult

INTRODUCTION

In today's society, we notice that the protection of adults with intellectual and psychosocial disabilities receives increased attention, both from the European and Romanian legislator. There is a positive trend towards the development of appropriate legal tools to ensure that individuals in vulnerable circumstances have equal access to the exercise of their fundamental freedoms and rights.

As a natural consequence, a series of regulations have been adopted at the European Union level aimed at ensuring real support for adults subject to protection measures, with minimal interference in the exercise of legal capacity. Among these, in this study we will refer mainly to the provisions of the United Nations Convention on the Rights of Persons with Disabilities in New York adopted by the General Assembly on December 13, 2006 and to General Comment no. 1 (2014) of the Committee on the Rights of Persons with Disabilities.

Regarding the particular situation in Romania, we emphasize the fact that there has recently been a legislative reform in the field of protection measures that can be instituted for an adult natural person, in an attempt to rally to the standard of international evolution.

In short, by Decision no. 601/2020 issued by the Constitutional Court of Romania, it was ordered that art. 164 para. (1) Civil Code [1], which regulated the institution of interdiction [2] is unconstitutional, as it disregards both the provisions of art. 1 para. (3), art. 16 para. (1) and Article 50 of the Constitution of our country, as well as those of

Article 12 of the UN Convention on the Rights of Persons with Disabilities. The main arguments retained by the constitutional court in giving the solution were based on the lack of proportionality between the protection measure that could be applied and the degree of deterioration of the intellectual and psychosocial faculties of the sick person, that it was not adapted to his life, the lack of a verification system at various time intervals, if the measure is still required to be in effect, the action did not apply for the least amount of time but rather for an infinite period of time. It was criticized that there were not sufficient guarantees through which to achieve respect for the fundamental rights and freedoms of the human being, who needs support and that his autonomy was affected more than necessary.

The national system for the protection of vulnerable persons had to be adapted to the new social realities, in which flexibility in identifying the appropriate protection measure, which is to be applied individually for each person, should prevail. Regardless of the circumstances, it was deemed inadmissible for a particular impairment to be used to interfere with the exercise of all civil rights and obligations. Therefore, it was necessary to implement a new procedure to ensure that the vulnerable adult is helped to continue exercising his civil legal capacity, even if he will be under a protection measure. Thus, it was determined that the guardian no longer automatically and fully assumes control of the protected adult's person and property by interpreting the findings of the medical and psychosocial assessments conducted during the civil trial.

However, these shortcomings were removed with the adoption in Romania of Law no. 140/2022 on some protection measures for persons with intellectual and psychosocial disabilities and the amendment and completion of certain normative acts, which transposed into domestic law the Decision no. 601/2020 of the Constitutional Court. Thus, a far-reaching change has taken place, and the protection measures that will be instituted in the future by the national judge will be ordered differently depending on the degree of impairment of the mental faculties and the specific needs of the respective person.

Certainly, this normative act can be improved, but, as it has been noted in the specialized literature [3] the new regulation has the merit of contributing to *“changing the mentality regarding persons with mental disabilities, condemned in the old regulation to a kind of “civil death” by abolishing the capacity to exercise following the prohibition”*.

The objective of this research is to examine the notion of civil legal ability, which is marked by a dynamic issue, both in terms of EU law and at the Romanian level. Further, we want to answer the question: whether the legislative reform recently carried out in Romania guarantees vulnerable adults equal opportunities in the exercise of their civil rights and freedoms, in accordance with contemporary European requirements.

THE CONCEPT OF LEGAL CAPACITY AT EUROPEAN LEVEL

The European legislator has been constantly concerned with covering the gaps in the legislation relating to the protection of persons with special needs on an equal basis with their peers, in order to eliminate the inequities arising from discrimination on the grounds of disability.

With the emergence of the UN Convention on the Rights of Persons with Disabilities, a new guideline has been issued, the one where the adult with mental disabilities must be respected, particularly the freedom to make choices that have legal consequences, despite the exercise of civil rights and obligations through a legal representative.

Therefore, as a matter of priority, we set out the provisions of Article 12 (1) of the UN Convention on the Rights of Persons with Disabilities, which expressly provide that “*States Parties reaffirm that persons with disabilities have the right to recognition, wherever they may be, of their legal capacity*”, and in paragraph 2 it is added the fact that “*States Parties will recognize the fact that persons with disabilities enjoy legal aid on an equal basis with others in all areas of life*”.

After examining the UN Convention on the Rights of Persons with Disabilities, we observe that while it establishes the fundamental guarantees that states must take into account when implementing protection measures for vulnerable adult citizens, it does not define the concept of legal capacity.

Given the interest of the subject, this shortcoming was covered by the Committee on the Rights of Persons with Disabilities, which through General Comment no. 1/2014 (item 13), captured the features of the institution of legal capacity, reaching the conclusion that it represents: “the capacity to hold rights and obligations (legal status) and to exercise these rights and duties (legal agency). This is essential for engaging in society effectively.

We consider that it was imperative to draw clear directions to the states, by providing a comprehensive interpretation of the provisions of article 12 of the Convention, so that the beneficiaries of the act of justice – the adults under protection measures, are treated equally by the law.

It is important to note that this normative act reiterates the right of persons with disabilities to “full legal capacity”. But, at the same time, it argues why it is important for States to recognize the legal capacity of all natural persons of legal age, namely, since it is “a universal attribute inherent to all persons by virtue of their humanity and must be respected for persons with disabilities on an equal basis with others” (point 8).

Also, in order to create an overview, a series of consequences were also transmitted that would arise from the denial of legal capacity for people with special needs. Thus, it was made known that they would not be able to exercise their “*civil, political, economic, social and cultural rights*” and that they would be prevented from making decisions regarding the main areas that govern their own lives.

Furthermore, without their focused implementation in each state's legislation and the effective application of new protection mechanisms that would help those less fortunate, we believe that all of the European Forum's efforts would have been in vain.

In this context, we mention that Romania joined the fight started at European level late, more than 12 years after the ratification of the Convention. Unfortunately, its conviction in 2014 by the European Court of Human Rights in the case of the Center for Legal Resources on behalf of Valentin Câmpeanu v. Romania [4] was not a real alarm signal to get out of passivity sooner.

The fulfillment of the internationally proposed goal was only achieved in 2022, when Romania established structures and modified laws to guarantee the equitable

implementation of the principles of the UN Convention on the Rights of Persons with Disabilities.

In the next section, we will discuss Romanian laws that are pertinent to the protection of vulnerable adults, namely those that recognize legal civil capacity. So, at this moment we point out that, at the level of our country, there are a number of bodies that have as their special objective the promotion and protection of the interests of people with disabilities. Among these, we mention the following: the Romanian Institute for Human Rights, the National Authority for Persons with Disabilities and the Council for Monitoring the Implementation of the UN Convention on the Rights of Persons with Disabilities. It is also worth adding that other non-governmental entities have joined this initiative in order to help successfully integrate the provisions of the Convention on the Rights of Persons with Disabilities into the country's legislation, respectively, in changing the mentality of the Romanian people regarding the concept of disability.

THE EXERCISE OF CIVIL LEGAL CAPACITY BY THE ADULT SUBJECT TO A PROTECTION MEASURE IN ROMANIA

In Romania, the UN Convention on the Rights of Persons with Disabilities was ratified by Law no. 221/2010 [5], which is equivalent to the State's commitment to guarantee the respect of the rights of persons with disabilities defined therein, but also to the appropriation of the European strategy and implementation programs.

It is unfortunate that our nation took a while to effectively mobilize and that its national laws did not immediately align with the Convention on the Protection of Persons with Disabilities' requirements.

Romania's alignment with the requirements established at European level was finally achieved through the adoption of Law no. 140/2022 on some protection measures for persons with intellectual and psychosocial disabilities and the amendment and completion of certain normative acts [6] being seen as a true legislative reform.

We note that there were opinions [7] according to which it was considered that “the essential issue of the need to change the legislation on the matter was the respect for the dignity of the person who is the object of such measures, as well as ensuring the necessary framework so that the person in question is not considered socially stigmatized by the protection measure applied to him and by the content of this measure”.

In this way, the Romanian legislator has brought important changes in the institution of protection measures that can be taken against an adult natural person who has mental impairments. Thus, the measure of prohibition was abandoned, with the consequence of the introduction of new protection measures, to be applied gradually and proportionately depending on the state of health of the adult, supported by the evaluations of specialist doctors: judicial counseling and special guardianship.

Thus, we emphasize that the new Romanian regulation is based on three fundamental pillars [8]: necessity (the vulnerable person must be adequately protected), subsidiarity (any measure to protect the adult will be ordered only if it is not sufficient to grant protection through another measure provided by law)

and proportionality (protection will be instituted according to the degree of incapacity and individualized to the needs of the person placed under protection).

We further observe that Romanian legislation is distinctive in that it ensures persons with intellectual and psychosocial impairments can freely exercise their civic capacity, even if they are subject to a protection measure. To put it another way, the patient's participation in life decisions is emphasized.

In art. 164 para. (1) Civil Code it was noted that the measure of protection of judicial counseling, respectively that of special guardianship, can be instituted if the patient “needs support in forming or expressing his will” and “if taking this measure is necessary for the exercise of his civil capacity, on equal terms with other persons. In other words, a protection measure can be taken against the Romanian major, only if the two conditions stated above are cumulatively met.

We believe that the Romanian legislator's intervention in this particular context is welcome because the Convention's provisions have been incorporated into domestic law, allowing the person with an intellectual disability to have control over himself and his own property. However, he will receive assistance from a guardian, who no longer assumes full responsibility for exercising all rights, obligations, and freedoms simply by virtue of being appointed. In support of this allegation, we reproduce from art. 174 para. 2 lit. a) Civil Code in the sense that the guardian in carrying out his task must “give him the necessary support in forming and expressing his will and encourage him to exercise his rights and fulfill his obligations on his own”.

In civil proceedings in which the necessity and appropriateness of imposing a protective measure is analyzed, the national judge, relying, *inter alia*, on medical assessments, seeks to order a measure which brings minimum restrictions on the exercise of the patient's civil legal capacity, but which is of benefit to the beneficiary.

As for the configuration of the new protection regime, we emphasize that the degree of impairment of mental faculties is decisive for the application of the appropriate measure. Thus, if from a medical point of view it results that there is a partial deterioration of intellectual and psychosocial capacities, judicial counseling can be instituted, on the other hand, if a total deterioration emerges, the measure of special guardianship will be taken [9].

In view of the novelty of the subject, special attention is paid by the national courts of law entrusted with the resolution of cases concerning the establishment of a protection measure, in order to identify the appropriate and proportionate measure to provide the protected person with the necessary support. If the conditions provided by the law are not met, the judge rejected such summons requests [10].

Currently, according to what has been decided at European level, regardless of the established protection measure, it will be taken for a limited period of time, with the possibility of revision, so that the protected person is not abusively deprived of his rights and freedoms. Thus, the Romanian legislator established that the measure of protection of judicial council should be established for a maximum of 3 years, and the special guardianship should not exceed 5 years. Since it was not transitory, we believe that the previous regulation lacked sufficient guarantees to keep the implemented protections from becoming permanent.

In the same vein, we agree with the legal doctrine [11] which considered that by amending the legislation on the protection of adults with altered mental faculties, it is actually about “the proclamation of support measures aimed at the recovery of those concerned and overcoming the state of vulnerability”.

CONCLUSIONS

Undoubtedly, the promotion and protection of the rights of adults with disabilities must remain topical at international level, and Romania must continue the approach in this direction, to permanently adapt the legal instruments developed at European level to the needs of Romanian beneficiaries, aiming at the recognition of the exercise of their legal capacity in conditions of equal opportunities.

In our opinion, by adopting Law no. 140/2022 on some protection measures for persons with intellectual and psychosocial disabilities and amending and supplementing certain normative acts, Romanian law has passed the first stage towards achieving the objectives set by the UN Convention on the Rights of Persons with Disabilities.

Through the legislative undertaken reform, Romania has created effective legal means to guarantee to the vulnerable adults the right to participate as partners with an active role in all areas of their lives.

Therefore, even if our state has belatedly recognized to those affected by a disability the exercise of civil legal capacity in conditions of equal opportunities with others, it is to be appreciated that in the new gradual system of ordering protection measures, the aim is to find a balance between encouraging the autonomy of the protected person and the special needs arising from the state of illness. Certainly, it was necessary to take measures by which Romania would restrict the exercise of a person's civil capacity only exceptionally and only if the taking of the measure to protect the special guardianship is proportionate and appropriate to each situation.

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[2] See the content of art. 164 para.(1) Civil Code before being declared unconstitutional by the Constitutional Court of Romania: “*The person who does not have the necessary discernment to act in his own best interest, due to alienation or mental illness, will be placed under judicial interdiction*”.

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[4] See the Decision of July 17, 2014 formulated by the Legal Resources Center on behalf of Valentin Câmpeanu against Romania (Application no. 47848/08), which can be consulted at: <https://hudoc.echr.coe.int/eng ?i=001-147826>. It was recommended that Romania take the appropriate necessary measures so that people with a mental disability are supported in the exercise of their rights, especially in the exercise of the right to refer the court or other authority in relation to any problem arising relating to the health or received treatment.

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[9] As an example, we reproduce from the practice of the courts, which ordered the taking of the measure of special guardianship: Decision no. 5438/2024 of 28.10.2024 pronounced by the Galati Court, RJ code de7362e8d (<https://www.rejust.ro/juris/de7362e8d>), Decision no. 2073/2024 of 14.10.2024 pronounced by the Timișoara Court, code RJ 86e7999g5 (<https://www.rejust.ro/juris/86e7999g5>), Decision no. 1953/2024 of 30.09.2024

pronounced by the Timișoara Court, code RJ 6285geeg3 (<https://www.rejust.ro/juris/6285geeg3>);

[10] See in this sense Decision no. 8396/2024 of 14.10.2024 pronounced by the Bucharest District Court 1, RJ code 86e737g8d (<https://www.rejust.ro/juris/86e737g8d>) which rejected the request based on the following considerations: “In the case of the respondent, although he is dealing with addictions to alcohol and psychoactive substances, there is no clear evidence to indicate total incapacity and permanent to make decisions. His judgment remains intact, and he can still exercise his rights and freedoms”

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REGULATORY FRAMEWORK OF RESOURCE MANAGEMENT IN EDUCATION SYSTEM: A COMPREHENSIVE ANALYSIS

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ABSTRACT

The constant need to ensure the efficient use of resources, especially in the period of a challenging geopolitical situation, when the mobilization of resources in every sector of the national economy is of decisive importance, while not allowing the quality of educational services to decrease.

The regulatory framework governing resource management within education system of Latvia is a multifaceted construct crucial for ensuring efficient allocation and utilization of resources. This paper provides an in-depth examination of the overall regulatory framework, emphasizing its intricate layers and mechanisms. However, it acknowledges a limitation concerning the scope of educational institutions under scrutiny.

Thus, paper outlines classification of resources within educational institutions, encompassing various categories and, moreover, investigates the intricate relationship between the regulatory framework and different types of resources. It is an attempt to find and create a connection between the resources of educational institutions and the regulatory framework of the educational system for further research aimed at advancing the development of resource management model.

As a result of the analysis, paper provides an insight how the regulatory policy affects the distribution and use of resources in educational institutions and where resource management strategy should focus, seeing the main directions in their optimization in order to improve the overall educational results and the efficiency of the institutions.

Keywords: Regulatory framework, Resource management, Resource analysis, Education system

INTRODUCTION

The regulatory framework regulating the spheres of management of resources of the education system is directly related to and follows from the requirements of the system regarding the provision of education. Article 26 of the Universal Declaration of Human Rights states that “Every person has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory” [48]

Article 112 of the Constitution of the Republic of Latvia guarantees that "everyone has the right to education. The state provides the opportunity to obtain free primary and secondary education. Primary education is mandatory" [49]. This is supplemented by Article 4 of the Education Law, which stipulates that basic education is mandatory, its preparation starts from the age of 5 and it must be obtained by the age of 18 [3].

The state, while demanding proper education from the people, must also organize the necessary resources to provide this service to society. Consequently, to ensure better research quality, the limitation of the research is highlighted - the normative regulation of resource management in educational institutions financed by local governments at the level of general and professional education.

In general, it can be noted that the regulatory framework related to resource management in the education system is multifaceted, so it is important to determine the resources that are necessary for the educational institution to fully fulfill its functions.

Also, it is important to note that the regulatory framework is only an aid to the primary goal, not the other way around. Compulsory education and the right to it are the basis, which is facilitated by the regulatory framework, determining the requirements and the need for resources.

Often, we see the impact of general regulatory acts on institutions or the system as a whole, while this paper is an attempt to determine the impact of the most important acts on the specific expenses (reflected through economic classification codes) of educational institutions as well. And these expenses serve as a good benchmark to show which necessary resources should be provided.

Therefore, in order to strengthen the research not only with theoretical, but also with practical coverage, this paper shows the total expenditure budget of educational institutions in Jelgava (Latvia), which reflects the main expenditure items (necessary resources) and their share in total expenditure. In the following, it is analyzed, as far as possible, which resources are affected by these regulatory acts.

MATERIALS AND METHODS

From the very beginning, we need to find the right way to recognize and measure resources in educational institutions for further detailed analysis. Thus, resource is any factor that is necessary to accomplish a goal or carry out an activity [1]. According to Britannica, economic resources, both human and other, which, if properly utilized, will bring about a flow or output of goods and services [2].

Also, we admit, that quality education service as a result is the main and ultimate goal of all activities of the educational institutions, which they implement using resources. These activities in turn are reflected in expenses through economic classification codes (ECC).

The following steps to analyze the highlighted topic:

1. Identify regulatory acts which regulate educational institutions resource basis.
2. Economic classification codes (ECC), which include the resources used in a specific period of time in the form of expenses, serve as a reference point.
3. Try to link these particular regulatory acts with ECC expenses.
4. Group them by their share in total budget expenditure.
5. Thus, we can emphasize the importance of specific regulatory acts regarding the necessary resources of an educational institution.

Considering the specifics of municipal educational institutions, which essentially determines that the head of the institution uses available resources strictly in accordance with regulations, the use of most resources is quite fixed (for example, the type and nature of the use of the building, the workload of employees in accordance with their duties, the type of use of educational equipment etc.), then the greatest flexibility

remains within the financial resources, which are planned, approved and used in accordance with the budget of institution.

Taking this practical aspect into account, the study uses budget expenditure items of educational institutions according to their economic classification codes, which in turn already include various activities (resources).

RESULTS

In the introduction, we already mentioned the important international United Nations declaration and the framework of the Constitution of the Republic of Latvia regarding the necessity and obligation of education. Continuing to study which National regulatory acts practically and directly affect and apply to educational institutions on a daily, the most important regulatory acts of the industry were identified through the prism of resource management. Below they are arranged according to the type of regulatory act, and the number in brackets serves not only as a reference, but also as a code of a specific regulatory act, which is used further in this paper in Table 2.

National laws

- *Education Law* – the ultimate goal of the law is to create a certain growth-oriented environment, so that later they contribute positively to the existence and development of the country. As a prerequisite for this, certain activities (resources used) must be made. The state creates a system for ensuring the quality of education, determining the duties, rights and responsibilities of the founders of educational institutions for ensuring the quality of education in the institution, while resources are one of the most important parts of the systematized set of educational quality [3].
- *Law on the Protection of the Children's Rights* – guarantees that the child has the right to free pre-school preparation, basic and secondary education, as well as vocational training [4].
- *General Education Law* – following the provisions of the Law on Education, it determines issues of organizing general education [5].
- *Vocational Education Law* – provides the basis for internship opportunities for students in collaboration with companies in the relevant industry [6].
- *Epidemiological Safety Law* – regulates common epidemiological security by determining obligations and rights. From this follows the extensive and directly affecting the resources of educational institutions, the government regulations on hygiene requirements [7].
- *Sports Law* – reinforces the importance of the cultivation and development of physical and mental abilities, as well as a healthy lifestyle, determining that the founder of the educational institution must ensure the availability of sports facilities and equipment for students [8].
- *Local Government Law* – as one of the main autonomous functions of the municipality, it is determined to ensure the education of the population, including providing the opportunity to obtain compulsory education and ensuring the availability of pre-school education, secondary education, vocational education, interest education. The local government must organize and finance the performance of autonomous functions from its own budget [9].

- Law “On Local Government Budgets” – determines the procedure for the preparation and execution of local government budgets, as well as the conditions for their preparation [10].
- Law “On Personal Income Tax” – determines that the tax amounts from the payer's taxable annual income, in accordance with the distribution determined by the annual state budget law, are credited to the budget of the municipality in whose administrative territory the person's place of residence is declared [11].
- Law on Budget and Financial Management – stipulates that the purpose of the budget is to determine and justify what funds are needed by local governments to fulfil the obligations set by law. Government is delegated to issue orders, instructions and recommendations for the detailed application of the law [12].
- On the State Budget for 2024 and the Budget Framework for 2024, 2025 and 2026 year – since 2021, the distribution of this personal income tax is determined as follows: local government budgets – 75% and the state budget – 25%, although for long periods before that the distribution was 80% and 20% in favour of local government budgets [13].
- Law on Remuneration of Officials and Employees of State and Local Government Authorities – the minimum of monthly salary group intervals set by the law must be reached by January 1, 2027, in addition, as the base monthly salary changes annually, local governments must maintain an appropriate pace in salary increases, ensuring the achievement of the specified minimum [14].
- Labour Law – non-teaching staff are financed from the local government budget, which also regulates the minimum wage in the country, creating an impact on the budget [15].

Regulations of the state executive power

They derive from and are issued in accordance with the National laws. The below-mentioned regulatory acts were properly selected and analyzed from the point of view of their impact on the resources of educational institutions.

- Regulations of the information system for accounting and monitoring of educational resources [16].
- Procedures by which the State and Local Governments shall Finance the Purchase of Teaching Aids for Educational Institutions [17].
- Regulations Regarding the State General Secondary Education Standard and Model General Secondary Education Programmes [18].
- Regulations Regarding the State Basic Education Standard and Model Basic Education Programmes [19].
- Regulations Regarding the State Guidelines for Pre-school Education and the Model Pre-school Education Programmes [20].
- The procedure for providing preventive health care, first aid and safety for students in educational institutions and in the events organized by them [21].
- Regulations Regarding Work Related to a Possible Risk to the Health of Other Persons and Procedures for the Performance of Mandatory Health Examinations[22].
- Regulations Regarding Disinfection, Disinsectisation and Deratisation [23].

- Hygiene Requirements for the Providers of Child Supervision Service and Educational Institutions Implementing a Pre-School Education Programme [24].
- Hygiene Requirements for Educational Institutions Implementing the General Basic Education, General Secondary Education, Vocational Basic Education, Industrial Education, or Vocational Secondary Education Programmes [25].
- Hygiene requirements for pool and sauna services [26].
- Regulations on the minimum cost of implementing professional education programs per learner [27].
- Regulations on the minimum cost of implementing general primary education and general secondary education programs per student (per year) [28].
- Regulations on the minimum cost of implementation of general preschool education and special preschool education programs per student [29].
- The procedure for making mutual settlements between municipalities for the services provided by educational institutions [30].
- Regulations Regarding Remuneration of Teachers [31].
- Order About the schedule of the increase of the lowest salary rate for educators for the period from September 1, 2023 to December 31, 2025 [32].
- The procedure for calculating and distributing the state budget target grant for the salary of pedagogues in general education institutions of municipalities and general secondary education institutions of state universities [33].
- The procedure for calculating and distributing the state budget grant for the salary of pedagogues in municipal educational institutions that implement vocational basic education, vocational education and vocational secondary education programs [34].
- Funding procedures for special education classes (groups) of special education institutions and general education institutions [35].
- The order in which the state finances vocationally oriented art, music and dance education programs [36].
- Funding procedures for educational programs of interest [37].
- Rules on the classification of budget expenditures according to functional categories [38].
- Rules on the classification of budget expenditures according to economic categories [39].
- Rules on the amount of the minimum monthly wage within normal working hours and the calculation of the minimum hourly rate [40].
- The catalogue of positions of state and local government institutions, the procedure for developing position classifications and job descriptions [41].
- Rules on the minimum monthly salary and special allowances for healthcare workers [42].
- Criteria and procedure by which municipal investment project applications are evaluated for receiving a state budget loan [43].
- Regulations regarding Stipends [44].

Municipal regulations

Practically any municipal document regulates institutions in some way, however, in this study, taking into account the large volume, the most important ones were evaluated from the point of view of their influence on the specific economic classification code positions.

- Travel fee reductions for students in Jelgava State city public transport [45].
- By-laws of the municipality of Jelgava State city local government [46].
- Budget of Jelgava State city Municipality for 2024 [47].

Moving on to the practical side of the research, Table 1 shows the total expenses of educational institutions in Jelgava State city local government by main expenditure items according to the ECC in a broader sense.

Table 1. Expenditure structure of educational institutions in 2023.

Expenditure position	Economic classification code ¹	Amount of expenses, EUR	Amount of expenses, %
Reward	1000	29,107,909	68.68%
Goods & services	2000	6,254,413	14.76%
Subsidies & grants	3000	3,010,179	7.10%
Capital formation	5000	2,376,397	5.61%
Social payments	6000	629,872	1.49%
Transfers	7000	1,002,321	2.37%
TOTAL		42,381,091	100.00%

¹ in accordance with Cabinet regulation No.1031 "Rules on the classification of budget expenditures according to economic categories"

Reward - the largest expenditure item, accounting for almost 68.7% of the total expenditure, includes the provision of labor resources with wages, social security contributions, benefits, compensation and health insurance for teaching staff.

Goods & services – accounts for almost 14.8% and include all materials, inventory and learning aid, as well services related to the performance of the institution's functions and ensuring its operation, as well as the maintenance or repair of buildings and equipment.

Subsidies & grants - one of the largest expenses (7.1%) in the item marked for a specific purpose - settlements with private preschool educational institutions for those children who, due to the capacity of the premises, are not guaranteed a place in the municipal educational institution.

Capital formation - an important resource position (5.6%), which includes investments in fixed assets, as well as for attracting the largest investments in case of capital repair and reconstruction.

Social payments - although this is the smallest expenditure item (1.5%), it includes socially crucial expenses for scholarships, prize funds for learners and municipal volunteer initiatives.

Transfers – includes payments in favor of other municipalities for mutual settlements for education services (2.4%).

The next step was to link individual regulations to ECC spending through an in-depth analysis of how each regulation interacts and impacts the activities and resources of the educational institutions, which is reflected in ECC spending. At this stage of the study, we cannot single out specific regulations according to their level of impact (low, medium or high) on individual expenditure items, but an attempt was made to find out whether this impact is direct or general – see Table 2.

Table 2. Regulatory framework impact on institution resources.

Expenditure positions & corresponding ECC	Regulatory act number ¹	
	General impact	Direct impact
Overall ²	[3], [4], [5], [6], [9], [10], [11], [12], [13], [16], [18], [19], [20], [38], [39], [46]	[47]
Reward - 1000	[21], [22]	[14], [15], [24], [25], [27], [28], [29], [31], [32], [33], [34], [35], [36], [37], [40], [41], [42]
Goods & services - 2000	[7], [8], [21]	[17], [22], [23], [24], [25], [26], [27], [28], [29], [35], [43]
Subsidies & grants – 3000	[24]	[37]
Capital formation – 5000	[7], [8], [21]	[24], [25], [35], [43]
Social payments – 6000	-	[44], [45]
Transfers – 7000	-	[24], [25], [30], [37]

¹ the number corresponds to the one mentioned in the results section and in the reference list.

² cannot be attributed to any specific position / ECC, the impact is pervasive.

By general impact, we mean that the regulatory act has a significant impact on item of expenditure, but under direct impact, in addition to the general impact, specific financial calculations can also be made based on the requirements arising from the regulatory act.

DISCUSSION

Our research revealed that resources are needed to carry out specific activities and should be used properly, and if this is done, it will give a result - in our case quality education service, which is the ultimate goal of all educational institutions.

These activities are regulated by a comprehensive regulatory framework with the aim of providing quality education services, as well as determining the necessary resources. It follows that these activities are reflected in the form of expenses classified by economic classification codes.

This classification made it possible to analyze the structure of expenses and prompted special attention to be paid to the positions of reward and goods & services, since their total share is around 84%. Such a large predominance of reward over other items of expenditure is explained by original historical requirements and structure of the education system. Since main activities include the provision of knowledge on the basis of teachers and students, and as wages are regularly revised (inflation and union pressure), there is an almost guaranteed constant increase of this position in future as well.

An analysis of the legal framework for its impact on the resources of educational institutions showed that national laws have a more overall and general impact, since their main purpose is to organize the regulatory field and create a framework for State government to implement more specifically delegated goals. Local government budget has a direct impact due to the fact that it includes the necessary resources of all institutions for the relevant year.

The majority of regulatory acts with a direct impact refer to reward and goods & services, which also coincides with the largest share of these positions in the total expenditure structure.

A significant relationship in subsidies & grants positions was found between hygiene requirements in pre-school and resource amount needed for settlements with private preschool educational institutions. Taking into account that since September 2023 there are stricter requirements in the minimum square meters per child in the group, the smaller number of children admitted to the group will result in higher costs per child, which in turn will also increase the total amount of expenses.

However, it must be recognized that, in general, hygiene requirements have a direct impact on practically all resources that must be provided by an educational institution. To mention only the most important, all requirements regarding air temperature, water supply, sewerage system, lighting, as well as the equipment of the premises with bed linen, upholstered furniture, dishes, kitchen furniture and other appropriate furniture must be met. Moreover, all this must be serviced by appropriate employees.

CONCLUSION

The impact of regulatory acts on the resources of institution is multifaceted - it can be specific, precisely traceable and calculable in some cases, and general, with a diffused effect in other cases. In this study, the most interest provoke those regulatory acts that can be tracked more precisely and the calculation on the resources of institution can be performed.

It should be noted that the regulatory acts regulating the education sector regarding the need for resources do not guarantee the relevant income in the budget of the local government (as a founder of education institution), but serve as a basis for their request and reservation during the budget planning period.

Therefore, it is important that there is a connection between the budget income and the provision of relevant expenses for the education system. It could be expressed as a percentage ratio (for example, the share of education expenses in the total budget of municipalities) in order to be able to analyze the dynamics of the provision of resources of educational institutions.

Also, work should be continued on the creation of a model that is able to show the head of the institution in real time the direct and indirect impact on the resources of all types of educational institutions, but this is a matter for future research.

However, a good start of the research has been made with the aim of creating a deep understanding of the impact of the regulatory framework on the activities of the institution for all actors involved in resource management, on the basis of which practical recommendations for improving the framework can emerge, thus also making the overall resource management approach more effective.

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SPECIAL ASPECTS REGARDING THE PROTECTION OF CHILDREN RIGHTS IN THE EUROPEAN UNION AND ALL OVER THE WORLD

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ABSTRACT

In the present paper we aim to analyze several key aspect regarding the protection of the children's rights in the EU specially and all over the world, in general. We will refer to the 1980 Hague Convention which applies in all EU member states in regard to the children under the age of 16 who are displaced from their habitual residence in another state or are detained in this second state unlawfully. The provisions of the Hague Convention apply if the child was illegally moved to or from a country which is a party to this Convention and if the minor was under sixteen years of age at the time of his removal or detention. Children are one of the most vulnerable category of people and the states should be very careful in regard to their protection. That is why there is a need to raise awareness and improve the knowledge and analysis of the legal standards that ensure the actual protection and promotion of these rights. We will also refer to the EU regulations: the Treaty on European Union (TEU) which establishes the Union's obligation to promote the protection of children's rights, the Charter of Fundamental Rights of the European Union (EU), EU regulations and directives and the jurisprudence of the Court of Justice of the European Union (CJEU). Within the Council of Europe, many conventions focus on specific aspects of the protection of children's rights, from their rights and safety in cyberspace to adoption.

Results and implications: These conventions complement the protection granted to children under the European Convention on Human Rights and the European Social Charter, including under the jurisprudence of the European Court of Human Rights (ECHR) and the decisions of the European Committee of Social Rights (ECSR).

Keywords: human rights, children, Hague Convention, protection, rights, safety.

INTRODUCTION

In order to respect the principle of the best interest of the child, the legal rule is that parental authority is to be exercised by both parents jointly, regardless of whether the parents are married, divorced, never been married etc. But like all rules, this principle also has an exception that holds that, for good reason and if it is in the best interests of the child, the court may order that parental authority is exercised by just one parent (who complies the legal conditions for parenting) or by another person if none of the parents is available or fit.

One of the most common features of the contemporary world is that many families have different structures, other than the classical ones. The divorce rate in the European Union

is high and has increased constantly since 1964 (which is the year when these data started being collected) while the number of marriages has decreased.

According to official data “some 1.9 million marriages and an estimated 0.6 million divorces took place in the EU in 2022, according to the most recent data available for the EU Member States. These figures may be expressed as 4.2 marriages for every 1 000 persons (in other words the crude marriage rate) and 1.6 divorces for every 1 000 persons (in other words the crude divorce rate).” [1] The marriage is still considered the classical mark of the family unit, but it continues to decrease in number, and it proves to be less and less stable.

Also, due to the social changes it was noticed that more and more children are born outside marriages. It was noticed that “the proportion of live births outside marriage has shown an increasing trend in the past decades, more than doubling since 1993 (17.7 %) when these data were first available in the EU. In 2022 this proportion was estimated at 42.2 % [...], meaning that 57.8 % of children were born inside marriage. [...] Extramarital births occur in non-marital relationships, among cohabiting couples, to lone parents and in registered partnerships.” [1] According to the same source in several European Union countries, more babies were born outside marriages than in married couples (France – 65,2%, followed close by Portugal 60,2% and five more others> Bulgaria, Sweden, Slovenia, Estonia and Spain). An exception is Greece where over 80% of the babies were born in marriages.

In Romania, the trend is similar to the other EU countries. In 2022 the divorce rate was 1,06 divorces per 1000 inhabitants and slowly decreased to 1.04 divorces per 1000 inhabitants in 2023. The numbers are still very high because in 40% of the divorces the couples have at least one minor child. [2]

In other sides of the world the situation is similar. For example, in the United States of America where “the divorce rate reached a 2.4 crude divorce rate per 1,000 people in 2022” [3]. This same study shows that the divorce rates are lower in Asia and Latin America, probably because these are more traditional societies.

However, even if the divorce rate appears to slowly decrease sometimes, we should also keep in mind that the marriage rate has also decreased significantly. Still, this paper is not really about divorce and marriage rate, but these are important aspects as the paper is about one of the most crucial consequences of these situations: the lives and the whereabouts of the children raised by these parents. The children are moved and sometimes detained in foreign countries against the will of one of the parents, they are caught in the middle of custody battles and their fundamental rights and the principle of the best interest of the child are violated.

This not only happens to children from divorced families but also to children of parents that lived together and got separated, children from former registered partnerships and other similar situation.

MATERIALS AND METHODS

In order to write the paper, we studied the relevant statistical data, literature, case studies, legal aspects regarding children rights both at the European Union level and all over the world, international conventions, norms and values in accordance with the principle of the best interest of the child, international and national jurisprudence and the Romanian legal framework on this matter.

INTERNATIONAL REGULATIONS

As we showed before, the divorce rate is very high and the direct consequence is that more often than seldom, children are raised by only one of the parents. Sometimes the parents agree that the child should stay with one of them and decide friendly with whom, but other times this issue triggers serious custody battles in which a family court judge must decide who is more fit to live with the minor based on the child's best interest, considering the support that each parent is able to provide and the conclusions of a psycho-social investigation report.

The following most common problem is that parents, even though they agree with which of them the child should live with and where, they do not always agree if the child should travel outside the country with only one parent. In order to take the child abroad, to travel or to live there, the explicit consent of the other parent is necessary. Some refuse to grant the consent out of fear of child international abduction. Under the pretense of a vacation, one parent takes the child out of the country and makes it impossible for the other parent to have a personal and direct relation with the child. In such cases, the Hague Convention of 1980 on the civil aspects of international child abduction [4] ratified in Romania by Law no. 100/1992 [5] which refers to children under 16 who are displaced from their habitual residence in another state or are detained unlawfully in another state, becomes applicable. According to Article 3 of the Hague Convention the "child abduction refers to a situation in which a child is removed or retained across national borders in breach of existing custody arrangements" [4]. Furthermore, in the first paragraph, Article 11 states that "wrongfully removed or retained children are to be returned speedily to their country of habitual residence" [4]. The domestic court must order the return of the abducted child in maximum 6 weeks after the return application is registered. The emergency of this procedure is justified by the principle of the best interest of the child and "the presumption is that the unlawful removal of a child is in itself harmful and that the status quo ante should be restored as soon as possible to avoid the legal consolidation of wrongful situations. Issues of custody and access should be determined by the courts that have jurisdiction in the place of the child's habitual residence rather than those of the country to which the child has been wrongfully removed" [6].

The Hague Convention also enshrines the situations in which the country in which the child was taken to can legally refuse the return of the abducted child: Article 13(b) if the "return would expose him/her to a grave risk of harm or otherwise place him/her in an intolerable situation" and in the second paragraph of Article 13 also "if the child objects to the return if he or she has attained the level of maturity to express his/her views" [4].

At the EU level is applicable the Regulation no. 2201/2003 regarding the competence, recognition, and execution of court decisions in matrimonial matters and in matters of parental responsibility [7]. Most of the dispositions of this regulation are similar to those in the Hague Convention. However, the EU provision is applied if the abduction takes place in an EU member state. Like in the Hague Convention, the court with jurisdiction to solve the return application is the court of the state where the child had the habitual residence. To prevent abduction of children, to leave a country with a child, a parent needs the written and official consent of the other parent. In Romania this consent is a notarial deed which specifies the country in which the child will be taken and the period (this way the custom authorities can verify the countries in which the child is allowed to travel and the agreed period) or a final court decision or that he/she alone exercises parental authority (this last provision is stated in Article 30, paragraph 1, letter c of the Law no.

248/2005 regarding the regime of free movement of Romanian citizens abroad [8]). The mentions on the notarial deed prevent the parent or the other person to take the child to a country in which the other parent did not agree, for a longer period than the specified one. The unauthorized movement or detention of a child is a violation of the rights of the child and of the other parent who has parental authority and allowed a short trip but not an actual relocation. According to the Romanian national civil law as well as the Convention, the right to parental authority includes the right of the parent to decide where the child will live, the residence.

If such an event occurs, usually it is required the intervention of the central authority (in Romania the Ministry of Justice) which can initiate the legal proceedings provided for by the Hague Convention, but it is also possible for the interested parent to personally make the request. The procedure to recuperate the child taken in illegal manner is an urgent one and must be initiated within a year from the date on which the child was moved illegally in the non-resident state.

Between these two international provision the Haga Convention and the EU Regulation no. 2201/2003 is that, according to the Haga Convention in article 13(b) stipulates that the court with jurisdiction to solve the custody battle belongs to the state in which the child has the first habitual residence, even if the other parent does not lodge a complaint in one year or if a non-return order is issued. This is an important difference from the Regulation no. 2201/2003 which enshrines that if the child remains in the second country, the court from this one has jurisdiction in custody battle (article 10). This legal EU provision which gives jurisdiction first to the state of the habitual residence of the child for the relocation order and the to the second state, in which the child is moved for the custody trial may erase different or even opposite solution from the two courts. It is the case of *Povse v. Alpago* [9] in which a child was wrongfully removed to Austria from Italy by her mother. The Austrian Courts “dismissed the father’s application for return of his daughter to Italy on the ground that there was a grave risk of harm to the child” [x] and the Italian Court “ruled that it retained jurisdiction to adjudicate the merits of the custody dispute and issued an order for the return of the child to Italy and an enforcement certificate on the basis of Article 42” [10] of the EU Regulation. The Austrian court referred the case to the CJEU for a final solution in the mother’s appeal against the enforcement of return of the child in Austria. The CJEU stated that “once a certificate of enforcement has been issued there are no possibilities of opposing the return in the country the child has been removed to (in this case Austria), as the certificate is automatically enforceable.” [10]

In order to avoid such confusion, it is probably better to give jurisdiction to only one state, so the provisions of the Hague Convention fit better to the situation.

The provisions of the Hague Convention apply in all EU member states regarding the children under the age of 16 who are displaced from their habitual residence in another state or are detained in this second state unlawfully. Outside the EU, United States of America is also part in the Hague Convention, and they have an agreement with Romania on the civil aspects of international child abductions (such as the pension a child living in USA can obtain from a parent living in Romania) [11].

There is not an official international registration of the number of cases where cross-border recovery of maintenance claims has been needed but, it is estimated that there are 16 million international couples in the EU and that around 30 million EU citizens live

outside the European Union. Also, in the first part of this paper we showed that divorce rate is growing. These figures only illustrate the significant issues that could arise in the settlement and enforcement of maintenance decisions, generated by situations where one parent lives in a third country.

The child's point of view, essential in the formation of a correct opinion, with respect for his/her best interest

Another important aspect of this matter is the child's will regarding the parent they prefer to live with and, by consequence, the country they want to live in. Of course, that this is not a matter which should be accepted without discussion. In custody battles, it is very important for the judge to know which parent has a better understanding of the child, a better relationship and better conditions to raise him/her. In our opinion, the child should not be obliged to live with a parent he/she does not have a good relationship with. The judge should analyze all the evidence and needs to be able to understand the child's relationship, bonding and connection with both parents. Sometimes, the parent who already lives with the child may have a great influence and power of manipulation and uses it against the other parent, this kind of misconduct being called parental alienation. The best way to know the situation is for the judge to personally talk to the child. According to the Romanian Civil law, the judge listens to the child in private, with no one else present, in a safe and friendly environment. According to article 226 of the Romanian Civil Procedure Code: "if, according to the law, a minor is to be heard, the hearing will take place in the council chamber. Considering the circumstances of the trial, the court decides whether the parents, guardian or other persons will be present at the hearing of the minor." [12] The judge must be trustworthy and would have to be convincing so that the child is able to be sincere.

From this point of view, the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance [13] at article 29 states that "the physical presence of the child or the applicant shall not be required in any proceedings in the State addressed under this Chapter" [13]. We consider that, the motivation for this provision is that, in matters of child abduction in foreign countries is difficult for the parties, including the child in question to present personally in front of the authority and imposing such a condition could decrease the number the number of children reunited with the distanced parent. Also, we should notice that the legal provision enshrines that the presence is not necessary not that it is not allowed or forbidden so, when it is possible, and the child shows up he/she can be listened by the authorities.

On the other hand, in judicial practice it has been appreciated that the child's statement alone cannot constitute a sufficient basis for the pronouncement of the solution. Still, this does not mean that the child should not be listened to or taken into consideration, but a decision cannot be ruled solely on the child's statement. The reason for that is the fact that at a young age, children are easily influenced by their authority figures and may have a false image about the other parent, they may fear the other parent or reject him/her due to the conflictual relationship of the adults. The right to a personal relationship and bonding to the other parent is in the best interest of child unless that parent is actually a threat or a danger for the minor.

The EU Charter of Fundamental Rights [14] enshrines, in the first paragraph of Article 24 that “children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity” [14]. This provision has general applicability and is not limited to certain procedures.

The UN Committee on the Rights of the Child emphasized that States Parties should either guarantee directly or adopt or revise laws so that the child can fully exercise this right to express freely. Furthermore, they must ensure that the child receives all the information and guidance necessary to decide in accordance with his best interest. The Committee also notes that a child has the right not to exercise that right; the expression of opinions by the child is an option, not an obligation.

In Romanian legal framework, the Civil Code [15], in article 264 paragraph 1, states that, in administrative or judicial proceedings concerning him, the hearing of the child who has reached the age of 10 is mandatory. However, the child who has not reached the age of 10 can also be heard if the competent authority considers this necessary for the resolution of the case. It is also important to say that most Romanian Courts have special hearing rooms for the children, that a safe and friendly environment is insured in order not to affect the child mental state. The obligation stated above, provided for in art. 264 of the Civil Code has recently been the subject of a criticism of unconstitutionality, motivated by the fact that these provisions transform the child's right to be heard in judicial proceedings into an obligation. The author claims that, in fact, his child was brought before the court several times, this being an abuse and a trauma for him.

The Romania Constitutional Court rejected, as unfounded, the criticism of unconstitutionality of this legal provision. The Court, in the Decision no. 15/2019 [16], stated that it is in the best interest of the child to be heard by the family judge and the provision which states that it is mandatory for the child to be listen is a right not a limitation or abuse. During the procedures, the child has the right, not the obligation, to express himself/herself before the competent authority. The authorities have the obligation to listen to the child because as the state has the positive obligation to ensure the administrative and procedural framework which allows the expression of the child's opinion and it does so by establishing an age threshold from which it is mandatory to listen to the minor, respectively 10 years. If the minor is under 10 years old the decision to listen to him/her is left to the discretion of the competent authority. The child faces no penalty if he/she refuses to answer to the competent authorities. Therefore, in the present case, the Court notes that the minor's refusal to express his opinion in the administrative or judicial procedures concerning him cannot be sanctioned in any way, since the child has, in this regard, the right, but not the obligation, to express before the judge.

DISCUSSION

So, even if generally it is considered that is in the best interest of the child to be heard by the authorities in matters concerning residence, visitation rights, the parent they prefer to live with, in matters of international abduction the most important aspect is to ensure the fact that the child is brought back to the original residence, close with the parent they were estranged of, if that parent is not a threat t the child's welfare and development. After this goal is reached, in the following procedures, nothing will stop the child to express his/her feelings, opinions and will.

CONCLUSION

The Hague Convention, in the first article, starts by stating the objects of the Convention: “a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States” [4], and art. 5 enshrines that “rights of custody” shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence and b) “rights of access” shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.” [4] The objectives are not always easy to achieve as it became more and more easy to travel long distances around the world. Also, the technical evolution allows authorities around the world to communicate more efficiently and to find the abducted children faster. The cooperation between the states must be increased so that it will become even faster to recuperate children.

For the proper physical and mental development of any child it is important that the state authorities insure a safe environment. Studies show that the best for the child is to establish good relations with both parents as well as extended family. Also, it is important for his providers to have stable incomes and proper living conditions. School, friends, the opportunity to travel also increase the quality of life. Unfortunately, due to the high divorce rate and to the incapability of adults to have healthy relationships it is not always possible for the children to have good, stable lives.

Hearing the child in procedures regarding the residence, visiting rights etc. is an important right, but it may raise issues. It may be difficult for the child to choose between the parents but not hearing them is also a problem. Because the separated adults have often opposite interests and lose sight of what the child needs.

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STRENGTHENING THE PARTNERSHIP AND ADAPTING FRAUD PREVENTION TECHNIQUES

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ABSTRACT

Under-or overvaluation of customs value, false origin, or incorrect tariff classification of goods can cause significant damage to national budgets or seriously harm the EU's financial interests. At the same time, an error in the non-identification of the final consignee or incorrect classification of goods can seriously violate international economic sanctions, put in place to punish states that have violated the rules of international law. Customs duties on imports from outside the EU are a major source of revenue for the EU budget, so protecting them against fraud is essential. The Naples Convention adopted in 1967 was the first legal instrument for cooperation between customs administrations to prevent customs fraud. Even though cooperation mechanisms and instruments have subsequently been regularly adopted and the relevant framework legislation harmonised, OLAF's public reports have recently identified an acceleration in fraud due to inconsistent trade policy and the use of ineffective trade defence instruments. There are many cases of products that justify the application of anti-dumping duties, with China being the main promoter of the use of such operations that create significant losses for EU traders. There are recommendations for more effective control of exports, the risk of sending dual-use products being an obvious one. This study aims to determine the most useful mechanisms for mutual administrative assistance and risk analysis to fight customs fraud more effectively.

Keywords: fraud, budget, risk analysis, import, sanctions, partnership

INTRODUCTION

It is obvious the priority of the Commission and the Member States to collect taxes and duties to the Union budget against the background of an increasingly pronounced global economic crisis. The effects of the global pandemic of COVID-19 doubled by the conflict in Ukraine has given a different course to economic development strategies. Several new challenges were not considered when designing and approving the financial year 2021-2027. The new security dimension forced the member states to position themselves differently to ensure the resources necessary for defense and security, and to launch new programs for the defense industry, greatly reducing the budgets dedicated to development.

Against this background, the introduction of economic sanctions against Russia and Belarus to discourage the continuation of the conflict in Ukraine, deepened the crisis in international economic relations, as those targeted reacted by signing new trade agreements that seriously affected the common trade policy of the EU, forced to urgently initiate measures to trade defense vis-à-vis China and other BRICS states.

The study assumed a series of working hypotheses that were constituted based on two major questions. First, the new EU strategy to fight fraud and other irregularities that seriously affect the EU budget considers the current regional and global security framework through which international economic sanctions have been imposed on Russia and the new economic alliances established by the main actors international? And, finally, additional emergency procedures were started to strengthen partnerships between public institutions in the EU, but also with other states for the urgent use of data exchanges to identify predictable tax and customs frauds in time in the current regional security context?

Through the initiated approach, we aim to identify by which methods and to what extent the European legislator and the public institutions that must fight against any form of fraud have mobilized to counteract serious criminality in the field of tax evasion, for the predictability of the EU budget concerning needs and its reconfiguration concerning covering new expenses for the defense industry, but also if the solutions regarding the risk analysis are in line with the current trends of evading the legislative framework practiced by transnational organized crime networks.

MATERIALS AND METHODS

The study, being a multidisciplinary one, assumed the approach of a theme and a bibliography from several reference fields, such as international taxation, contemporary commercial policies, international relations, political and security studies, public international law, European law, the issue of control at external borders and customs risk management. These were analyzed concerning the latest strategies of the European Union, and together with the study of community normative acts, articles, and recent specialized studies, we used the comparative scientific research method, as a systematic procedure for contrasting several global phenomena which led to the definition of problems.

ECONOMIC SANCTIONS vs COMMON COMMERCIAL POLICY

The fight against fraud and other non-compliance is a priority for the EU. Public statistics indicate an intensification of serious illegal acts likely to threaten national budgets and the consolidated budget of the EU. In its latest report for 2023¹, OLAF identified fraud and irregularities worth €600 million, completing 250 investigations and putting an end to complex smuggling, counterfeiting, and customs fraud schemes [1]. For its part, the European Public Prosecutor's Office communicated in its latest activity report², many 1,300 new investigations for damages, a total estimated at over 19 billion euros, being approved by the magistrates for non-disposal orders and judicial seizures of the amounts in an amount of approx. 1.5 billion euros. Smuggling and customs fraud, VAT revenue fraud, embezzlement of funds, and money laundering are highlighted as the main illegal actions [2].

¹ See, for details, https://anti-fraud.ec.europa.eu/system/files/2023-06/pr-06062023-annual-report-olaf-investigations-uncover-over-eur-600-million_ro_0.pdf, information accessed on 30.07.2024

² See, for details, https://www.eppo.europa.eu/sites/default/files/2024-06/EPPO%20Annual%20Report%202023%20PDF_RO.pdf, information accessed on 30.7.2024

Against the backdrop of the application of the 13 packages of economic sanctions of the EU against Russia and Belarus [3], the export of goods to these destinations, as well as the import of many essential products, were prohibited: crude oil and refined petroleum products, steel, iron and pig iron, aluminum, plastics, helium, coal, tubes, and pipes, rare earths. According to public data communicated by the European Commission *"Since February 2022, the EU has banned a total of more than EUR 43.9 billion representing the value of goods allegedly exported to Russia and a total of more than EUR 91.2 billion representing the value of goods which would have been imported from Russia"* ³.

Even though the restrictions were intended to create a major impact on the Russian economy, they also substantially limited purchases for EU companies that faced significant losses and were forced to turn to other international markets with higher financial costs.

Russia has proven in the past two years to be adept at circumventing sanctions, or at least mitigating their negative effect, by pivoting trade to Asia. As an immediate reaction, Russia reconsidered the global market and turned as a desperate measure to the more formal strategic partnerships, until recently, with China, but also other states, such as the BRICS (Brazil, India, China, South Africa, Iran, Egypt, Ethiopia, and Saudi Arabia). Russia's foreign policy is currently based on polycentrism and is directly influenced by the Eastern neighborhood and the Global South.

The partnership with China pursues two components, obviously in an interdependent relationship against the background of the conflict in Ukraine, namely the economic and military dimensions. The geopolitical dimension targeted in the first place and the net advantages of China, invited to this partnership, are obvious. Against this background, China, if we were to give just one example from the economic area, increased the import of crude oil from Russia, in 2023, by more than 25% compared to the previous year, at a very good price concerning the market price, but at the same time it deliberately allowed Russia to use the revenues obtained by it in the war industry, but to balance its deficient balance of payments and the inflation that has reached unprecedented levels in recent years.

On the other hand, the declared interest of the US, the EU, and Russia in the Indo-Pacific region [4] is obvious, with India being one of the actors with an amazing potential for economic growth in the region which has generated geopolitical competition for all international actors, especially in regarding commercial and supply chains, as well as those in the fields of advanced technology.

Even if the governance for crises is a priority objective of the EU, through the inaction or inefficiency of the responsibility factors at the community level, the free movement of goods is affected by this type of newly created economic alliances, and the supply of rare essential products requires the adoption of urgency of dedicated trade policy defense measures [5].

The mentioned institutions report that smuggling activities with this type of essential products for several production branches, through customs fraud, have intensified. False declaration of goods through another tariff classification that places goods free from any

³ See, for details, <https://www.consilium.europa.eu/ro/policies/sanctions-against-russia/sanctions-against-russia-explained/>, information accessed on 30.7.2024

type of international sanction, false origin of goods, undervaluation of goods, and declaration of unreal customs value by not correctly declaring the real beneficiary, lead to the erroneous establishment and reduction of customs duties, of excise duties, VAT fraud and non-collection of dumping duties established for a wide category of products that generally originate in China. Transit routes are used which, through successive sales, hide the true origin of the goods, the already known destinations being Turkey, offshore territories, or states with access to the Black Sea or the Baltic Sea. Also, another illegal workmanship refers to the incorporation in a series of equipment of some products of Chinese origin that give the essential character of the finished product and for which anti-dumping duties would be due. All this highlights a generalized framework of transnational organized crime that Member States face in the absence of complex measures to combat such serious crimes.

More and more entities from the EU are establishing their companies in China, a state that encourages, through a strategy started 10 years ago, the investments of EU member states. These commercial structures are not aimed at trade in the region but will be supplied with essential raw materials that will be shipped, directly or indirectly, to the EU. The transfer pricing file and the verification of the beneficial owner will become mandatory to avoid fraud and other non-compliance for the customs authorities at the EU's external border.

It is essential to understand the global trade environment and the economic strategies of Russia, China, India, and other powerful states in the region. The effectiveness of the fight against fraud presupposes, first, the analysis of the political context, but also practical support, effective resources, and the ability to collect relevant information necessary to support the decision in the sense of taking the best trade policy measures of defense for an environment competitive and transparent in the EU [6]. Only in this way, prudent risk analyses will be considered to eliminate the factors that could disrupt the EU economy in a prolonged crisis.

COOPERATION – THE KEY TO PROTECTING THE FINANCIAL INTERESTS OF THE EU

It is almost impossible to believe that the institutions involved in the anti-fraud activity can only themselves solve a situation almost out of control. Cooperation does not only involve institutional partnerships, but better governance at the system level to make control more efficient, a dynamic and uniformly applied legislative path, professionalism, digitization, voluntary compliance, ethics, communication, transparency, and the fight against corruption.

The OLAF Fraud Prevention Coordination Advisory Committee brings together many experts from the Commission and the Member States and represents a discussion forum to share each one's own experiences for the inventory of all non-conformities that have arisen in each period, the identification of country profiles, crime patterns, difficulties encountered in the control activity, evidence, but also the methods used to detect them.

The activity is carried out in working groups, each with its objectives and missions, whose final proposals can be found in carefully and scientifically formulated procedures and methodologies that, once approved in plenary, become work tools that are sent to the Commission for the modification and adaptation of strategies anti-fraud.

The involvement of independent experts, the academic and research environment in the extensive process of identifying fiscal risk factors and the exchange of ideas, through any work formats, including conferences, meetings, and scientific debates, can create added value and support the activity of the bodies involved not only through the control activity, but also through the definition of principles that can establish the applicable legislative framework. To think only that through control activity, even if it is effective, organized crime and the fight against fraud can be diminished, is wrong. Arguments for the establishment of fraud prevention and combating activities through a legislative framework that deters the attempt or crime are often ignored. Establishing open and free information sessions on how taxpayers can honestly carry out a commercial activity, through methodological and practical explanations of how tax benefits can be capitalized and how there are remedies in the case of professional couples, may be an option that could be considered by the European legislator.

On the other hand, deterring the fraudulent act through severe sanctions is only one component of establishing a sanctioning rule. Annual accounts and reporting should not only take place behind closed doors. How the control bodies are involved in the identification and sanctioning of any form of fraud must be brought to the knowledge of the last taxpayer, and the presentation of those sanctioned and how the frauds were discovered, are elements that can create a certain state and attitude of traders, as a rule of voluntary compliance concerning the tax and customs obligations that fall to him. Presenting the results of breaking up transnational smuggling networks and how the authority proceeds to analyze the most discrete operations over which it has control, can deter, and prevent the fraudulent act.

Therefore, cooperation does not only represent the partnerships between bodies and institutions, the creation of common databases, the use of AI, and the digitization of the administration, because all these represent normality. Strengthening cooperation implies, in addition to better governance of crises, bringing together institutional experts with economic and academic specialists, and the results obtained must be disseminated to all interested parties, including taxpayers who, in the greatest party, are honest and must become partners as facilitators or whistleblowers.

Diminishing the role of OLAF and increasing anti-fraud powers for the European Public Prosecutor's Office is a mistake. The prosecutor's office's investigations, which have a rigor, are based on very strict criminal procedures, which also assume the granting of the right to defend the person suspected of fraud, the cooperation with the national prosecution structures, which have their national regulations, can be cumbersome and often allow offenders to retaliate or identify procedural means that ultimately lead to prescription or other remedies permitted by law. OLAF has easier administrative procedures and cross-checking mechanisms through the exchange of information which is strengthened and operates at the Member State level. In other words, these two elite units must conclude and not have their investigations.

RESULTS

System-level updating of risk analyses based on risk indicators that should not be limited only to fiscal and customs considerations, but capitalize on the entire package of information related to the global and regional context, either in terms of the component of security, which creates new economic alliances, but also the verification of all

changes to customs tariffs imposed by other states which, depending on the key products, can create risks and threats of undervaluation, false declarations, evasion of anti-dumping duties [7]. It is necessary to create records that will be entered in the integrated database of the customs and tax authorities in red for additional checks at the origin, value in customs, the legal beneficiary, alternative transit routes, etc.

A common dedicated and classified platform at different access levels for risk analysis, for real-time information exchange, bringing together all other existing programs (Arachne10, EDES11, SUMMA12, and IMS13) and managed by the European Commission, including through the ethical use of AI, could represent a step forward in the broad process of fighting fraud and protecting the EU's financial interests.

The strengthening of administrative cooperation must have as its main pillar OLAF, an institution specialized in the identification of possible frauds, the other institutions being supporting bodies. It is only an appearance that the European Public Prosecutor's Office is a specialized structure in the early detection of fraud by starting its investigations. Specialist advisers (collaborators) of the prosecutor's office are not at the level of expertise of OLAF workers, nor do they have responsibility for the act. In addition, the procedures that form the basis of the prosecutor's office's activity, approved by a directive, are insufficient and overlap with the criminal procedures of the member states, the competencies in criminal matters belong to them.

We believe that OLAF's ability to establish and maintain institutional links with several specific structures in the EU and beyond remains a distinctive quality that makes an important contribution to the fight against fraud and other non-compliance.

DISCUSSIONS

Can ethical culture and the fight against fraud contribute to a reflex for tax and customs controllers, respectively for taxpayers? There are three dimensions that, in my opinion, should be explored: the professionalization of the staff, better governance of the authority, and the awareness of the population and entrepreneurs about the importance of compliance with the rules through joint open sessions, and free training programs for all interested.

The annual taxation forum organized by the European Commission could bring together specialists from the control structures at the EU level and experts from public finance, academia, and research so that through the mutual transfer of knowledge they could create a working platform that could bring added value to the act of control, the identification of new evaluation and risk analysis techniques. Multiplying the results obtained at such public meetings, organized under the auspices of DG TAXUD of the Commission, is essential. Public finance workers, customs authorities, police officers, intelligence officers, as well as other categories of civil servants, need to know the latest trends and challenges in the field of fraud and other non-compliance so that through a joint effort they can effectively fight against fraud and tax evasion [8].

CONCLUSIONS

The annual public reports highlight the fact that in 2023, OLAF and the European Public Prosecutor's Office opened almost 2000 investigations, which corresponds to damages estimated at approx. 13 billion euros. This is to a large extent the result of better cooperation between the two structures on the front line of the fight against fraud, but also of the cooperation with the national authorities, the collaboration agreements, and protocols of the two working bodies with specialized structures from the EU and outside it.

Strengthening cooperation in the field of revenue fraud, misappropriation of funds, and money laundering requires the urgent review of the Commission's action plan, which is forced to further develop analytical tools, and data exchange and create legislative mechanisms for rapid intervention by the authority.

The development of a transatlantic partnership has the potential to reduce kleptocracy, and corruption and identify remedies for a rules-based international order and the strengthening of democratic values.

Strengthening the anti-fraud culture and digitization are essential themes for fraud prevention, detection, and investigation.

The establishment of single registers of beneficial owners, following the model already in place in the UK, would improve compliance with sanctions and allow much easier, transparent access to affiliated persons involved in group transactions and would prevent circumvention and standardize customs enforcement.

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THE EUROPEAN UNION'S WORK AGAINST ENERGY POVERTY

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ABSTRACT

This study analyses the strategies and measures adopted by the European Union to address the growing problem of energy poverty. European, national and regional policies will be examined (with particular attention to the interventions put in place by the Sicilian Region), the financial support programmes and awareness raising initiatives implemented in Member States to combat energy poverty. The survey highlights best practices and persistent challenges, with a focus on the impact of sustainable energy policies and the accessibility of energy resources for the most vulnerable segments of the population. The Sicily Region, through its investment support programme, has promoted energy and environmental sustainability in the Sicilian municipalities by setting up a Community of Renewable and Solidarity Energies. With the voluntary participation of public and private entities, energy communities have been established to carry out activities of production and virtual sharing of electricity thus guaranteeing low prices and consequently protecting vulnerable people; Improved efficiency in consumption; the possibility of being competitors in the energy market. The results of the analysis conducted show that the 'trilemma of energy', as defined by the World Energy Council, namely the simultaneous pursuit of energy security, Environmental sustainability and socially equitable access to energy sources can be achieved provided there is an integrated approach that combines social and energy policies.

Keywords: energy poverty, sustainable development, renewable energy.

INTRODUCTION

Energy poverty is a complex phenomenon with multiple causes and different consequences. It has become increasingly relevant in Europe, to the point of entering the European Agenda with the term's energy poverty or fuel poverty. Energy poverty is used by the institutions of the European Union to indicate the inability to use essential energy goods and services [1] and is considered the typical condition of developing countries. The term fuel poverty refers to the energy deficit situation of households in advanced economies [2]. There are also institutions operating on a global scale, such as the International Energy Agency (IEA), which adopt their own definition of 'energy poverty: [...] lack of access to modern energy services. These services are defined as household access to electricity and clean cooking facilities (e.g. fuels and stoves that do not cause air pollution in houses)' [3]. However, the fact remains that when one or other of these conditions occurs, regardless of the cause, energy poverty assumes radically different meanings and connotations depending on the population or the reference territory. Another distinction made is between the inability to access such goods and services (accessibility) approach and inability to buy (affordability) [4]. Again, the distinctive features are not marked. The concept of accessibility, for example, is not only related to relative disadvantages in relation to income and energy costs but also to

the lack of adequate energy infrastructure and the unavailability of technologies or devices. More specifically, the concept of energy poverty refers to the difficulty, mainly for households, to bear the costs of meeting their basic energy needs, such as heating, air conditioning, Lighting and energy availability for cooking and running essential appliances. Energy poverty can therefore be defined as a multidimensional phenomenon. In many cases, it is mainly caused by three root causes: high energy expenditure compared to the household budget, low-income levels and poor energy efficiency of buildings and appliances. The situation of a household may be further influenced by geographical and climatic factors, the characteristics of the family itself, gender, health conditions, specific energy and transport needs. Households with higher energy needs, including those with children, disabled people and the elderly, are more exposed to energy poverty and its effects. Women, especially those who are alone and aged, are also particularly affected by energy poverty due to structural inequalities in income distribution, socio-economic status and gender gaps in care [5]. The European Parliament, together with the Council and the Commission, on 17 November 2017 identified energy as an essential service to which every person has a right to benefit [6]. To date, there are two EU Directives that require Member States to take appropriate measures to address energy poverty where it is found, including measures to address the wider context of poverty. Directive 2009/73/EC and Directive (EU) 2019/944.

MATERIALS AND METHODS

According to the latest data, in 2023 10.3% of the population of the European Union could not adequately heat their homes. This is a growing fact. The figures highlight the seriousness of the situation, urging Member States to take action to tackle energy poverty. The aim is to pursue a just and fair transition.



Source: Eurostat, Inability to keep home adequately warm

The European Union has recognized the seriousness of energy poverty and developed a number of strategies and measures to tackle it, in line with the sustainability and social inclusion objectives of the European Green Deal and the 'Fit for 55' package. These initiatives aim to reduce social and environmental inequalities while ensuring a fair and sustainable energy transition [7]. As regards the regulatory framework, the concept of energy poverty was introduced in 2009 by Directive 2009/72/EC and has since been extended, to provide a uniform legal and conceptual basis for the Member States. The Clean Energy for All Europeans Package [8], adopted in 2019, called on Member States to monitor and address energy poverty in their National Energy and Climate Plans. This framework included a common definition of energy poverty, encouraging countries to

develop criteria and indicators for measuring it. In this regard, the EU has allocated significant funding through various programs such as the European Social Fund Plus (ESF+), the Just Transition Fund and Horizon Europe. These funds support targeted measures including energy efficiency in residential buildings, modernisation of energy infrastructure and training programs for skills related to the energy transition. Furthermore, The Union has created the Social Climate Fund, which aims to reduce the impact of energy transition on low-income households through direct support and programmes to improve the energy efficiency of housing. Promoting energy efficiency and renewable energy sources are key tools to reduce energy poverty. It is no coincidence that the EU encourages Member States to invest in energy upgrading of buildings, especially for low-income housing or homes for vulnerable families. The Renovation Wave programme aims, for example, to renovate millions of buildings across Europe to make them more energy efficient and more resilient to energy price fluctuations. At the same time, the EU is promoting the adoption of renewable energies such as photovoltaic and solar thermal to lower household energy costs and reduce dependence on fossil fuels. The EU is introducing monitoring tools to assess the impact of national energy policies on energy poverty. For example, the European Energy Poverty Observatory was set up to collect data, disseminate information and support the development of more effective energy policies. The European Union recognises the importance of public awareness and assistance to families in difficulty. Information campaigns are promoted to help citizens understand and adopt energy saving practices, and access to free advice on improving household efficiency is facilitated. The comparative analysis of policies to combat energy poverty between the European, national and regional levels, with a focus on the interventions of the Sicilian Region, also highlights the importance of a multi-level strategy, combining laws, funds and information programmes to tackle a complex and multifaceted problem. This analysis allows an understanding of the similarities, differences and synergies between policies at different levels of government, highlighting the role of each in developing an effective and coordinated framework to reduce energy poverty. At European level, the institutions have formulated policies and strategies to support member states, including a common regulatory framework. Among the latest initiatives is the EU 'Energy Poverty Advisory Hub', which includes the Covenant of Mayors among the main players. According to the definition adopted in this context, energy poor are those: '...unable to afford basic energy services (heating, cooling, lighting, mobility and power) to guarantee a decent standard of living due to a combination of low-income, high-energy expenditure and low energy efficiency of their homes'. Indeed, the EU defines energy poverty as a multi-dimensional phenomenon. In many cases, it is mainly due to three causes. The first cause is the high expenditure on energy that households are facing. The second is low-income levels. The third is the low energy efficiency of buildings and household appliances. Other factors that significantly affect families are geographical and climatic factors and the health status of family members. At the national level, Italy has introduced specific laws to monitor and address energy poverty. It introduced the "Social Energy Bonus" which is a financial support for families in economic hardship. At regional level, Sicily has created the Sicilia Energy Fund, which supports measures for energy efficiency in small and medium-sized enterprises and low-income households, encouraging the installation of photovoltaic systems and energy upgrading. Using EU funds, Sicily has promoted building renovation programmes with renovations in social housing buildings, improving efficiency and reducing energy costs for

residents. Given the geographical position and high solar exposure, the Sicilian Region has developed projects to increase the use of photovoltaic and solar thermal in homes, with soft loans for families in difficulty. Sicily has also launched information campaigns to promote responsible energy behaviour, in collaboration with local authorities and associations, offering free advice services to help citizens reduce their energy consumption. Within the framework of the PR ERDF Sicily 2021/2027, the Department of Energy of the Council has issued the payment of grants for the construction of renewable generation plants called Renewable Energy Communities with a Solidarity configuration. The aim of this intervention is exclusively to combat energy poverty and decarbonization of public utilities. This analysis demonstrates how multi-level strategies are essential to tackle energy poverty, integrating European standards, national laws and regional policies adapted to local needs. The Sicilian region, like other regional contexts, plays a crucial role in implementing measures, adapting them to its own specific socio-economic and climatic conditions.

RESULTS

The EU funds to combat energy poverty are bearing their first fruits. The Sicily Region, with the investment support program, has promoted energy-environmental sustainability in Sicilian municipalities through the establishment of Community of Renewable and Solidarity Energies. This was possible with the voluntary participation of public and private entities that joined together to create renewable energy communities aimed at performing activities of production and sharing 'virtual' electricity, thus guaranteeing low prices resulting protection of vulnerable persons; Improved efficiency in consumption; the possibility of being competitors in the energy market. Renewable energy communities, together with the actors who practice collective self-consumption, are gaining a clear position of primary public interest in the changed paradigm of energy production and consumption, increasingly focused on the pursuit of environmental and social benefits. The scenario is evolving rapidly, and it is essential to promote and encourage a continuous, critical and constructive comparison between science, technology, institutions, Citizens and businesses, so that the development opportunities that energy communities and self-consumption can potentially generate can be successfully seized, including through a proper development of *prosumerism* [9]. This will enable local authorities and municipalities with more than 5000 inhabitants to produce and exchange energy through a new conception of the role of energy no longer as a mere market product, as a primary resource to be used in the interest of the community itself, also with the aim of combating the phenomenon of energy poverty. Directive 2019/944/EU, on common rules for the internal electricity market, introduces a new legal entity, called Citizens' Energy Community, which differs from the Renewable Energy Communities, introduced by Directive 2018/2001/EU, for the absence of territorial contiguity and for the possibility to participate in generation, including and not only from renewable sources, distribution, supply, consumption, aggregation, storage of energy, to energy efficiency services or charging services for electric vehicles or provide other energy services to its members or associates. The development of these communities will in future make it possible to link the production plant geographically with the site where consumption will take place, thus reducing congestion and network losses. At the same time, there will also be an environmental benefit. Reductions in air pollution emissions. There are many reasons why the EU is

focusing heavily on these new forms of energy production. The Energy Communities seem to be a way of involving as many social actors as possible in the challenge of decarbonisation, with the aim of improving energy efficiency and reducing energy consumption, in particular, to reduce energy and social poverty. The Renewable Energy Communities will have to play new roles in social, ethical and civic areas, structuring themselves through a local governance with direct responsibility, at the basis of which citizens, associations and business realities, shall share a set of principles, rules and procedures that relate to community management and governance, towards self-management objectives and resource sharing.

DISCUSSION

Energy poverty has become an increasingly topical issue, but it is not yet perceived by most people as a real problem. Questions such as ‘why is Energy Poverty important?’ or ‘what are the causes that give rise to it and what its consequences that brings on everyday life?’ are not on everyone’s lips. Better understanding the problem of energy poverty is of fundamental importance, especially for politicians because it is a phenomenon that affects many areas and has consequences on the economic and social development of a country. According to the First report on the state of energy poverty in Italy by the Italian Observatory on Energy Poverty [10], there are four main reasons why energy poverty deserves attention. The first concerns energy, which is like other basic needs for survival and life of the person such as drinking, eating and owning shelter. It is a good whose consumption can guarantee positive externalities both physical and psychological that occur when an individual is the beneficiary of a positivity produced by another entity and does not correspond or pay a price equal to the benefit received and which can be considered Meritorious because it contributes to the satisfaction of important needs for the community and is therefore worthy of public protection regardless of the demand made by potential users. The second reason concerns energy as a household good, because it does not show reactivity or sensitivity when prices vary. For this reason, if increases occur, they very often lead to an increase in supply expenditure in the short-medium term, which is particularly burdensome on households with fewer resources available, thus contributing to creating even more differences within a society. Two other factors contributing to the increasing importance of energy poverty are climate change, which can affect household energy demand and the energy transition, or the transition from non-renewable to renewable energy sources. In Italy, too, according to the ‘First report on the state of energy poverty in Italy’, the energy transition is leading to a rise in energy prices, in particular electricity and has an incremental impact on the bill of a typical consumer of about 25% of the final price. How to combat energy poverty, then? Among the requirements set by the Sicilian Region for the establishment of renewable and Solidarity energy communities is required that at least 10% of participants in the CER are invested with energy poverty, a phenomenon with several causes incorporated in a socio-environmental context complex technical [11]. This is confirmed by the European Energy Poverty Observatory (EPOV) [12], which identifies four different primary indicators for measuring energy poverty, namely too low energy consumption, the proportion of income that is spent on too high energy costs, late payment of bills and inability to keep a house adequately warm in winter (or cold in summer), linked to serious housing quality problems, as roof leaks, moisture in floors, walls or foundations, mould and window fungi [13].

CONCLUSION

It is precisely from the perspective that energy poverty is a complex phenomenon, characterised by multiple causes and with different consequences, that a multidisciplinary approach should be adopted in combating this phenomenon [14]. Systematic dialogue should be established between relevant public decision-makers in the fields of energy and environment, socio-economic, engineering and medical. Similar forms of research collaboration are also desirable. The issue is becoming even more sensitive in the current economic climate, which is marked by strong inflationary pressures, mainly driven by energy prices, an economic recovery stifled by the strong uncertainties linked to the evolution of the crisis currently taking place in Ukraine and Israel. At present in Italy there is only the social bonus which is helping to stem the serious effects of the energy crisis on the survival and competitiveness of companies, the deterioration of the well-being of citizens, serious health impacts, on the environment, as well as other side impacts, but no less important ones, such as social inclusion. Lack of proper heating can lead to respiratory diseases, heart problems and other cold-related health conditions. Similarly, the inability to adequately cool homes during heat waves can put people's health at risk. Energy poverty is also linked to personal comfort and well-being, as well as often being related to other forms of poverty such as food poverty, lack of access to clean water and lack of education [15]. These challenges can be interlinked and perpetuate each other. Furthermore, inefficient energy use in homes contributes to greenhouse gas emissions and the aggravation of climate change. In conclusion, energy poverty can have a negative impact on the global environment.

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THE PATIENT AS CONSUMER' A LEGAL ANALYSIS BETWEEN THE RIGHT TO HEALTH AND MARKET REGULATION

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ABSTRACT

The valorisation of a healthcare model centred on the active role of the patient has allowed its assimilation, from a legal perspective, to the figure of the consumer, characterised by ontological vulnerability and information asymmetry. This analogy is convincing in the hypothesis of the patient-direct user of medical devices, while it is more problematic in the presence of a therapeutic relationship between the patient and the healthcare provider, in particular medical facility. The assessment of compatibility between consumer and care relationship is conducted through the analysis of the European legislation on the notion of consumer (Dir. 93/13/EEC), and of the case law of the CJEU, which is reluctant to undue extensions of protection (cf. C-177/22), albeit with variable geometry. The study of case law about product liability (Dir. 85/374/EEC; Proposal 2022/495), shows the application of the discipline to damages suffered by any injured party, even without the status of consumer. This paper critiques the consumer metaphor, a view shared by American doctrine (Gusmano et al., 2019), not only for reasons of economic policy (e.g., inapplicability of the rule of supply and demand to the healthcare market), but also due to the distinct nature of the interests involved: commercial in the consumer relationship and existential in the care relationship, which seeks to protect the fundamental right to health (Art. 35 of the Charter of Fundamental Rights of the EU).

Keywords: healthcare, patient, consumer, care relationship, fundamental right

INTRODUCTION. THE NEW ERA OF PATIENT-CENTERED CARE: BENEFITS AND RISKS.

The active involvement of the patient in the healthcare relationship is the result of a new vision of the doctor-patient dynamic, adopted in the contemporary European context. It overcomes the previous paternalistic conception of care, where the patient is a mere object in the hands of the doctor, placed in a position of total subordination. The transition to patient-centred care is demonstrated by the spread of personalised care, by a new conception of health – conceived not only as the absence of disease, but as overall and subjective psychophysical well-being – and by the relevance of the patient's informed consent, which places him/her on an equal position with the medical professional. The principle of informed consent is invoked both by Article 5 of the 1997 Oviedo Convention on Human Rights and Biomedicine and by the recent Council of Europe Report 2021 on the implications of AI in the doctor-patient relationship [1].

If the new centrality offered to patients is to be appreciated, it is necessary to avoid, on the contrary, an excessive valorisation of their individual will, which risks turning them into 'clients' of the health service. The need to avoid forms of economicist reductionism in the health sector arises not only at the individual level of the contract between doctor and patient, but also in a general perspective, looking at European private law and the

regulation of cross-border health services. Directive 2011/24 on cross-border healthcare – which transposed the recommendations of the Court of Justice, starting with the well-known Kroll and Decker cases of 1998 (C-158/96; C-120/95) – has granted European patients the freedom of choice of the State providing treatment, bringing national healthcare systems into single market law. Confirming this, the legal basis of the Directive, despite the reference in the first Recital to Article 168 TFEU and the principle of ‘Health in all policies’ (HIAP), is Article 114 TFEU, since the main aim of the Directive is the improvement of the functioning of the internal market and the free movement of goods, persons and services (see Recital 2) [2]. The figure of the patient is thus compared to that of the consumer, as both move around Europe in search of the best offer. The described process of consumerisation of the patient is the basis for our verification of an effective assimilation between the two figures, given the common functionalisation to market needs [3].

MATERIAL AND METHODS. EXTENDING CONSUMER LEGAL PROTECTIONS TO PATIENTS: A NEW PARADIGM?

European legislation aims at consumer protection, which is instrumental in generating confidence in the market and encouraging the consumption of goods and services. For this category of individuals, considered, by nature, a weaker party to the contractual relationship, various advantageous rules are provided (cf. Directive 93/13/EEC on unfair terms; Directive 2011/83 on consumer rights; Directive 2005/29/EC on unfair commercial practices). For instance, in cases of transnational relevance, private international law provides for advantages in the choice of the court with jurisdiction and the identification of the applicable law. More precisely, Article 18 paragraph 1 of EU Regulation No. 1215 of 12 December 2012 (‘Brussels I bis’) allows the consumer to bring proceedings in the courts for the place where he/she is domiciled. With regard to the identification of the applicable law, Article 6 paragraph 1 of EC Regulation No. 593 of 17 June 2008 (‘Rome I’) permits the use of the law of the country where the consumer has his/her habitual residence [4].

For the application of the legal framework described above to the therapeutic context, it is necessary to verify the presence of the constituent elements of the consumer case, i.e.: the possibility of qualifying the patient as a consumer; the doctor/health facility as a trader; the therapeutic relationship as a consumer contractual relationship. Under European Union law, a consumer is ‘any natural person who is acting for purposes which are outside his trade, business, craft or profession’ (cf. Article 2, number 1 of Directive 2011/83). According to the established case law of the Court of Justice, this definition must be interpreted restrictively in order to avoid undue extensions of protection. The qualification of ‘consumer’ can therefore be legitimately attributed only following a careful assessment of the concrete case, in the presence of a situation of real contractual imbalance, and not on the basis of the generic subjective legal situation of the contracting party. This would result in the exclusion from protection of the experienced consumer and, on the other hand, the protection of small entrepreneurs who are, in concrete terms, in a condition of contractual weakness (C-177/22; C-498/16; C-630/17). In general, the patient turns to a health professional for purposes unrelated to his/her professional activity and can generally be regarded as a ‘consumer’ in this respect, unless there are particular professional needs (operations for athletes or surgical improvements for actors and singers). On the other hand, the ‘trader’ is defined as any legal entity acting in the course of its commercial, industrial, craft or professional activity. The notion thus extends

beyond that of entrepreneur and also includes legal entities who provide services that are not paid for directly by patients, but financed by public funds, since the economic and professional character of the activities does not disappear in these cases (C-203/99) [5].

While the subjective notions seem sufficiently broad to encompass the figures of patient and doctor/healthcare facility (even public), the overlap between the objective consumer relationship and the interaction between doctor and patient is more doubtful. Suffice it to think, from a substantive law perspective, of the problems of the legal qualification of healthcare liability, which arise not only from the existence of multiple contractual models in the Member States (with the risk of a possible conflict of qualifications) [6], but also because of the possible placing of healthcare relationships in the tort sphere [7], extraneous, by definition, to the contractual relationship between professional and consumer.

Moreover, in the perspective adopted here, the problem arises at the level of private international law in cases where treatment is provided to a patient in a Member State other than the Member State of origin, in application of the rights deriving from Directive 2011/24. In such cases, the rule of jurisdiction and applicable law of the consumer's State of residence/domicile would not be applicable, in the absence of directing at the initiative of the trader to the patient's Member State. The requirement of targeting is required by both Article 17 paragraph 1 letter c) of the 'Brussels I bis' Regulation and Article 6, paragraph 1 letter b) of the 'Rome I' Regulation (cf. Italian Supreme Court, no. 26986/2020) and is interpreted by European jurisprudence in a restrictive sense: it is not integrated by the mere accessibility of a website, nor is the language or currency relevant. Instead, it is required that the site explicitly invites the conclusion of a distance contract (C-585/08 and C-144/09). The requirement would be fulfilled only in the presence of telemedicine services directed by the professional to the State of domicile/habitual residence resulting in the effective conclusion of a distance contract. The refusal of the application of the consumer forum because of the patient's free choice to be treated in a territory other than that of his residence has also occurred in Italian domestic jurisprudence (cf. Italian Supreme Court, No. 105/2017 and 18536/2016) even if this reasoning has not been shared by part of domestic doctrine [8]. In Italy, the prevailing case law applies the domestic consumer forum rule (Article 33 letter u) of the 'Consumer Code') only to services provided by private clinics or public clinics paid directly by the patient.

Another area of verification of compatibility between the consumer and care relationship is product liability, which is governed by Directive 85/374/EEC, soon to be replaced by the new Directive, contained in Proposal 2022/495 and already approved by the European Union. The reference to the general regulation on defective products is necessary, since the European Regulation No. 745/2017 on medical devices does not regulate remedial profiles alongside the regulatory aspects. Even a patient, damaged by a defective medical device, would be able to bring a product liability action, upon proving the defect, the damage, and the causal link between defect and damage, benefiting if appropriate also from the presumptions contained in the new text (Article 9). The main addressee of this legal action is the producer, i.e. the manufacturer of the finished product or of one of its components, as highlighted by the Court of Justice, also in relation to the specific healthcare context (for a case involving the manufacturer of defective pacemakers, see C-503/13 and C-504/13).

It is more difficult to justify, on the same legal basis, the liability of the healthcare institution, which, normally, does not fall within the notion of producer. On the contrary, the healthcare institution has been qualified as a simple user of the defective product in the context of the provision of care to a patient, with the consequent exclusion of any involvement in the production chain of the good, or at least in the distribution chain (C-495/2010). The Directive, however, does not prevent Member States from recognising forms of strict liability also of the suppliers of services (the healthcare facility) that has caused damage through the use of the defective product, provided that that this liability does not reduce that of the manufacturers of the product. The proposal, dating back to 1990, for a Directive on the liability of suppliers of services, which was intended to support the product liability Directive in completing the framework of European consumer protection legislation, has, however, remained unimplemented [9].

An exception to the exemption from liability for the healthcare facility is the case where it is involved in the manufacturing process of the product, which is manufactured within it, or is modified by it and used in another hospital (C-203/99). The possible passive legitimacy of the health professional is not based on his/her qualification as a professional supplier of a health service, but on that, to be verified in concrete terms, of producer who, at the time of treatment, puts a product into circulation. The passive legitimacy of product liability actions is, at the same time, more restricted and more extensive than that deriving from the consumer relationship: more restricted, because the patient cannot act against the trader if the latter is not also the producer; more extensive, because the patient can act against any producer, even in the absence of a previous contractual relationship, on the basis of the objective (non-contractual) nature of product liability.

With reference to active legitimacy, the Court of Justice has specified the consumerist nature of the action based on Directive 85/374, also by virtue of the reference to Article 9(b), which requires from the injured party the private use or consumption of the thing (C-691/2021; C-285/2008). Even the new text of the Directive, in Recital 1, includes among its aims the raising and homogeneity of the degree of consumer protection. This reconstruction, however, does not produce any limitations: the harmonisation only partially brought about by the Directive allows States, for example, to provide for a similar liability regime for damage caused to a thing intended and used for professional activities. It therefore seems possible to hypothesise the standing to sue of a generic injured party, even if not qualified as a consumer. Both the French legislator (Article 1245 paragraph 1 of the French Civil Code) and the Spanish legislator have taken this line. The latter, in setting out the reasons for the enactment of Law 22/1194 implementing the Directive ('Ley de responsabilidad civil por los daños causados por productos defectuosos'), expressly extends protection beyond the notion of consumers in the strict sense. In Italy, a ruling by the Italian Supreme Court has confirmed this reconstruction: the Directive grants standing to any individual who has been exposed, even occasionally, to the risk arising from the defective product, even if not necessarily a consumer or non-professional user (cf. Italian Supreme Court, No. 13458/2013). The parties involved in a case of damage caused by a defective product are, generally, a producer and an injured party. Therefore, the patient's ability to bring a claim for product liability is independent of the characterization of the doctor-patient relationship as a consumer relationship.

RESULTS. RETHINKING THE CONSUMER METAPHOR: A MISFIT IN HEALTHCARE

The first area assessing the compatibility between the qualifications of patient and consumer is placed at the level of private international law and concerns instrumental rules. It relates to cross-border disputes, where patients, in implementation of the right to cross-border healthcare, move away from their state of domicile or residence to be treated elsewhere. Although mobile patients exercise their rights under Directive 2011/24, the protective rules for consumers do not apply to them, due to the lack of the targeting requirement, except for digital distance patients. Patients therefore remain subject to the jurisdiction rules of Articles 4-7 of Regulation No. 1215/2012 and the applicable law rules of Articles 3-4 of Regulation No. 593/2008 (according to Article 6 paragraph 3). The exercise of the right to healthcare mobility in practice prevents patients from benefiting from a regulatory advantage. Italian jurisprudence also confirms the controversial application of domestic rules on the consumer forum by Italian courts in the presence of mobile patients within national borders.

The compatibility analysis carried out on the level of substantive law does not lead to different results. The diversity of the constituent elements of product liability (non-contractual nature; involvement of the injured party and producer) compared to those of the consumer relationship (contractual liability; relationship between consumer and professional) allows an injured patient to bring an action on the basis of Directive 85/374 regardless of the previous qualification as consumer. Finally, the incompatibility between healthcare and consumer protection is expressly confirmed in Directive 2011/83. It excludes healthcare from its scope of application, due to its technical complexity, its importance as a service of general interest and considerable public funding (Article 3, paragraph 3, letter b)) [10].

DISCUSSION. HEALTH'S UNIQUE BALANCE: WHERE CARE MEETS MARKET COMPETITION

Many doubts emerge from the above considerations regarding the assimilation, from a legal point of view, of patient and consumer. There are many critical points arising from this attempt at overlapping, ranging from the inapplicability of the international-privatist and substantive discipline, to the unnecessary of this verification, given the protection in any case guaranteed to the injured patient by the defective product rules. It is therefore necessary to investigate the reasons, including socio-economic ones, which gave rise to the mercantilist approach, well expressed in the cross-border healthcare Directive.

The attraction of health to the internal market has only emphasised its individualistic side (health as a liberty right), to the detriment of the public and social dimension (health as a general interest). The so-called 'consumer metaphor' can effectively work only if the patient, like the consumer, actually operates within a market. Despite the efforts of European judges and legislators, healthcare cannot be considered a free market in the sense understood by economic theory. In this sector, the level of information asymmetry between expert and user is particularly high, as in the relationship between lawyer and client: professionals (health or legal) 'display a high level of technical knowledge which consumers may not have and the latter therefore find it difficult to judge the quality of the services provided to them' (C-94/04; C-202/04). Even the European Commission, in its 'Report on Competition in Professional Services' (COM(2004)83 of 9 February 2004) highlights that professional services are 'credence goods' the quality of which cannot easily be judged either by prior observation or, in some markets, by consumption or use. Moreover, the patient's condition is made even more delicate by the physical-

psychological vulnerability caused by his/her already compromised state of health. The high costs of health care do not depend on the high demand of patients: it follows, on the other hand, that it is impossible to reduce costs through mere compliance with the rules on competition and price transparency [11].

On the offer side, a competitive condition requires the presence of a plurality of competitors, providing the same service and operating in similar situations, without implementing unfair and competition-distorting practices. In the EU context, this description is not always realistic, especially in areas with few hospital services, such as rural, isolated or sparsely populated areas. There is also a differentiation between public and private hospitals: the former provide all essential public services and also admit patients in serious and compromised situations; the latter prefer to act in the presence of a less difficult clinical picture, and concentrate on the more remunerative areas, such as surgery. When providing services on a fee-for-service basis, private doctors tend to offer patients additional and more complex services than those necessary for treatment, in order to justify price increases. If the patient is regarded as a client, the doctor would be obliged to carry out all his/her requests, based on the approach that 'the client is always right'. Health would be considered exclusively as a projection of the individual's will to the detriment of the doctors' right to scientific autonomy, understood as diagnostic-therapeutic freedom, to be exercised in compliance with the canons of diligence, expressive of the best medical science [12]. On the contrary, healthcare services represent a special market, as they fall under the category of services of general interest. In the European tradition of the welfare state, moreover, the right to health is considered a social right, whereby the state assumes responsibility for guaranteeing health care to its citizens, covering all or part of the costs, which are transferred to the community through taxation.

It follows from these considerations that 'medicine and the sale of medicinal products (...) is not a business like any other business', as was also stated by Advocate General Yves Bot in his opinion during a case before the Court of Justice on healthcare matter. (C-339/15). This diversity arises from the specific nature of the legal good of health and justifies limitations and exceptions to the competition and free market regime. Indeed, European jurisprudence has also demonstrated its awareness of the peculiarities of this sector. It has recognised the compatibility of certain limitations on the freedom to provide services with the European Union order, in the presence of an overriding reason of public interest, for example 'the objective of maintaining, for reasons of public health, a balanced and accessible medical and hospital service' that may fall within one of the exceptions justified by public health grounds, provided that this objective contributes to achieving a high level of health protection. (C-570/07 e C-571/07; C-113/13). On the basis of these reasoning, the Court of Justice has ruled in favour of the legality of the prohibition on the sale of prescription medicines in parapharmacies (C-159/12; C-162/12), as well as the prohibition on non-pharmacists managing a pharmacy (C-171/07; C-172/07).

Limitations on the freedoms of establishment and freedom to provide services have also been justified in the advertising of health professions, as in the well-known case on dental care (C-446/05; C-339/15) [13]. The relationship of trust between doctor and patient would risk being undermined if health care professionals could advertise their services to the public for the purposes of attraction or incitement. In such a case, the patient might reasonably suspect that the specialist's advice or recommendation in favour of a specific medical service is dictated by economic interests and not to protect his/her right to health.

Confirming this position, recently, the European Commissioner for the Internal Market, Thierry Breton, in a written answer of 18 August 2022 to a question on the subject put forward by the Bohemian Member of Parliament, Katerina Konečná, reaffirmed the ban on promotional advertising of health products and services when it misleads or suggests patients and at the same time compromises the professional dignity of health professionals. Italian law is respectful of this rule: it prohibits (Article 1, paragraph 525 L. 145/2018) in information communications by healthcare facilities and professionals, the dissemination of elements of an attractive and suggestive nature, including communications containing offers, discounts and promotions, that may lead to the improper use of healthcare treatments.

In addition to the economic reasons against the use of the consumer metaphor, there is also an axiological reason, which assumes significant specific weight within the argumentative path. Between patient and consumer there is an ontological difference, represented by the different nature of the interests involved. The patient enters into a contract for personal purposes and to satisfy a wish; the patient turns to healthcare because of the need to receive treatment. In the first case, it is a free choice, justified by economic interests; in the second case, goods with the highest legal value are involved, such as life, physical integrity, psychological well-being, the expression of existential interests, and connected with the protection of the person [14].

CONCLUSION. BEYOND CONSUMERISM: SAFEGUARDING HEALTH AS A HUMAN RIGHT

The process of patient consumerisation has been based, at a general level, on the attraction of the health sector within the single market, and at a particular level, on the predominantly individualistic interpretation of the right to health, with the solidarity dimension taking second place. Both factors have been reinforced by the Directive on cross-border healthcare (2011/24). Although the consumer metaphor may appear justified on the basis of this legal text and its application in the European context, it ultimately proves unsatisfactory and inadequate in capturing the true condition of the patient. To support this assumption, legal arguments were first presented, covering both aspects of private international law (jurisdiction and applicable law) and substantive issues (such as product liability). Additionally, the economic analysis of the healthcare market also highlighted its distinctive characteristics compared to the general rules on competition and service advertising.

These normative and economic considerations reflect the axiological reasoning that differentiates consumption from healthcare, based on the fundamentally different nature of the interests involved: the need for medical treatment contrasts with the choice to fulfil what is often a superfluous desire. Therefore, as suggested in the introduction, while a patient-centred healthcare system based on trust between the patient and the doctor should be favoured, on the contrary, the transformation of the treatment relationship into a consumer relationship must be avoided. This approach acknowledges and promotes the intrinsic value of health as a fundamental human right [15].

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IL RUOLO DELLE *ALTERNATIVE DISPUTES RESOLUTION* NEL FRAMEWORK ENERGETICO EUROPEO

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ABSTRACT

The final frontier of European transitional energy law must be found in the introduction of a balanced and efficient system of climate and energy justice. The stratification, over time, of multiple rules in European Union law, both *soft law* and *hard law*, has, on the one hand, ensured legal certainty and regulation of the various aspects of the matter but, on the other hand, risks increasing litigation between the players in this field exponentially. The significant increase in the number of regulations governing the various aspects of the 'energy community' entails the need to raise the level of protection for energy consumers and, consequently, the need to provide adequate remedies to safeguard their rights. Among the factors affecting the need to set up an adequate system of judicial protection is the proliferation of private subjects who, in the new guise of *prosumers* and *prosumagers*, enjoy powers that are more incisive in the energy cycle, even though they do not give up their formal consumerist position. One thinks, of the integration into the electricity system of the digital transition, which, alongside the energy transition, risks creating multiple problems in the private lives of users connected to the electricity grid, starting with security from cyber-attacks and ending with the uncontrolled dissemination of personal data, damaging the confidentiality, dignity and identity of the individual. The energy justice system will have to measure itself against these factors and consider the need to flank judicial intervention with extrajudicial intervention, which is quicker, cheaper and entrusted to trained, impartial and equidistant parties. The realisation of the true energy just transition cannot omit to address the issue of safeguarding rights, lest consumerist achievements remain mere statements of principle, lacking adequate protection.

Keywords: ADR, digital transition, impartiality, energy justice system, prosumer

INTRODUCTION

Underlying the necessary increase in the level of protection of the interests of electricity market participants is the profound transformation that has taken place in the figure of the energy consumer, on which the main EU regulatory interventions on the liberalisation and greening of the electricity market have focused. The presence and actions of the new players on the energy scene will, in the short term, have a strong impact on the tightness of the jurisdictional system, multiplying litigation both among citizens and between them and the public administration. In fact, over time, energy consumers have been granted multiple powers that have made them protagonists in the energy transition process, in pursuit of the goal of climate neutrality [1]. These powers mainly include the ability to directly produce and store self-generated electricity, which is the consequence of overcoming the state monopoly barrier of energy generation and supply activities. This has led to a change in the figure of the end user of the energy

product who, from being a mere passive user of the service called upon to use the energy and pay for it [2], has become an active player in the energy supply system [3]. Thus, the progressive opening of the electricity market to the responsible intervention of private individuals has redesigned the figure of the energy consumer who, today, can be divided into two different categories: the user of the service and the active economic operator who produces and accumulates the good, primarily for consumption and the eventual sale of the surplus. In the context, then, of mere consumption, a distinction is made, in the aftermath of the adoption of Articles 28 and 29 of Directive 2019/944/EU (so-called IEMD), supplemented by Article 28a introduced by Directive 2024/1711/EU, between a weak or vulnerable energy user, as opposed to a person who consumes without being in a fragile situation [4]. The different view of energy consumerism [5] connected to the liberalisation of the energy system with the greater presence of private individuals [6] is evident, in particular, in the first distinction. In fact, the active consumer, compared to the past, does not just buy energy but intervenes, directly, in the production process by generating energy [7]. Direct intervention in the electricity market and in the production phase brings about a change in the figure of the consumer who becomes a prosumer [8], as a new active customer who uses, stores and sells self-generated energy. Their operation in the electricity market is subjected, by the European legislator, to the sole condition of compliance with the postulates of the green energy transition, which has imposed the abandonment of fossil fuels as sources of power generation plants in order to spread renewables. In fact, starting with the 2016 Resolution on the New Deal for Energy Consumers, and in line with the fourth energy package of 2018 and 2019, self-generation activity is conceived to be propulsive not only of competitive instances but, primarily, of those aimed at achieving the energy transition of the electricity system from a sustainable and green perspective. The spread of *self-generation* activities has led to an evolution of the role of the *prosumer* who, from being a monolithic figure with pre-established tasks, can be redesigned into ‘many differently regulated figures’ [9], in which the prosumer also operates. The latter, according to the indications coming from Article 21 of the RED II Directive and Article 2 of Directive 1711 of 2024, is that active customer called upon to produce, consume, sell but, above all, to store self-produced energy. The *quid pluris* of this figure is identified in the power to install special storage modules for the energy previously produced, to avoid its dispersion, especially in times of strong generation (think of solar energy in summer or during certain hours of the day, or wind power on windy days) [10]. The accumulated product will have to be used by the self-consumers themselves or sold directly to other consumers or service providers, thus ‘multiplying the possibilities of exchange’ [11] in order to enhance empowerment [12] in the relevant territorial market. The prosumer [13] represents, today, the true ‘protagonist of hitherto unheard-of forms of circular economy, realised through the exchange of renewable energy between neighbours’ [14] as he stimulates the decentralisation of energy production and consumption, making space and capital available not only to produce, but also to store the product. Energy storage avoids reliance on fossil fuels in climate periods of low production impact and allows for cost savings for those who reach purchase and sale agreements with prosumers. The deployment of storage systems, supported also by public subsidies for the realisation of the expensive installations (Art. 19e Regulation 2024/1747/EU), should ensure the flexibility of the electricity system with the lower use of fossil fuels in the long run, replaced by renewable electricity stored in batteries. Storage activities require the development and circulation of information about the

technology that can be used and the innovations that affect it, including through blockchain, in order to ensure that accumulators are increasingly efficient, less costly and capable of storing larger quantities. The true energy transition requires a serious change in the electricity sector that is not only economic, but also organisational and technological [15].

MATERIALS AND METHODS

The EU energy policy that has liberalised the electricity market by favouring the intervention of these new participants has had the merit of linking the energy and digital transition with the protection of the weakest players in the electricity market. Transparent in the intention of the unitary legislator, in *Recital* No. 58 of Directive 2019/944/EU, is the need to preserve the interests of the most fragile subjects, in terms of information, economic and personal, against professionals in the sector who might practise contractual conditions or excessively onerous prices. It must be borne in mind, then, that in this context the figure of the energy consumer does not coincide with that of the traditional consumer, since it also extends to naturally professional subjects, such as producers, who intervene in the energy process through the activities of generation, storage, and sale of the energy produced and not consumed. We are in the presence of a new meaning of consumer in a functional key that stands between the mere user of the electricity service and the energy producing company, because it is the beneficiary of consumer protection while exercising traditional entrepreneurial tasks. The finalisation of the generated product to self-consumption, growth and sustainable development justify the attribution of the consumer's powers to the prosumer who does not, as a consequence of the exercise of these tasks, divest himself of the status of weak market participant. This is confirmed by the 2019 *IEMD* Directive on the internal electricity market, which has dedicated its third chapter to the new, active and passive energy consumer, introducing *consumer empowerment and protection measures*. Firstly, the prosumer, as a consumer, is entitled to purchase energy from the central system, in all cases where that generated by his own system or supplied by any storage systems is insufficient to meet his needs. The possibility of freely having recourse to the market and to the institutional energy supplier was, further, implemented by Directive 1711 of 2024 which, in rewriting Article 4 of the *IEMD*, allowed each consumer to discretionally choose the supplier and to conclude, at the same time and for the same user, several supply contracts or energy sharing agreements. Secondly, the precept of transparency that informs all consumer relations obliges the energy professional to provide written, clear and detailed information to users, both in the pre-contractual phase and in the contractual phase. In the first phase, the consumer must receive all the information concerning the contract that he or she may enter into, its terms and conditions and the powers that may be exercised during the subsequent relationship, payment methods, and the principles governing the future provision of the service. During the course of the relationship, the information must cover, in particular, the conditions subject to change and the rules governing the user's withdrawal. In fact, energy consumers enjoy the rights to obtain a quick settlement, to withdraw from the contract that has just been concluded and, in the course of execution, to 'change their supply as soon as possible'. In addition to these 'basic' contractual rights, all these new actors can conclude contracts with dynamic pricing and receive a smart meter to measure their energy participation in the grid. Finally, the consumer rights granted to

prosumers have been further increased, with the power to ‘share renewable energy directly’ (Art. 15a of Directive 1711/2024) with all their neighbours or to obtain continuity of supply, through the provision of the regime of last resort to remedy situations of supplier failure. Lastly, the European legislator's attention to consumer rights extends to the justiciable level as well, with the provision of the right to access *ADR* procedures. One of the basic contractual rights that can be exercised, by all energy consumers, identified by Article 10(4) of the *IEMD* Directive, is the right to initiate an ‘out-of-court dispute resolution procedure’ in accordance with the regime of Article 26 of the same Directive. Furthermore, in compliance with the provisions of the judgment of the Court of Justice of 25 June 2020 (C-380/19), Article 10(4) provides for the obligation of the trader to include in the general terms and conditions of the contract concluded with the consumer the information on the alternative dispute resolution body, if recourse to such procedures is envisaged to resolve disputes with consumers.

RESULTS

The mere extension of consumer rights also to those engaged in self-consumption activities, without the provision of real instruments for dispute resolution, would render the energy transitional right ineffective, since the recognition and protection of rights would be left to the discretion of individual operators. On the other hand, judicial intervention alone to overcome disputes arising from, for instance, the non-recognition or violation of consumer rights, the dissemination and unlawful processing of supplied metering data, could only appear to be an insufficient response, as it would be excessively slow and, at times, considerably costly. Therefore, true energy transition, respectful of the green and blue binomial, must take into consideration the need to disseminate complementary remedies for resolving disputes arising between the various *market participants*, placing them on an equal footing with judicial procedures. It is necessary, in setting up alternative dispute resolution mechanisms, to entrust the power of conciliation to third parties, endowed with outstanding professionalism and training, capable of resolving the dispute out of court. In perfect harmony with this, the European energy legislator intervened with Article 26 of the *IEMD* Directive, which configured, for the benefit of electricity sector users, the right to use out-of-court dispute resolution remedies. This view is linked to Recital No. 5 of Directive 2008/52/EC, which qualifies access to alternative dispute resolution methods as capable of pursuing ‘the objective of ensuring better access to justice, as part of the European Union's policy of establishing an area of freedom, security and justice’. Article 26 stipulated that *ADR* in the energy sector [16], in the two forms of the mediator or consumer body, can be activated by end customers to protect their rights and ensure compliance with the obligations set by the unitary regulation, in relation to disputes concerning energy products or services. It is a procedure that complies with the requirements set out in Directive 2013/11/EU (the so-called *ADR* Directive), left to the choice of consumers, with low costs and a guarantee of rapid decisions. The reference to the legislation on ‘alternative dispute resolution’ imposes the obligation to appoint an arbitrator with proven competence, independence, impartiality and equidistant from the interests of the parties in dispute. The energy regulation has also taken this profile into account by preserving the independence of the arbitrator through the indirect provision of his extraneousness from the electricity companies, which are only obliged to participate in the procedure, if called by the customer. In compliance with Articles 5, 7 and 8 of the *ADR* Directive, which set forth the principles of stability, transparency and effectiveness of out-of-court settlement

procedures, the rules of access to energy arbitrations, the main procedural steps and the disputes that allow the arbitrator to disregard the request for protection must be indicated and made known to the parties. Where the arbitral award is binding on the parties, a network of rules will have to be put in place to give enforceability to the *ADR* decision, imposing effective sanctions on those who disregard its dicta. Indeed, the binding nature of the future electric *ADR* seems to be affirmed by Article 26(1) of the *IEMD* itself, which gives the Member States the power to grant arbitrators sanctioning powers to reimburse and indemnify the aggrieved consumer.

DISCUSSION

The path traced by the 2019 Directive was continued by Directive No. 1711 of 2024 which, in completing the energy legal framework, confirmed the consumer's right to have recourse to conciliation procedures, with the suppliers themselves or external arbitrators, prohibiting with *Recital* No. 27 of the same Directive to introduce discrimination against consumers who decide to have recourse to *ADRs*. Also in the electricity sector, in accordance with Article 1 of the *ADR* Directive, access to these procedures takes place by means of the submission of a complaint that must contain all the contentions on the supplier's infringement of rights. It is envisaged that the commencement of the proceedings does not produce any suspensive or resolute effects of the agreement, since the supplier cannot interrupt the contractual relationship with the customer and, consequently, reduce or block the supply of energy, both remaining obliged to observe the rights and obligations. Moreover, the 2024 Directive extends arbitration by configuring questions on bills and amounts due as naturally referred to future energy arbitrators. In the same act, it is provided that the establishment of the out-of-court dispute cannot represent a ploy for the consumer to evade contractual obligations, thus abusing the out-of-court instrument to pursue different purposes from those underlying its introduction. Finally, the 2024 Directive extends access to *ADRs* by end customers in cases where the dispute is based on an energy-sharing agreement with prosumers. The same Directive also provides that the energy consumer will be able to turn to arbitration in the event that, being in a state of 'energy distress', he cannot fulfil the counter-performance of payment for the energy used. In this case, Article 28 bis of the Directive provides for a twofold prohibition: for the supplier to interrupt the supply of energy or even terminate the contract; for the user to abuse the procedure whenever its activation is a means of evading contractual obligations. The completion of energy law with the introduction of an accurate alternative system to jurisdiction is considered necessary in order to make the set of rights granted to customers effective but, above all, coercible. Coercibility is a necessary and intrinsic quality of any legal field in order to guarantee the certainty and enforcement of its rules. It is evident that alternative dispute resolution tools facilitate conflict management and lighten the load of the judicial machine for the realisation of a more efficient and accessible set-up. The possibility of entrusting disputes concerning the resolution of minor legal issues to conciliators offers immediate answers to those whose rights have been infringed by the actions of practitioners and produces important effects on the actual and prognostic duration of trials, as well as on judges' productivity indexes. Sectoral *ADRs* [17] such as those in the electricity sector also respond to these considerations, since they provide for immediate justiciable responses, by trained and professional parties, in favour of users, with a clear alleviation of the heavy judicial machine. Commendable, in this sense, is the

Community's affirmation on the mandatory state provision of such procedures, on the extension of their intervention in certain contractual matters and on the powers granted to arbitrators, when seized by individual consumers, to impose fines on professionals. The aforementioned merits do not obscure all the profiles still left open by the cited regulatory provisions. There are no indications as to the nature and character of the final decision adopted by the arbitrator, since it is not clear whether it is contractual in nature, typical of a facilitative mediation, or para-jurisdictional, inclined to conform to an adjudicative mediation. This precludes the adoption of a clear-cut solution aimed at attributing the character of binding nature to the arbitral decision, in violation of Article 2 of the *ADR* Directive, which expressly contemplates the possibility of the body not limiting itself to bringing the parties together in order to facilitate the amicable solution, but also to impose it. The mere provision of the power to impose economic sanctions cannot overcome this regulatory *deficit*.

CONCLUSION

The indicated omission, and all the other unresolved points, force a solution to be found on the qualification of energy mediation, leaving open wide doubts on the actual effectiveness of this procedure. The solution could be to make access to energy mediators compulsory before activating judicial protection, as is the case in Italy for compulsory mediation, qualified as a procedural condition for access to the justice system. Such a framework, deemed compliant with EU law by the 14 June 2017 ruling of the Court of Justice (C-75/16), allows to prefer the path of facilitative procedures that can end with the proposition of solutions shared by the parties, leaving open the possibility of recourse to the Judge in the event of failure to reach an agreement. It seems, therefore, dissonant with the conformation of energy ADR the possibility for arbitrators to adopt real sanctions, without further indications on mandatory participation and the main procedural steps. Among other *deficits*, the EU legislator does not clarify whether adherence to out-of-court procedures can also take place for cross-border disputes and merely provides for the mandatory participation of professionals in the arbitration proceedings, probably undertaken by the consumer, thus implicitly dictating a rule on the costs of their establishment and operation, in line with the 2013 *ADR* Directive. What is missing, however, is any imposition on energy consumers, who are left 'free' to have recourse to arbitrators or, alternatively, to *formal justice*, and the individual disputes referred to arbitration are not identified, with the European legislator limiting itself to referring in, excessively, general terms to issues relating to billing and bills. Furthermore, the unequal treatment that has materialised in this area is evident, since nothing is provided for with regard to the possibility of recourse to *ADRs* by professionals against consumers, or in the case where prosumers are harmed, which concentrates professional and consumer powers within themselves. A reorganisation of the matter is necessary in order to overcome these shortcomings and prepare an adequate *body of* rules that effectively implement what is required by EU acts in this area. The reference to the 2013 *ADR* Directive, the provision of sanctioning powers and the extension of the procedures to disputes on energy sharing can only prove inadequate compared to the potential of these instruments, which can ease excessive litigation and offer immediate conflict resolution. It seems indispensable that

the new discipline be formed on the principles of joint negotiation, in which the parties are guided in the reconstruction of the facts in dispute in order to reach a peaceful and shared solution to the dispute. The essential task of the Conciliator lies precisely in the ability to get to know the parties, help them understand the conflict situation and guide them along this path to create the final agreement. Responding to the calls of the European institutions, the procedures should be informed by the canons of transparency, effectiveness, fairness and freedom, as well as being available and easily accessible *online* and *offline*; they should allow the participation of all parties without the need for legal assistance, be free or available at minimal cost, and be managed by impartial and competent bodies, established on a permanent basis under public control. Only in this way can the system guarantee the effectiveness of protection, which will not be compromised if the procedure is governed by entities that meet the requirements of the ADR Directive and does not result in the impossibility of seeking judicial redress.

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TRUTH, ERROR AND FALSEHOOD IN CONTEMPORARY SOCIETY AND THE JUSTICE SYSTEM

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ABSTRACT

In the present paper we aim to analyze the way the philosophical theories on the concept of truth find their applicability in the contemporary society and their influences on moral decisions and the making of justice. First, we will refer to the main philosophical theories in this matter: the correspondence theory of truth, the coherence of truth and the pragmatic theory regarding the truth and, also, to some relevant contemporary theories regarding the truth. Then, we will analyze how these theories fit into the lives of contemporary people, the link between truth and justice and how different types of errors and lies affect the proper functioning of society and the adequate development of the interpersonal relations. In the final part of the paper, we will describe the effect of errors upon the good administration of justice. We will argue that the good development of our social lives depends on the trust we have in each other and in the authorities. Also, the success of our actions depends on how well we know the difference between truth and error, how correct and logical our thinking is. Our sense of morality, justice and good is linked to the truth and implies avoidance of intentional or not intentional errors. If errors occur, they must be corrected as soon as possible in order not to lose trust in the social system.

Keywords: truth, error, falsehood, justice system, judicial error

INTRODUCTION

Human society represents one of the most complex forms of organization of a group of living beings (in fact, the most complex as far as we humans know). According to specialists, social instincts are at the basis of the formation of the human group, sociability being a trait inscribed in human DNA. In this sense, even the father of evolutionism, Charles Darwin, stated that: “habit in the individual would ultimately play a very important part in guiding the conduct of each member; for the social instincts and impulses, like all other instincts, would be greatly strengthened by habit, as would obedience to the wishes and judgment of the community” [1].

In contemporary studies of social psychology, it goes even further, showing that the social instinct of the human being is very developed and very old, being called hyper sociability, ultra sociability or swarming instinct [2]. “Humans everywhere have such a strong sense of group membership that most genetic changes must have occurred before our ancestors spread out of Africa and the Middle East about 50,000 years ago” [2]. Even though we have this natural tendency to belong to a group does not mean that we are not, at the same time, selfish and individualistic beings. We come from a long line of winners who want to assert themselves and obtain victories and trophies only for themselves, but “human nature also has a strong tendency to belong to the group. We are like bees in that we are ultrasocial creatures whose minds have been shaped by the constant competition of

groups with other groups of people. We are descendants of the first humans, who, animated by that group spirit, were able to unite, cooperate and defeat other groups. [...] We have the ability (under certain conditions) to transcend self-interest and lose ourselves (temporarily and ecstatically) in something greater than our own existence” [3].

The existence and durability over time of the social group favored “the evolution of a new series of instincts suited to life in such groups, including a mentality that expects life to be structured by moral norms and is designed to learn and implement such norms” [4]. Being an extremely complex group, society maintains its existence over time due to our instinctive inclination to live collectively and, at the same time, by formulating and imposing strict rules on the observance of which the very survival and stability of the group depends. In the most general way “a society is the people who live in a country or region, their organizations, and their way of life” [5].

Thus, the regulation by legal norms of mandatory, permitted or prohibited activities within a social group appears as a necessity to ensure the good functioning and survival of the group and its members. If in the first stages of the development of human societies moral and/or religious norms were effective and insured order, after a while it became clear that they cannot be sufficient when the number of members is large. Another type of order became necessary: the legal order. Our dual nature, partly bent on selfishness and self-interest and partly altruistic, requiring group membership to feel fulfilled and survive, is what maintains society and at the same time, sometimes threatens it. To combat those unfair, antisocial behaviors, the legal norm was created, and it still resides.

The legal norm represents that type of norm that, if necessary, can be imposed on the addressees through the coercive force of the state. Of course, we have in mind here the most beneficial form of social-political organization, democracy, not the abusive forms of coercion of totalitarian or tyrannical regimes. In the democratic state, the legal norms are developed by the elected representatives of the population and implemented by the executive authorities (also elected/appointed democratically, based on merit and according to the law). Furthermore, in the same democratic state, the judicial power intervenes and exercises its active role when certain legal norms are violated, when the legitimate rights and interests of the members of the respective society are violated.

This is the fundamental role of the judiciary power: to administer justice, to do justice, to ensure that those who break the law receive a fair and proportionate punishment, that the damage caused is repaired, that rights are restored. We can therefore conclude, without fear of being wrong, that justice and legal proceedings play an extremely important role in maintaining order within the state and, thereby, ensure the very survival of the group and its members. We are not exaggerating when we say that the administration of justice is a social matter of the utmost importance, i.e. life and death situation.

By itself, the notion of justice “brings to mind the concepts of right and truth, which are essential components of every legal system” [6]. We will further see what are the procedural measures that the legislator takes for the discovery of the truth and the execution of justice and what happens when, for one reason or another, the factual truth is not legally proven, and the solutions given by the courts are not fair because they reflect a factual situation, other than the real one.

MATERIALS AND METHODS

For the current paper, the research methods used are the legislation, case studies and literature. The specialized literature used is about the philosophical theories on the

concept of truth and falsehood, as well as legal aspect on the procedures used in the justice system to find out the truth and apply correct solutions and punishments. As the justice system is human made, it does not always work perfectly and, therefore, it needs to have effective solutions for the situations in which some mistakes happen. The procedural norms refer to these solutions and we have analyzed them in this paper.

THEORIES OF TRUTH

The concept of truth is closely related both to the practical aspects of everyday life and to the deepest norms and moral values that constitute the foundation of human society.

The problem of truth in philosophy and science is an extremely complex one. Since the beginning of civilization, people have not stopped asking questions and seeking answers about the nature and essence of truth. What is the truth? How can we be sure we know it? The history of science, and of humanity in general, is full of things that people believed to be true at one time and which later turned out to be totally or at least partially false. But the hope of mankind is that as time goes on, we are getting closer and closer to knowing the deepest truths of the universe, and this hope maintains the constant, tireless search for truth.

In the literature it is shown that “the traditional approaches, of a metaphysical nature, claim that the truth consists either in a relationship between a sentence and a state of affairs, or in a relationship of a statement with a given set of statements” [7]. The first situation, the relationship between a sentence and a state of affairs is reflected in the correspondence theory and the second in the coherence theory of truth.

From a legal point of view, we cannot conceive justice being served without the truth being known, without the guilty paying for their actions and the innocent, the victims, being compensated for the suffered moral and material damages. The role of judicial proceedings is to seek the truth and promote social justice [8]. A renowned Romanian professor of civil law, Valeriu Stoica, wrote that “the extent to which justice is achieved in a judicial process is tailored to the pattern of truth, but by resorting to distinct criteria or elements. Variable in time and space, the elements of justice are the bridges that connect justice as an institution to the idea of justice as the foundation of society” [9]. Administration of justice is impossible in the absence of finding out the truth. “However, all participants in the trial must also be guided by the truth as a moral value, in order not to falsify the evidence and not to interpret it biasedly. In both of its senses, the truth about the facts brought to judgment is the premise of justice. Almost everything that lies beyond the scope of the facts that constitute, in technical terms, the procedural framework of each judgment is indifferent, most of the time, for justice to be served.” [9]

Finding the truth in legal proceedings leads us to the original question: what is the truth? How can it be discovered?

One of the classic theories about truth is the correspondence theory of truth. According to this theory, truth represents “harmony between our knowledge and objective reality; the exact reflection of objective reality in thought; what corresponds to reality, what exists or happened in reality” [10]. This definition comes closest to the concept of truth in the judicial sense, but we must not lose sight of the coherence theory of truth, according to which a proposition can be accepted as true only if it matches the set of propositions previously accepted/proven to be true. According to this second theory, we should not refer to the factual reality as claimed by the followers of truth correspondence, but to the

totality of our knowledge on a certain subject. These classical theories have been subjected to numerous criticisms by philosophers but related to the subject of our discussion, which is namely the judicial truth, we believe that finding out the truth requires discovering those evidence that will form for the judge a correct sequence of the way in which the deduced facts unfolded, in such a way that the final solution is fair and reflects the facts.

Another distinction on truth according to specialists is that between objective truth and subjective truth. Basically, specialists talk about the need to find out an objective truth despite the desire of the parties to try to promote their own interests and their own “truth” by manipulating the evidence. It is clear, according to these authors, that a judicial truth exists in itself, and the judge has the mission to find it despite the parties' tendencies to manipulate it, to present something false as true, to hide the truth [11].

On the other hand, a certain amount of subjectivism and relativism is considered inevitable “we are all in search of the truth... and yet each may have his own truth” [12]. Any administration of evidence can have a dose of subjectivity: even the judge investigating on the spot can create a subjective impression of the factual situation (an impression that he will consider it as objective truth), different witnesses perceive subjectively and differently one and the same factual situation, and so on.

In a trial or judicial procedure, “knowing the truth means, in essence, to establish all the facts of the case being judged exactly as they happened in their objective reality, with a clean and open mind, without prejudices and feelings” [13]. This is essentially the magistrate's mission: to understand and know, without bias, the reality of the facts as they happened and to give a just solution that the parties can understand and accept. Only in this way is justice really achieved.

JUDICIAL ERRORS

In the work *Vocabulaire Juridique/Legal Vocabulary*, Gérard Cornu defines the judicial error as “the error of fact (i.e. that on an element of the situation in which the author finds himself, which may, in itself, be related to a criminal intent (not a quasi-delict) and to influence the qualification, which often remains without influence) which, committed by a judicial jurisdiction in its assessment of the culpability of a prosecuted person can, if it has led to a final conviction, be remedied, under certain conditions, by means of an action of revision” [14].

In the Romanian law, miscarriage of justice is defined as a failure of a court or judicial system to come to a just conclusion, “a civil wrongful act that entails, on the one hand, the state's liability towards the victim who has suffered damage, and on the other hand, subsidiarily and indirectly (through retrogressive action), the magistrate's civil liability, but only when he exercised his position in bad faith or gross negligence” [15].

If a judicial error occurs during the judicial proceedings, this error engages the objective liability of the state authority for the moral and material damage caused, but also the liability of the magistrate if he/she acted in bad faith or gross negligence. Since it was considered that the legal definition is unclear, giving rise to absurd interpretations, the meaning of the notion was clarified by the Decision of the Constitutional Court no. 45/2018 in the content of which, in paragraph 216, it is stated that not every error of judgment constitutes a judicial error: “the legislator must give a definition of this notion that reflects its feature of unusual deviation from the usual way of conducting judicial

procedures or application of the rules of substantive law, thus referring to manifest, indubitable, indisputable, crass, gross, absurd mistakes or which caused illogical or irrational factual or legal conclusions” [16].

One of the great errors of the Romanian judicial system was committed against Marcel Țundrea. He was accused of killing and raping a 14-year-old girl in the summer of 1992. The girl was last seen at the river by her brother. The investigators were directed by a person from the village to Marcel Țundrea, who was said to be a violent person, as he had physically assaulted his ex-wife. It didn't help his cause that he was divorced at the time, that he hadn't managed to finish any college (having been expelled twice) and that he had lost his job. All these elements pointed to a profile that matched the killer of the 14-year-old victim. His visits to the village were at his mother's house, a house located in the vicinity of the victim's house also didn't help his defense [17].

A few days after the discovery of the dead body and after the police concluded that Țundrea would be a person of interest in the investigation, on June 21st, 1992, he was physically examined, and injuries were discovered on his genital organ, injuries that could have been caused by forced sexual intercourse. The suspect stated that he had self-inflicted those injuries, but he was not believed. From the biological samples taken from the house of Țundrea's mother, clothes stained with blood group AII were taken. This was the same blood group identified on the victim's body, a blood group that was found in about 43% of Romania's population (so, in fact, irrelevant). Also the police found pornographic magazines and their possession was interpreted as consistent with sexually deviant behavior.

Regarding the place where he would have been on the day of the crime, Tundrea stated that he had left the village in the morning by train to Târgu Jiu and indicated 5 people with whom he would have met, but they were never heard as witnesses by the case prosecutor. The only witness statement taken in the case was from a relative of the victim who stated that he saw a man running across the riverbed and declared that the person resembled Marcel Țundrea. It was later found and proved that the witness had been influenced to give that false statement and indisputable, crass, gross, absurd mistakes and she was charged with perjury.

Marcel Țundrea was sent to court and sentenced, in May 1993, to 25 years in prison for that act. The solution was also maintained in the appeal presented before the High Court of Cassation and Justice. All subsequent requests for review by the convict were rejected.

12 years after the murder, the prosecutors requested that the biological samples collected from Tundrea and those collected from the victim's body to be genetically examined. The result was clear: the DNA found on the victim's body was different from that of Marcel Țundrea. Immediately, Marcel Țundrea was released and the execution of the sentence was suspended until the resolution of the revision. The revision process lasted 5 and a half years, and Țundrea died in 2007 (he got cancer in prison), before the final solution, being acquitted postmortem by Decision 3824/18.11.2009 of the High Court of Cassation and Justice. The Romanian state compensated the victim's daughter with 5000 euros for this judicial error that cost the life of an innocent man.

The real author of this murder was Gheorghe Avram. Three years after the 1992 murder, he committed another murder, against a man, for which he was caught and convicted. For the murder of the teenage victim, he received 25 years in prison in 2011 and was released on parole in 2017, the two murders being concurrent.

Another case of serious miscarriage of justice was the accusation of the 34-year-old teacher Vasile Tătaru for the murder of the 58-year-old mathematics teacher Vasile Cernat. The two teach at the same school in the Scorțeni commune in Bacău. The victim lived alone and was killed by someone who entered his house, stabbing him several times in the chest area. The crime happened around June 25th, 2007. 48,000 lei were found in the victim's house, which the criminal did not touch so the reason for the murder could not have been the heist.

The defendant, Tătaru, was the one who found the victim dead in the house. He had gone to him to borrow 300 lei on June 30th, 2007. He called the police, but immediately became the prime suspect after investigators learned that he had gone to the victim to borrow money. Being intimidated by the investigators, Tătaru initially admitted to committing the act, but then retracted the statement he claimed to have given out of fear of the police. As it was normal, because he had been in the victim's house, the suspect's fingerprints were discovered there. Also against him was the fact that he failed (also due to stress) the polygraph test which is not even legal evidence. He was arraigned based on the confession and polygraph test and sentenced to 18 years in prison for murder and domestic violence. In the appeal, exercised before the High Court of Cassation and Justice, he was acquitted, at the end of a process that lasted 5 years. The reasons for the acquittal were the following: the time of the crime could not be established with certainty, no traces of blood of the victim who had been killed with many stab wounds were found on the defendant's clothes; the DNA of the defendant was not found in the house, but of another unknown man, and other biological traces too small to be tested and identified for DNA. It is not known even to this day who could have committed that crime, but among the possible suspects would be the students of the mathematics teacher who were let down or repeaters. Although Tătaru later requested material damages from the Romanian state for the miscarriage of justice, the request was rejected by the court (Bacău Court).

Of course, the examples could go on because, unfortunately, these cases are not as few as people think. They can intervene both in criminal cases and in civil, commercial, etc. cases. But the most serious implications for the life of the unjustly accused or convicted person are in criminal matters. Firstly, the moral damage caused to a person unjustly arrested or unjustly convicted is a major one that can irreparably affect the entire existence of the individual and his family. Of course, material damages and errors in civil processes produce negative effects, but these are not considered as harmful.

RESULTS

The justice system is designed in such a way that, through legal means of evidence, the magistrate gets to know the factual situation as it happened, in the most objective way possible. The judge must look at the situation brought to the judgment in more depth than through the technical application of the legal rule, to understand who and how was injured, who and how must be sanctioned so that justice is served. When, for various reasons, this does not happen, the state has the obligation to compensate persons unjustly convicted or wronged in any way fairly: not more than it is fair as it would lead to unjust enrichment, but not less as it would not compensate for the suffering and loss. But a balance is not always easy to find.

If the magistrate who gave the wrong solution acted in bad faith or with gross negligence, then the state will turn against him to recover the caused damage. But bad faith or gross negligence must be proved and punished as such. Judicial errors, when they become

public, cause citizens to lose confidence in the justice system, feel defenseless, or worse, feel justified in breaking the law themselves.

The magistrate has the obligation to play an active role in finding out the truth, because only finding out the truth can lead to a fair and just solution in every case.

DISCUSSION

It has been written in the literature that judicial errors are inevitable. This is undoubtedly true. Judges and prosecutors are human too, evidence is not always administered accurately, witnesses lie or are mistaken about how things happened, the results of expert examinations are sometimes questionable, lawyers can manipulate the interpretation of evidence, and so on. Therefore, it can happen that guilty people are acquitted, innocent people are convicted, crimes remain unsolved etc. The system is undoubtedly fallible. That is why there are appeals, revisions and other legal tools to fix what has been wrongly held to be true. In the Romanian judicial system, the judge is the one who must be convinced, who has an active role in finding out the truth, but, obviously, he/she can also be wrong. In jury systems, when they deliver the verdict, the jurors must all be convinced that the accused person is guilty. It is enough that one of the jurors is not convinced for the verdict to be acquittal. And, theoretically, in this case, a guilty person may get to go home free.

CONCLUSION

What can we say at the end of this short approach through the judicial system, the errors and the search for the truth? First, we would assume that the legislator – not necessarily from Romania, but rather from democratic states in general—is aware of the limitations of the system.

That is why democratic legal systems have complex procedures to implement and judge cases, effective means to ensure the right to a fair trial, the right to defense, to find out the truth, to compensate when errors are committed and to punish those who are guilty. Substantive legal norms establish the goal to be pursued, rights and obligations, and procedural norms rule on how the truth can be revealed. In the absence of truth, it is clear that justice cannot be served, subjective rights are violated, and social order is seriously threatened.

The compensations granted in Romania for judicial errors are, on average, quite small in value. But those who consider themselves entitled to receive more can apply to the European Court of Human Rights in Strasbourg and may receive more substantial compensation if it is found that the state has not complied with the provisions of the Convention. But it is difficult to say that a sum of money compensates for all the damages: investigation, home searches, loss of jobs and social status, incarceration in an unhealthy environment, physical ailments, mental stress, time elapsed until acquittal, the fact that reintegration in society is particularly difficult even after payment etc. All these elements lead to the seriousness of judicial errors in criminal matters and the need for these errors to be avoided as much as possible. Magistrates must show maximum seriousness and interest, analyze the case in all its complexity, listen to the witnesses until they are convinced that they are telling the truth, ask for the completion and redoing of the expertise if this is necessary. Most essential, if the magistrates discover an error, they should not delay correcting it.

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THE ROLE OF EXTENDED PRODUCER RESPONSIBILITY (EPR) IN THE TRANSITION TO A CIRCULAR ECONOMY

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ABSTRACT

The concept of Extended Producer Responsibility (EPR) has emerged as a key pillar of environmental policies, designed to shift the financial and operational burden of waste management from governments and consumers to producers. This paper explores the legal framework surrounding EPR, examining its impact on recycling practices in various sectors, such as electronics, packaging and end-of-life vehicles. The EPR aims to incentivise producers to design more sustainable products by making them responsible for their entire life cycle, including proper take-back and disposal. In the European Union, laws such as the Waste Electrical and Electronic Equipment (WEEE) Directive (Directive 2012/19/EU) and the Packaging Waste Directive (Directive 2018/852 /EU) are key examples of how EPR is being implemented to enhance recycling efforts.

The aim is to identify the legal challenges associated with EPR, such as defining producer responsibility within global supply chains, ensuring compliance with regulations by monitoring their effective and efficient enforcement, and how critical issues arising from the economic impact of enforcement on small and medium-sized enterprises can be addressed.

The work also highlights how EPR contributes to a circular economy by encouraging the recovery and reuse of materials, thereby reducing environmental impact. The increasing prevalence of EPR-based regulations globally underlines its importance in promoting sustainable and resource-efficient practices.

Keywords: Extended Producer Responsibility, Waste Management, Recycling, Circular Economy, Environmental Law, Sustainable Product Design.

INTRODUCTION

In recent years, the increasing focus on environmental sustainability and the principles of the circular economy has stimulated a major evolution of European regulations on waste management and responsible use of resources. Among the most relevant regulatory instruments in this context, the Extended Producer Responsibility (EPR) has emerged as a key pillar to incentivise recycling and reuse practices while promoting more sustainable waste management.

The EPR finds its roots in the EU Directive 2018/851 of the European Parliament and of the Council, which amended Directive 2008/98/EC, known as the Waste Directive. This legislation aims to strengthen the circular economy by introducing measures to improve the reuse and recycling of materials and reduce the environmental impact of waste. The Directive establishes a framework of measures aimed at giving producers a series of organisational and financial responsibilities throughout the life cycle of their products, including the final disposal phase.

This regulatory strategy has far-reaching implications, not only for local producers, but also for companies marketing foreign-made products on the European market. It extends business obligations far beyond the sales stage, involving companies in the sustainable management of the product until the end of its life cycle [1]. Furthermore, the EPR encourages sustainable design and innovation, supporting the shift from a linear to a circular economic model.

Extended Producer Responsibility is also reflected in Goal 12 of the UN 2030 Agenda, which promotes responsible consumption and production, highlighting the need for rational use of natural resources. In this framework, EPR fits in as a key tool to achieve international goals and encourage the adoption of more sustainable economic models. However, the complexity of the European regulatory landscape and the differences in enforcement between Member States pose a significant challenge for businesses, with cross-sectoral impacts on several manufacturing sectors, including technology, automotive, packaging and batteries. To address these challenges, the role of the European Union is crucial, as it has to ensure uniform application of rules, stimulate investment, break down regulatory barriers and foster the involvement of all stakeholders, including Member States, businesses and citizens [2].

This article aims to analyse the importance of EPR as a legal and practical tool in the transition to a circular economy, with a focus on its impact on waste management, recycling practices and regulatory compliance by companies, highlighting its implications for business sustainability and competitiveness.

METHOD

The regulatory framework and principles of the EPR

Extended Producer Responsibility (EPR) is part of a European regulatory framework that, since 1985, has sought to standardise liability criteria for product damage. The main objective was to harmonise the rules and overcome legislative disparities between the different Member States, eliminating obstacles to competition and ensuring the free movement of goods in the single market [3]. Although the 1985 Product Liability Directive did not introduce a new concept - many countries in the European Economic Community already had a producer liability model - it set common criteria that aimed to ensure more effective protection for consumers and a uniform allocation of risk in production.

The directive has extended the concept of 'producer' to different categories of actors. It not only considers manufacturers of finished products, but also includes producers of components and raw materials, importers and anyone who affixes their trade mark, name or distinctive sign to a product. This extension reflects the intention to raise the threshold of attention of all those who contribute, directly or indirectly, to placing products on the market, making them responsible for safety and quality standards. However, regulatory standardisation has not been without its compromises. The need to mediate between different national legislations has led to a transactional model that, in some cases, has lowered protection levels compared to the standards developed in the past by the case law and doctrine of some Member States [4].

Another relevant aspect concerns the economic impact of regulatory disparities: in the absence of uniform criteria, producers operating in countries with stricter regulations are exposed to greater legal risks, often resorting to more expensive insurance policies, the

cost of which is passed on to the final product. This can influence export choices, leading entrepreneurs to prefer markets with fewer liability constraints. Establishing common rules on the assumptions, limits and modalities of damages is therefore beneficial for both consumers and producers, even if the final outcome of the directive seems to serve the interests of businesses more than those of consumers.

The directive, in addition to standardising risk allocation criteria, created a new European producer responsibility model, which mediates between consumer protection requirements and business demands. This model became the basis for subsequent evolutions, such as those that led to the EPR, integrating it into the framework of circular economy regulations.

The analysis of the role and effectiveness of EPR was conducted through a multidisciplinary approach that integrated different levels of study. First, an analysis of the European Directives was carried out, with a focus on Directive 2008/98/EC (Waste Directive) and Directive 2018/851, which represent the regulatory foundation of EPR [5]. This in-depth study made it possible to identify the minimum requirements of the regulations and how they are applied in the various production sectors. The criteria governing producer responsibility and the operational implications for the companies involved were assessed.

Next, a comparative analysis of EPR implementation practices in key sectors, such as waste electrical and electronic equipment (WEEE), batteries and end-of-life vehicles (ELVs), was carried out. This study highlighted similarities and differences in the implementation of regulations, identifying the main challenges and opportunities specific to each sector. In particular, it analysed the strategies adopted to optimise waste management, encourage recycling and promote more sustainable practices throughout the supply chain.

Finally, the economic and legal impact of EPR on corporate strategies was assessed. In this context, particular attention was paid to ecodesign, which promotes the integration of sustainability and recyclability criteria right from the product development phase. The choice of sustainable materials and their influence on the product life cycle was also analysed, as well as the development of end-of-life management models based on consortia and public-private partnerships. These tools make it possible to optimise recycling and reuse while reducing operating costs and environmental impact.

EPR cannot be studied in isolation, but must be contextualised within a broader regulatory framework that includes all regulations related to waste management, recycling and sustainability. Life Cycle Assessment (LCA) is a central element in integrating the logic of EPR with the objectives of the circular economy [6]. Only an integrated approach, combining regulatory analysis, sectoral comparison and assessment of economic impacts, can provide a complete picture of the effectiveness of EPR in promoting sustainable and competitive economic models.

RESULTS

The EPR as a tool for the transition to the circular economy

In 2015, the European Commission launched an action plan aimed at accelerating the transition to a circular economy by introducing strategic measures to transform production and consumption patterns. Among the main regulatory instruments of this plan

is the so-called Circular Economy Waste Package, consisting of four directives approved on 4 July 2018, which updated EU waste management legislation. In this context, Extended Producer Responsibility (EPR) has emerged as a central pillar to promote sustainability practices and close the life cycle of products.

The application of the EPR has had significant effects, stimulating substantial changes in the production and organisational models of companies, transforming product design and stimulating the development of more circular supply chains. These changes have contributed to reducing the overall environmental impact of economic activities, redefining the management and financial logic of companies.

One of the main achievements of the EPR is its influence on product design. This legislation has prompted companies to radically rethink the design of goods to reduce end-of-life costs. The need to make recycling, repair and disposal operations more efficient has encouraged the creation of more durable, easily repairable and recyclable products. Of particular importance is the electronic equipment sector, where devices such as smartphones and household appliances are increasingly being designed to facilitate material recovery and component separation [7].

This transformation reshapes the practice of planned obsolescence, making it more cost-effective for manufacturers to extend the useful life of assets. Organisational models integrating planned maintenance services, capable of minimising downtime and operating costs, are on the rise. In parallel, the relationship between use value and commercial life has evolved, prompting companies to promote assets with innovative sustainability features.

Another significant achievement concerns the optimisation of supply chains. The EPR has fostered the development of circular supply chains, in which materials recovered from end-of-life products are reintroduced into production cycles. This practice not only reduces the consumption of virgin resources, but also creates new economic opportunities for companies. In the battery sector, for example, highly specialised recycling supply chains have been developed, which enable the recovery of precious metals such as lithium and cobalt, which are essential for the production of new batteries.

From an environmental perspective, EPR has contributed to a significant decrease in the amount of waste sent to landfill and increased recycling rates in several sectors. The automotive sector is a virtuous example: more than 90% of end-of-life vehicle materials are recovered, thanks to regulations that encourage the design of cars with easily separable and recyclable components.

A positive impact was also registered in the choice of materials used, both in products and packaging [8]. EPR has stimulated a reduction in the use of non-recyclable materials and promoted the adoption of more sustainable alternatives, improving the environmental compatibility of the entire life cycle of goods. However, not all sectors have benefited uniformly from EPR. In areas such as the agro-food industry, where collection and recovery chains are already efficient, the introduction of further extended responsibilities could be counterproductive.

The EPR also had financial and organisational implications, shifting the costs of waste management from consumers and local governments to producers and pushing companies to develop new collective management models. Consortia and public-private partnerships have become essential tools for sharing logistical and financial burdens,

ensuring greater efficiency. However, obstacles related to regulatory disparities between different Member States remain, which may penalise companies operating on an international scale [9].

Of primary importance is the principle of fairness: EPR legislation must ensure uniform treatment for producers regardless of their size, avoiding disproportionate burdens, especially for small and medium-sized enterprises (SMEs). Waste management, considered an activity in the public interest, must respect criteria of efficiency, transparency and cost-effectiveness, in line with the principles of sustainability and shared responsibility.

The EPR, introduced in the context of European directives and transposed into national law, has established itself as a key tool for the realisation of the circular economy. Thanks to its ability to incentivise sustainable design, optimise supply chains and reduce environmental impact, it represents a virtuous model for meeting the challenges of the ecological transition. Although difficulties related to its uniform application and sectoral specificities remain, the underlying 'polluter pays' principle provides a solid basis for promoting more sustainable resource management at European and global level [10].

DEBATE

Challenges and opportunities of EPR in the European context

A crucial aspect of the EPR debate concerns the difficulties that many companies encounter in independently fulfilling all the obligations under this system. Although the principle of Extended Producer Responsibility was introduced with the aim of incentivising more sustainable management of products throughout their life cycle, its practical application is often complex. Many manufacturers, and even more so companies involved in distribution and marketing, do not have the resources or expertise to independently cover all the stages involved, which include the collection, recovery, recycling and remanufacturing of materials. This leads to an increasing dependence on specialised entities, such as consortia or logistics operators, capable of managing specific aspects of the supply chain.

In this scenario, a twofold dynamic emerges. On the one hand, the fragmentation of the process creates new business opportunities for specialised companies, which can become essential links in the recovery and recycling value chain. On the other hand, the need to coordinate several actors makes the system vulnerable to operational and regulatory inefficiencies. For companies, this means operating in an environment characterised by significant regulatory uncertainty, aggravated by the complexity of often heterogeneous regulations between Member States. Moreover, the risk of interpretation or management errors may result in administrative sanctions or, in the most serious cases, criminal consequences. In the Italian context, this issue is particularly relevant, since most of the ecological offences detected are culpable. In Italy, in fact, a clear distinction is not always made between companies that, in pursuit of lawful aims, incidentally cause environmental damage and those that deliberately act in breach of the law [11]. This lack of clarity amplifies the fear for companies, which risk being penalised even in situations of unintentional non-compliance.

In the face of these challenges, research and innovation are essential tools to support companies in fulfilling their EPR obligations effectively and competitively. Investments in new technologies for traceability of materials along the supply chain, such as the use

of advanced digital systems, can help to improve waste management, providing greater transparency and reducing costs. In parallel, the design of more easily recyclable products through design-for-recycling approaches enables companies to reduce environmental impacts while optimising operating costs in the long term. In this context, collaboration with research centres and universities is crucial to develop innovative and scalable solutions. Academies and research institutes can also play a crucial role in providing regulatory guidelines and economic simulation models that help to overcome difficulties related to regulatory fragmentation and operational management.

The involvement of regulators and governments is equally important. Member States and the European Union must incentivise, through tax breaks and targeted funding, the emergence of public-private partnerships aimed at improving recycling technologies and promoting innovative business models. Indeed, EPR can stimulate the adoption of approaches based on leasing, renting and maintenance services, models that not only extend the life cycle of products, but also favour a redistribution of value along the entire production chain.

However, for such initiatives to be successful, a clear and harmonised regulatory framework is indispensable, which reduces uncertainty for businesses and ensures fair competition between operators. The European institutions, through directives such as Article 8a of Directive (EU) 2018/851, are taking important steps in this direction by introducing minimum requirements for the implementation of EPR schemes. However, there remains a need for more coordination between Member States to ensure that these standards are applied uniformly and that companies can operate unhindered by regulatory barriers.

Ultimately, the transition to a system of extended producer responsibility represents a complex challenge but one rich in opportunities. While it requires companies to rethink their business models, it also opens the way to new possibilities for innovation and growth. The key to success lies in the ability to combine research, policy and

industry collaboration to achieve a system that is not only sustainable, but also cost-effective and socially equitable [12].

CONCLUSIONS

The waste management system within the circular economy is based on two fundamental principles: environmental protection and the promotion of competition. The European Union has chosen to make extended producer responsibility (EPR) the main instrument to pursue these objectives. However, for a long time, legislation has treated these principles as if they were contradictory, often favouring environmental protection at the expense of economic and competition aspects. Today, the challenge is to find a balance that allows both objectives to be met without compromising the efficiency of the system.

Extended Producer Responsibility proves to be a crucial element in the transition to the circular economy. Its main benefits include reducing environmental impacts, improving design practices and increasing recycling rates. However, to ensure that EPR is truly effective, it is crucial to address the challenges of regulatory differences between Member States and to promote collaboration between producers, consumers and public authorities. Harmonisation of laws and the adoption of common policies are essential steps to achieve a system that works efficiently and, at the same time, promotes fair competition between companies.

EPR cannot only be seen as a regulatory obligation, but also as a real strategic opportunity for companies. In an increasingly environmentally aware global market, adopting sustainability practices not only helps meet regulatory obligations, but also offers competitive advantages. Companies that decide to align with sustainability goals can benefit from a better reputation, attract new customers and reduce waste management costs, turning potential burdens into new sources of revenue [13].

From this perspective, the 'polluter pays' principle represents the essence of extended producer responsibility. It is not so much a question of punishing companies for inefficient handling of their products at the end of their life, but rather of stimulating innovation and promoting preventive actions to reduce waste. Manufacturers are encouraged to develop products that are more durable, easily recyclable and have less impact on the environment, but also to find innovative ways to recover and valorise materials from discarded products. This approach not only contributes to environmental sustainability, but also offers opportunities to improve companies' competitiveness in the marketplace by fostering new business models.

Another important factor to consider is the introduction of Voluntary Recycling Credits (VCRs), which reward virtuous companies engaged in recycling and recovery practices. The adoption of circular business models, which incentivise reuse, renting and leasing, is becoming increasingly widespread. Companies that embrace these models not only extend the useful life of their products, but also generate new sources of revenue and position themselves as leaders in the sustainability market.

With the expansion of the circular economy, companies are faced with a radical change [14]. It is no longer sufficient to focus only on the production and sale of goods, but it is necessary to take responsibility for the end-of-life management of products. If well managed, this phase can represent a real economic opportunity. By recovering materials, companies can reduce their production costs, obtain new materials to be reused and, above all, improve their image with consumers, building their loyalty through a commitment to sustainability.

In our system, one of the most effective tools for the collective management of end-of-life products is the consortium. This model has proved particularly useful for recycling and material recovery, and has been adopted by many operators to facilitate the supply of secondary raw materials. The national legislator has recognised the value of the consortium model, making frequent references to it in the EPR framework. In this context, the consortium not only allows efficient management of the waste recovery phase, but also represents a valuable tool for companies that want to comply with regulatory requirements, improve their environmental performance and access the economic benefits of the circular economy [15].

In conclusion, the circular economy and EPR represent significant challenges but also opportunities for the business world. Extended Producer Responsibility policies are not only essential for the protection of the environment, but can become a lever for innovation, competitiveness and the improvement of companies' reputation. Adopting an integrated approach involving all actors in the supply chain, from public authorities to businesses, from consumers to regulators, is crucial to ensure the success of this model and promote a more sustainable and prosperous future for all.

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WOMEN'S INHERITANCE RIGHTS: A COMPARATIVE STUDY BETWEEN BIBLICAL AND EUROPEAN CONTEXTS

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ABSTRACT

Women's inheritance rights in biblical and European contexts are complex topics that have been extensively studied by scholars in various fields such as history, theology, and social studies. In both contexts, women's inheritance rights were influenced by cultural norms, religious beliefs and legal systems. Biblically, women's inheritance rights are emphasized in the Old Testament, especially in the laws of Moses found in books such as Deuteronomy and Numbers. These laws provide clear guidelines for the distribution of property among family members, including daughters. However, interpretations of these laws vary between different religious traditions and academic perspectives. In Europe, the influence of Roman law and the feudal system reinforced patriarchal approaches to inheritance, with significant variations between common law and civil law traditions. Early common law systems severely limited women's rights, but later reforms led to increased recognition of these rights. [1] Comparative study of women's inheritance rights in biblical and European contexts provides valuable insights into the historical treatment of women as owners and inheritors of property.

Keywords: inheritance, civil law, family law, Old Testament, theology, science.

INTRODUCTION

Inheritance laws and customs have played a significant role in shaping the social, economic and legal status of women throughout history. The issue of women's inheritance rights is of crucial importance due to its direct impact on the economic and social situation of women, with far-reaching implications for gender equality, family dynamics and societal development. This comparative study aims to shed light on the historical evolution of these rights, the factors that have influenced their development and the ongoing challenges and debates surrounding this issue.

The scope of this study encompasses the biblical context, especially the laws and customs of the Old Testament, as well as the European context, including the influence of Roman law, the feudal system, and the emergence of common law and civil law traditions. By exploring the nuances and variations within these two broad frameworks, the analysis provides a comprehensive understanding of the complex interplay of cultural, religious, and legal factors that have shaped women's inheritance rights over time.

MATERIAL AND METHOD

Material

The study is based on a combination of primary and secondary sources, including religious, legal and historical texts. Main sources include:

- The Bible (Old Testament): Texts describing the Mosaic laws and inheritance practices in ancient Israelite society.
- Justinian Code (Corpus Juris Civilis): Legal documents from the period of Roman law that provide insights into inheritance laws.
- Medieval Documents: Records and Chronicles Describing Inheritance Practices in the European Feudal System.
- The Napoleonic Code: Legal Texts Explaining Civil Law Reforms and Principles in Continental Europe.

Secondary sources include:

- Historical and Legal Studies: Scholarly analyzes and specialist articles examining the evolution of women's inheritance rights.
- Biblical and Theological Commentaries: Works that provide interpretations and analyzes of relevant biblical texts.
- Comparative literature: Studies comparing different legal systems and their impact on women's inheritance rights.

Method

1. Literature Review: We began by collecting and reviewing relevant sources to understand the historical and legal context of women's inheritance rights. This included analysis of biblical texts, legal codes and relevant secondary literature.
2. Comparative analysis: We compared women's inheritance rights in two main frameworks: the biblical context (Old Testament) and the European context (Roman law, feudal system, common law and civil law). This analysis included identifying similarities and differences in legal and social approaches.
3. Case Study: We have selected specific examples from each context to illustrate how inheritance laws have been applied and how they have evolved over time. Case studies include:
 - a. The Inheritance of the Daughters of Zelophehad in the Old Testament.
 - b. Primogeniture in the European feudal system.
 - c. The doctrine of "covering" in English common law.
 - d. Reforms in civil law under the influence of the Napoleonic Code.
4. Contextual Analysis: We analyzed the sociocultural, religious and legal factors that influenced women's inheritance rights. This included examining the role of patriarchal structures, the influence of religion and the impact of legal reforms.
5. Interpretation and Synthesis: We synthesized the results of comparative and contextual analysis to provide a comprehensive understanding of the evolution of women's inheritance rights. We have identified major trends and changes, as well as current challenges and debates.
6. Conclusions and Recommendations: Based on the analysis, we have drawn conclusions on the evolution of women's inheritance rights and provided

recommendations for future research and public policy aimed at promoting gender equality in inheritance and property rights.

Biblical context

1. The inheritance of the daughters of Zelophehad. According to the biblical text in Numbers 27:1-11, Zelophehad's daughters were given the right to inherit their father's property in the absence of a male heir. This exception in the Mosaic law indicates a certain flexibility in the patriarchal system. [2] This practice was later confirmed and expanded by Numbers 36, which stipulates that inheriting daughters must marry within their tribe to retain property in that tribe. [3] So, from ancient times, the right to inherit was recognised to women but only in certain conditions.

2. Distribution of inheritance favoured the oldest son. According to Deuteronomy 21:17, the eldest son received a double share of the inheritance, and the remaining sons received equal shares. Daughters were not mentioned as primary heirs, thus strengthening the male line of succession. [4]

European context

1. Romanian law

In the Roman legal system, initially, inheritance was dominated by male succession. So, in Romania, the males were favoured. In order to also create an equilibrium for women, the right of dowry was enshrined. However, provisions such as the "right of dowry" were later introduced to provide some level of protection for women, including widows and daughters. [5] This difference between the inheritance rights of men and women existed probably because of the social customs: in most cases, the women got married, left their homes and became part of the husband's family. So, they were given money and other goods with the occasion of their marriage but after that they could not also inherit their parents.

According to the Justinian Code, women were entitled to a share of the family inheritance in the absence of a male heir. [6]

2. The European Feudal System also favoured the oldest son. Probably, the main reason for that was the need to keep the family fortune together, not to split it in parts which will diminish its value and the power of the respective family. The practice of primogeniture granted all the land and family titles to the eldest son, thus marginalizing women's inheritance rights. Women could only inherit in the absence of a male heir, and even then, property had to remain within the family through matrimonial arrangements.

3. Common Law and Civil Law

In English common law, the doctrine of "covering" severely limited the rights of married women to own or control property.

In the civil law tradition, the Napoleonic Code introduced the concept of "common property", giving women greater rights to marital property and inheritance. [7][8]. Subsequent reforms in both legal systems led to increased recognition and protection of women's inheritance rights.

Graphs and tables

1. Inheritance in the Old Testament

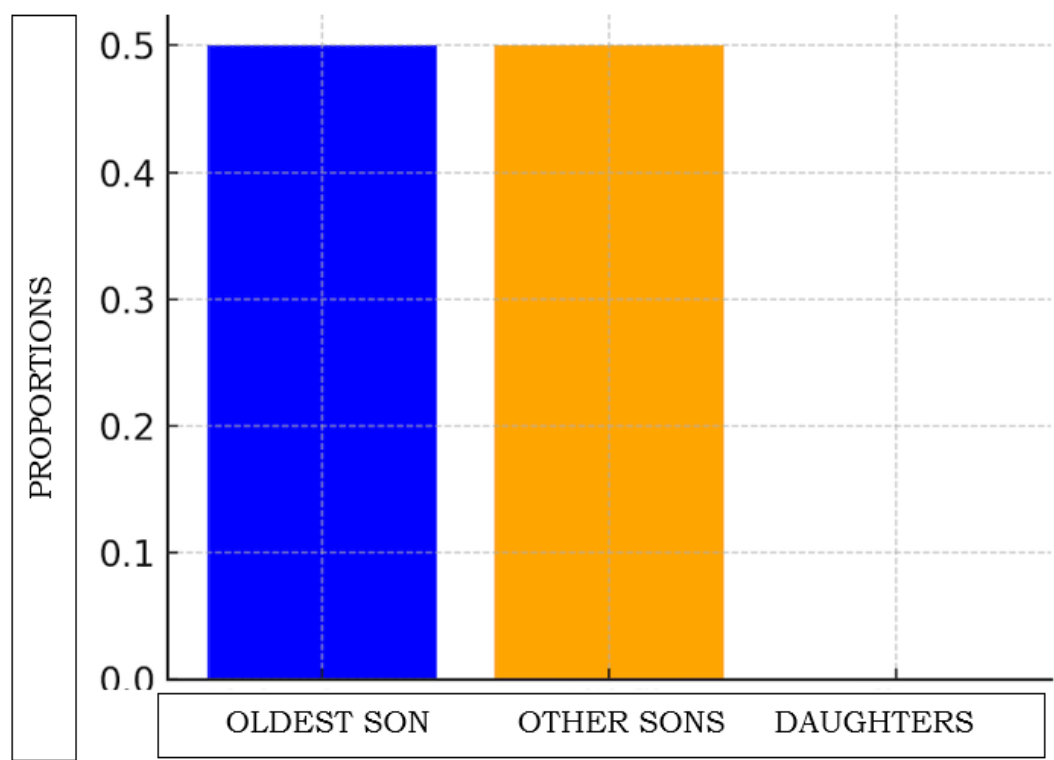


Figure 1. Distribution of inheritance in the Old Testament

2. Inheritance in Roman and feudal law

Table 1. Comparison of women's inheritance rights in different periods of Roman law

PERIOD	INHERITANCE RIGHTS
EARLY PERIOD	LIMITED
CLASSICAL PERIOD	EXTENDED
LATE PERIOD	PROTECTED

Table 2. Inheritance in the European feudal system

HEIR	INHERITANCE
OLDEST SON	ALL LAND AND TITLES (NOBLE FAMILY)
OTHER SONS	MARGINALIZED
DAUGHTERS	DEPENDENT

3. Legal Reforms

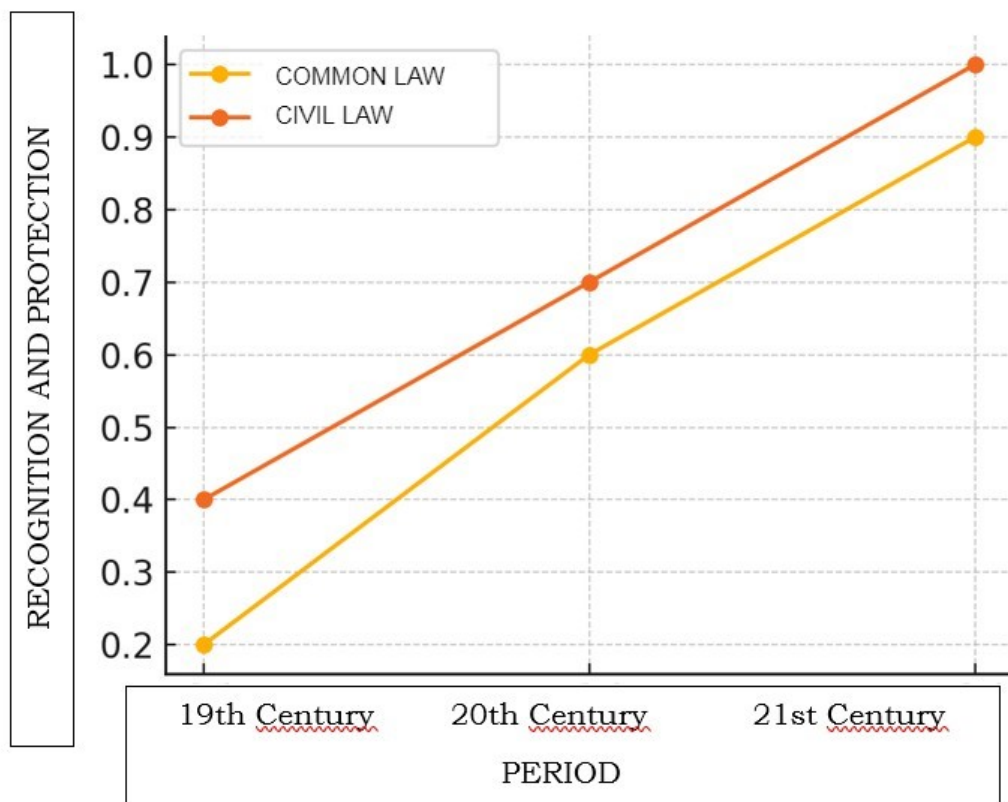


Figure 2. Evolution of women's inheritance rights in common law and civil law from the 19th-20th centuries

DISCUSSIONS

The results of the study indicate that although the dominant patriarchal system clearly favored male heirs, there were still notable exceptions. An important example is that of the daughters of Thelophad, mentioned in the Old Testament, who succeeded in obtaining the right to inherit their father's property in the absence of male heirs. This exception demonstrates that Mosaic law was not completely inflexible and that there were mechanisms by which women's rights could be recognized and respected in certain circumstances. Such practices had a lasting impact, influencing how inheritance laws were subsequently interpreted and applied within religious communities.

In terms of the evolution of women's inheritance rights in Europe, it reflects a significant transition from highly patriarchal systems to an ever-wider recognition and legal protection of these rights. The Roman legal system introduced the first protective measures for women's inheritance rights, which were later expanded and strengthened within the European civil law tradition. English common law also began with severe restrictions on women, but reforms in the 19th and 20th centuries led to increasing recognition of their inheritance rights, culminating in greater equality between heirs of different sexes. This development underlines the significant progress made towards gender equality in the field of inheritance and property. [9]

Similarities and differences

Similarities between the biblical and European contexts include the emphasis on male descent and the initial marginalization of women. However, the differences are notable in the way these practices are applied and evolved. While Mosaic law offered certain exceptions, the European feudal system was more rigid. Reforms in European civil law were more progressive than those in English common law, giving women greater recognition and protection of their inheritance rights.

Contemporary perspectives

The study highlights the significant progress made in recent decades in recognizing women's inheritance rights. Legal reforms and international initiatives such as the Committee on the Elimination of Discrimination against Women (CEDAW) have played a crucial role in promoting gender equality. However, challenges remain, including traditional cultural and religious norms that favor male heirs. These findings are consistent with previous research and underscore the need for continued reforms and effective implementation of existing legislation to ensure gender equality in inheritance and property rights. [10]

In contemporary society any form of discrimination is prohibited, and it is a fundamental human right to be treated equally, regardless the sex, religion, conviction, sexual orientation and so on. According to article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms „the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status” [11] So, at european level (and not only in all democracies) the right to inherit is no longer affected by the fact that the heir is a woman/girl or a man/boy. They have equal civil rights in this matter. A problem that could appear refers to the islam women who live in European countries. Sometimes for them also apply the norms of their religion and families and sometimes the civil law of the country they live in. But this is also a complex problem which raises different opinions and should be dedicated a special study. In our opinion, even if the right to religion has to be respected (as a human right) it is important also for the other rights to be respected and for religion not to interfere with the other aspects of life in the sense of restraining them.

CONCLUSIONS

The patriarchal structure and preference for male heirs were common themes in both the biblical and European contexts. However, the degree of marginalization of women's inheritance rights varied, with the biblical context presenting some exceptions and special cases, while the European feudal system was more rigid in its adherence to the principle of primogeniture.

The factors that influenced these inheritance practices were multifaceted. In the biblical context, the patriarchal structure was deeply rooted in religious and cultural traditions, while in the European context, the influence of Roman law, the feudal system, and the predominance of Christian religious institutions all contributed to the marginalization of women's inheritance rights.

Contemporary perspectives on this issue highlight ongoing challenges and debates regarding women's inheritance rights, as well as global trends and international frameworks that seek to promote and protect these rights as part of a broader agenda for gender equality and women's empowerment .

The importance of understanding the historical, cultural, and legal contexts that shaped the evolution of women's inheritance rights is emphasized. By examining the complex interplay of these factors, valuable insights can be gained that can inform and guide future efforts to achieve greater gender equity and justice in inheritance and property rights.

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**SECTION ECONOMICS, FINANCE, AND
SUSTAINABILITY**

BEHAVIOURAL CHARACTERISTICS OF TOURISM CONSUMERS IN LITHUANIAN REGIONS FROM A SUSTAINABILITY PERSPECTIVE

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ABSTRACT

The author analyses the peculiarities of the behaviour of consumers of tourism services in terms of sustainability in Lithuanian regions. The aim of the study is to analyse the peculiarities of the behaviour of consumers of tourism services in terms of sustainability in Lithuanian regions. The objectives of the study are to carry out a theoretical analysis of the peculiarities of the behaviour of consumers of tourism services in terms of sustainability and to carry out a study of the peculiarities of the behaviour of consumers of tourism services in terms of sustainability in Lithuanian regions. The paper analyses theoretical aspects of the behaviour of consumers of tourism services in terms of sustainability and presents the results of the research. It concludes that the behaviour of respondents in Lithuanian regions in terms of sustainability while travelling is still in the process of formation. Most respondents try to consume responsibly when travelling, do not litter or collect their own waste, but only sometimes choose environmentally friendly/certified accommodation and environmentally friendly ways of travelling. Most respondents take recommendations from friends/colleagues/acquaintances, consume responsibly when travelling and care about the environment. The most important experiences for travellers during their trip are related to nature, culture, gastronomy, etc.

Keywords: consumer behaviour, tourism services, sustainability aspects, Lithuanian regions

INTRODUCTION

The processes of economic, social and political globalisation have made tourism one of the leading sectors of the economy and an important economic activity and source of income in many countries. According to the United Nations World Tourism Organisation [UNWTO] and the World Travel and Tourism Council [WTTC], tourism is the world's third largest industry, accounting for approximately 10% of global gross domestic product (GDP) [17]. Tourism employs 1 in 10 people worldwide, and tourism exports account for 30% of world exports of services and 7% of world exports of goods and services [17]. The development of the tourism sector encourages regions to compete with each other to attract more tourists. Sustainable development of the tourism sector is particularly important. The development of the tourism sector in accordance with the principles of sustainable development and through the efficient use of recreational resources can be a driver of regional economic and business development by attracting investments, creating jobs, increasing incomes and stimulating demand growth [15]. Sustainable development of the tourism sector encourages regions to compete with each other, thus increasing the competitive advantages of tourism regions. The competitiveness of regions is inextricably linked to the growth and sustainable development of the tourism sector.

Relevance of the topic. Each tourism consumer (potential tourist) has a key role to play in shaping the tourism offer in order to promote the sustainable development of the sector. Consumer expectations are changing, reflecting greater consumer awareness and concern about environmental issues, which are now seen as a key factor in consumer decision-making. Consumers with a greener world view play a key role in achieving the Sustainable Development Goals and contribute to the transition of businesses towards a sustainable business model.

The research problem is formulated by the question: What are the characteristics of the behaviour of consumers of tourism services from a sustainability perspective in Lithuanian regions?

The subject of the research is the peculiarities of tourism consumers' behaviour from the perspective of sustainability in Lithuanian regions.

The aim of the research is to analyse the characteristics of tourism consumer behaviour from a sustainability perspective in Lithuanian regions.

Aims of the research:

1. To conduct a theoretical analysis of the behavioural characteristics of consumers of tourism services from the perspective of sustainability in the regions of Lithuania.
2. To carry out a study of the behavioural characteristics of consumers of tourism services from a sustainability perspective in the regions of Lithuania.

Methodology. The research was a quantitative study (questionnaire survey). The methods of data collection - analysis of scientific literature and sources (carried out in order to determine the peculiarities of the behaviour of consumers of tourism services in terms of sustainability in the regions from a theoretical point of view), questionnaire survey. Recent scientific literature and recent scientific articles in Lithuanian and foreign languages were analysed.

Theoretical aspects of tourism consumer behaviour in the regions from a sustainability perspective

Sustainable development is a fundamental principle of future development that dates back to the 1980s and has been widely accepted in recent years. "Sustainable development of the tourism sector meets the needs of current tourists and host regions, while protecting and enhancing their future opportunities" [17]. Sustainable tourism development refers to the conservation of ecosystems and biodiversity, the promotion of human well-being and intercultural communication, public participation in tourism-related decision-making, and the ability of all stakeholders to achieve social and cultural tourism outcomes; sustainability can be a policy or development objective for most tourism activities or environments, regardless of scale [2]; [11]; [17]. Sustainable tourism must maintain a high level of satisfaction of tourists' needs, provide tourists with a meaningful experience by raising their awareness of sustainability issues, and promote sustainable tourism practices among them. [7] defines sustainable development in the context of tourism as tourism developed in a particular region in a way that allows its sustainability without harming the environment, with the aim of allowing other activities to develop successfully. Sustainable tourism is being promoted as an economic activity in many countries [6]. Since the development of sustainable tourism requires higher investments, economically weaker countries do not have the capacity to implement sustainable tourism development.

To define consumer behaviour in terms of sustainability, it is useful to focus on the consumer and the aspects related to his or her behaviour. Consumer behaviour is the study of individuals, groups or organisations and the processes they use to select, acquire or purchase, consume and dispose of a product, service or idea in order to satisfy their needs and wants [1]. Consumer behaviour is the behaviour of end users - individuals and households - in purchasing goods and services for personal consumption [9]. All these end users constitute the consumer market [3]. The theory of consumer behaviour examines how individuals allocate their income when purchasing goods and services. By spending scarce income, individuals seek to maximise utility or satisfaction, which is a key premise of the theory [14]. Consumer behaviour can be defined as the process and activities an individual engages in when researching, selecting, purchasing, using, identifying or rejecting products and services to satisfy his or her own needs and wants [3]. Consumer behaviour refers to an individual's actions in acquiring and consuming goods and services, including the purchase decision process that determines these actions [10]. Consumer behaviour is the consumer's behaviour related to searching, buying, consuming, disposing and forming an opinion about products, services and products that satisfy needs [14].

In order to promote the sustainable development of the tourism sector, a very important role is played by each tourism consumer (potential tourist) who chooses one or another form of tourism and thus shapes the supply of this sector [5]. It is important how each tourism consumer perceives and practically expresses his/her choices and actions, which influence the implementation of sustainable tourism. In order to understand this, it is necessary to analyse their knowledge, behaviour and choices, as these factors lead to the choice and promotion of more environmentally friendly, responsible and sustainable tourism [5]. Consumer behaviour is a set of emotional, mental and behavioural responses and processes that lead to the decision to buy or not buy a service or product. Consumer behaviour is shaped by personal, psychological and social phenomena [12]. The decision to consume sustainably depends on the willingness and determination of the consumers themselves. In many cases, acting or consuming more sustainably means paying more money or giving up something [13](Saari & others 2021). Sustainable consumption behaviour depends on attitudes towards sustainability, the degree of intention to contribute to sustainable consumption and the willingness to act independently of variables [8]. Conscious, environmentally friendly behaviour in which the tourist/consumer consumes products or participates in the provision of services is perceived as sustainable consumption in the tourism industry [16].

Researchers' discussions suggest that external and internal factors influence an individual's consumption behaviour. As [1] argues, behaviour can be motivated by intrinsic and extrinsic forces. In the case of extrinsic motivation, when the possibility of reward disappears, so does interest [1].

The following alternatives to sustainable consumption behaviour [4]: *Pro-environmental behaviour* (related to actions aimed at conserving natural resources); *Frugal behaviour* (promoting a reduction in consumption, which is a key characteristic of sustainable lifestyle behaviour); *Altruistic behaviour* (understood as a motivational state aimed at increasing the well-being of others, the desire to do things that benefit others); *Equitable behaviour* (related to sharing the satisfaction of needs between current and future generations). These alternatives mentioned above refer to the characteristics of sustainable behaviour, which consequently have their own specific approaches to sustainable behaviour [8].

Sustainable consumption of tourism services requires decisions to be made in terms of limiting comfort, preserving cultural and natural heritage, and respecting the local community. Sustainable tourism consumption is a tourist behaviour that usually manifests itself in the individual's intrinsic motives for purchasing and consuming a tourism product or service [8]. The motives are mostly related to being close to nature and protecting it. Consumer expectations are changing, reflecting greater consumer awareness and concern about environmental issues, and are now seen as a key factor in consumer decision-making. Consumers with a greener worldview have a key role to play in achieving the Sustainable Development Goals and in helping companies move towards a sustainable business model.

Consumers make choices when they purchase goods and services. Consumer behaviour reflects the actions of consumers in searching for, purchasing, using, evaluating and rejecting goods or services that they expect to satisfy their needs [1]. The consumer's purchase decision is influenced by a number of factors that can be divided into 5 categories: 1) *Demographic*; 2) *Marketing complex*; 3) *Psychological*; 4) *Social*; 5) *Situational*.

Methodology for studying the behavioural characteristics of consumers of tourism services in Lithuanian regions from the perspective of sustainability

The aim of the study is to investigate the behavioural characteristics of consumers of tourism services from a sustainability perspective.

Sample of the study. The respondents of the survey are Lithuanian residents travelling in Lithuania. The survey was conducted in October-November 2023 by distributing the survey link on the portal www.apklausa.lt and in social networks, offering to answer the questions. A total of 324 respondents were interviewed, which makes the survey representative. All respondents were asked the same questions. They were also given a choice of answers, from which they could select their preferred answer or write in their comments and suggestions. The data obtained are presented in graphs and charts and are analysed below.

According to the data of the Statistical Office of Lithuania, 897 500 thousand tourists visited Lithuania in 2022. The survey sample can be calculated according to Paniotto's formula: $n=1/(\Delta^2+1/N)$, where: n - sample size; Δ - tolerance; N - population size.

For the survey of tourists travelling in Lithuania, the survey sample was calculated using the Paniotto formula: $204=1/(0.07^2+1/897\ 500)$, when:

Number of domestic tourists in 2022 – 879 500;

Population size $N=879\ 500$

Tolerance $\Delta=0,07$

Sample size $n=204$

Thus, according to Paniotto's formula, $n = 204$ is sufficient to ensure a representative sample size. This survey method, the questionnaire survey, is the most efficient in terms of time, cost and information obtained. The requirements are that the questionnaire be clear, unambiguous and reliable.

Study methodology and instrument. The quantitative method chosen for the study was a questionnaire survey. A questionnaire consisting of 20 questions was designed. The introductory part of the questionnaire presented the purpose of the study, the purpose for which the collected data will be used and guaranteed anonymity. The questions were formulated in the light of the analysis of the scientific literature. The questionnaire was designed with the following groups of questions: a block of specific questions and a

block of demographic questions (demographic and social characteristics of the respondents).

Research ethics. Ethical principles (privacy, confidentiality, free choice, etc.) were respected in the distribution of the questionnaires and each respondent was free to decide whether or not to participate in the study. The data will be used in a generalized way, preserving the anonymity of the respondents.

Results of a study on the behavioural characteristics of tourism consumers from a sustainability perspective in Lithuanian regions

Demographic and social characteristics of the respondents 84% of women and 13% of men responded to the questionnaire, while 3% of respondents did not answer the question. One in four respondents (42%) is in the age group 26-35, 24% of respondents are in the age group 51-65, 18% of respondents are in the age group 36-50, 11% of respondents are in the age group 18-25, 2% of respondents are in the age group 66+ and 3% did not answer the question. Four out of ten respondents (42%) have a university degree, 34% have a non-university degree and 24% have secondary education. Half of the respondents (50%) are civil servants, 13% are students, 8% are entrepreneurs, 5% are housewives, 5% are senior citizens and 18% chose 'other'. 16% of respondents spend more than EUR 1000 on travel, one in three respondents (29%) spends EUR 501-1000 on travel, one in four respondents (42%) spends up to EUR 500 on travel, one in ten respondents (11%) spends up to EUR 100 on travel, 3% of respondents did not answer the question.

Five out of ten respondents (50%) travel 1-2 times a year, four out of ten respondents (42%) travel 3-4 times a year, 5% travel every month, 3% of respondents chose "Other" ("I travel 5-6 times a year", etc.). Six out of ten respondents (63%) prefer 4-7 day trips, three out of ten respondents (29%) prefer 2-3 day trips, 5% of respondents chose "Other" ("14-20 days for long-distance trips", "In Lithuania 2-3 days, abroad 4-7 days", etc.), 3 % of respondents choose one-day trips. The majority of respondents (66%) travel with family members, two out of ten respondents (24%) travel with friends, one out of ten respondents (10%) travel solo and travel alone. For almost half of the respondents (45%), the time of year does not matter when travelling. 26% of respondents travel in summer, 21 % of respondents travel during holidays, 5% of respondents travel in winter and 3% of respondents chose "Other" ("I travel in autumn"). The majority of respondents (74%) travel between Lithuania and foreign countries, 18% travel between foreign countries and 8% travel within Lithuania.

When searching for travel information, five out of ten respondents (50%) use the internet, 25% of respondents search for information on social networks, 16% of respondents take into account recommendations from friends, 8% of respondents search for information on the pages of tourist information centres, 1% of respondents chose the answer "Other" ("I use different ways to search for information, but I wouldn't single out one way", "Different"). Five out of ten respondents (53%) plan their trips thoroughly in advance, 37% of respondents take the decision to travel spontaneously and 10% of respondents chose the answer 'Other' ('Various', 'As and when', 'Whenever', 'Anyway', etc.). Five out of ten respondents (53%) take into account the recommendations of friends/colleagues/acquaintances when choosing a trip, 34% rely on their own opinion, 11% take into account the recommendations of the employees of the companies that organise the trips and 3% of respondents chose the answer "Other" ("Different", "Depending on the situation", etc.). Five out of ten respondents (50%) plan their trips in

different ways: sometimes they travel on their own, sometimes they use the services of tour operators, four out of ten respondents (42%) usually plan their trips on their own and 8% of respondents usually/always book their trips from tour operators.

For the majority of respondents (60%), the decision to travel/buy a trip is mainly influenced by the desire to have a good time, followed by 18% who are influenced by recommendations and discounts from friends/colleagues/acquaintances, and 4% who chose the answer "Other" ("*Desire to know my country and other countries*"; "*Unfamiliar countries*", "*Time*", etc.). To sum up, it can be concluded that respondents' decision to buy a trip is influenced by both internal factors (desire to have a good time, "*Desire to know my country and other countries*"; "*Unfamiliar countries*", "*Time*", etc.) and external factors (recommendations from friends/colleagues/acquaintances).

Five out of ten respondents (52%) travel by car, 26% travel by air, one out of ten respondents (10%) travel by bus, 7% travel by train, 3% travel by bicycle and 2% travel by motorcycle. Travelling by car is the most common choice when travelling within the same country (39%) and sometimes to other countries (11%). Air travel is considered to be one of the most polluting modes of transport, but 26% of respondents still choose to travel by air because it is quicker and more convenient to reach their destination. In conclusion, the majority of respondents take some environmental considerations into account when choosing their means of transport (74%) and do not choose the most polluting means of transport for their journey.

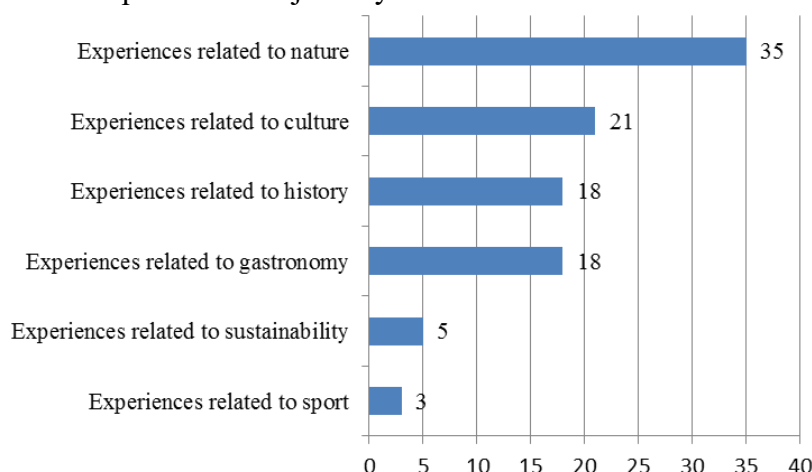


Figure 1 Information on respondents' travel experiences, % (compiled by the author from survey data)

When travelling, respondents' travel destinations are recreation and entertainment and visiting cultural/natural sites and objects (sightseeing trips), chosen by 45% of respondents respectively. 5% of respondents travel for work purposes, 3% of respondents visit friends and relatives, 2% of respondents chose "Other" ("*All of the above*" etc.). Figure 1 provides information on respondents' travel experiences. 35% of respondents have important experiences related to nature while travelling, 21% have important experiences related to culture, 18% have important experiences related to history and gastronomy, 3% have important experiences related to sport. Only 5% of respondents indicated the importance of experiences related to sustainability/sustainability during their travels (see Figure 1). In summary, sustainability/sustainability aspects are not yet very important for respondents when travelling.

Table 1 shows the behavioural characteristics of tourism consumers in terms of sustainability when travelling (see Table 1). According to the questionnaire survey, almost a third of respondents (27%) prioritise/choose environmentally friendly/certified accommodation, six out of ten respondents (62%) prioritise/choose environmentally friendly/certified accommodation only sometimes, and only 11% of respondents never take these criteria into account when choosing their accommodation.

When it comes to the choice of travel mode, one in ten respondents (11%) prioritise/choose an environmentally friendly travel mode, the majority of respondents (70%) prioritise/choose an environmentally friendly travel mode only sometimes, and one in ten (19%) never do so. One in four respondents (41%) are concerned about the environment when travelling, while half of the respondents (54%) prioritise/concern themselves with the environment when travelling only sometimes, and 5% never do so. The majority of respondents (73%) consume responsibly when travelling, with only two in ten (24%) sometimes and 3% never doing so. Four out of ten respondents (43%) prioritise / choose locally produced products when travelling, half of respondents (52%) only sometimes prioritise / choose locally produced products and 5% never do. All respondents do not litter/collect their rubbish.

Table 1 Sustainability behaviour of tourism consumers when travelling (compiled by the author based on survey data)

No.	Statements	Always	Sometimes	Never
1.	Prioritise/Choose environmentally friendly/certified accommodation	27	62	11
2.	Prioritise/choose an environmentally friendly way of travelling	11	70	19
3.	Prioritises/Conserves the environment	41	54	5
4.	Consume responsibly when travelling	73	24	3
5.	Prioritises/chooses products from local producers	43	52	5
6.	Do not litter/collect your rubbish	100	-	-

To summarise the respondents' answers, it can be said that the respondents' sustainable travel behaviour is still developing. It can be noted that most respondents try to consume responsibly when travelling, do not litter or pick up their own rubbish, but only occasionally choose environmentally friendly/certified accommodation and an environmentally friendly way of travelling. Most respondents follow the recommendations of friends/colleagues/acquaintances, consume responsibly when travelling and care about the environment. The most important experiences for travellers during their trip relate to nature, culture, gastronomy, etc.

CONCLUSIONS

1. Sustainable consumption behaviour depends on attitudes towards sustainability, the degree of the intention to contribute to sustainable consumption and the willingness to act independently of variables. Conscious, environmentally friendly behaviour in which the tourist/consumer consumes products or participates in the provision of services is perceived as sustainable consumption in the tourism industry. A person's consumption behaviour is influenced by external and internal factors.

2. It can be said that the respondents' behaviour towards sustainability when travelling in Lithuanian regions is still developing. Most respondents try to consume responsibly when travelling, do not litter or pick up their own waste, but only occasionally choose environmentally friendly/certified accommodation and an environmentally friendly way of travelling. Most respondents take recommendations from friends/colleagues/acquaintances, consume responsibly when travelling and care about the environment. The most important experiences for travellers during their trip are related to nature, culture, gastronomy, etc.

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CREATING TRAVEL DESTINATIONS IN THE CONTEXT OF ENVIRONMENTAL PROTECTION IN LATVIA

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ABSTRACT

Nowadays, being aware of the special ecological relations, environmental protection policies are relevant in the world and especially in Europe where the European Green Deal is in place. The goal of the tourism development policy of Latvia until 2027 emphasizes the sustainable development of tourism, with a legal framework being designed for environment-friendly kinds of tourism. Creating travel destinations in the context of environmental protection involves the principles of sustainable tourism in relation to the economic, social and environmental impacts of tourism, as well as learning by living in an area that has been disturbed and harmed by past exploitation. There are many specially protected natural areas in Latvia, and their number will increase in 2024. It is an opportunity to consider promoting environment-friendly travel. However, there should be a better-structured legal framework for the use of natural resources. The rural areas of Latvia have resources for creating natural, ecological and rural tourism destinations. The aim of the present research is to analyse the creation of environment-friendly travel destinations in rural areas in Latvia. To identify problems and solutions to achieving the goal, sociological research methods have been integrated by surveying the stakeholders involved in tourism, as well as document analysis was employed.

Keywords: eco-friendly tourism, travel destination, ecotourism, environmental protection

INTRODUCTION

Tourism involves not only of the nature of the trip but also of the purpose of the trip. Tourism cannot be considered in isolation, as it represents all activities in the system of tourism practices in which it functions. Thus, tourism is a complex socio-cultural, economic and political phenomenon that affects all levels of society. Sustainable tourism entails planned and managed tourism development that meets the needs of modern tourists, modern businesses and local residents, while at the same time preserving and increasing tourism development opportunities in the future. There are also various established principles, guidelines and documents to foster and maintain the development of sustainable tourism in Latvia. However, the role of tourism in society and the impacts of the tourism system on nature, tourism areas, practices and relationships, sightseeing attractions and tourist typologies require systematic sociological research [1]. Creating travel destinations in the context of environmental protection reduces the negative impacts of traditional tourism on the environment and

improves the cultural integrity of the local population. Therefore, in addition to evaluating environmental and cultural factors, promoting recycling, energy efficiency, water conservation and creating economic opportunities for local communities is an integral part of eco-friendly travel destinations. To analyse the creation of environment-friendly travel destinations in rural areas in Latvia, the authors of the research set the following specific research tasks: to analyse the main theoretical findings and publicly available documents on environment-friendly tourism and to identify the opinions of tourism service providers about environmental protection initiatives in rural areas.

MATERIALS AND METHODS

The basic idea of sustainable development calls for meeting the needs of the current generation, trading off the interests of prosperity, environment and economic development, while complying with environmental requirements and natural diversity preservation, so as not to reduce the possibilities of meeting the needs of future generations. The concept of environment-friendly travel destinations would be very attractive to tourism companies and operators in Latvia, as the Sustainable Development Strategy of Latvia until 2030 sets the goal of being an EU leader in preserving, increasing and sustainably using natural capital. Given the relatively low population density, Latvia is one of the greenest EU Member States [2]. Consequently, there is increasing pressure on the government to improve ecological performance by adopting more efficient environmental management methods. According to the authors' observations, not only consumers' interest in environment-friendly tourism but also the pressure of the central and local governments tend to increase to incorporate the principles of nature-friendly tourism into the tourism business. This is also confirmed by the publicly available documents analysed below. The idea of environment-friendly travel destinations in rural areas in Latvia is based on a review of research papers and an analysis of documents, as well as the following concepts: environment-friendly tourism, ecotourism and environmental protection in tourism. To identify the attitudes of tourism businesses to environment-friendly management, a case study was conducted, selecting two municipalities that had a broad range of environment-friendly sightseeing attractions: Tukums municipality (2450 km²), which offers potentially environment-friendly tourism attractions and services: 272 attractions and 120 accommodation facilities and Smiltene municipality (1800 km²), where 148 various tourism attractions are available, incl. environment-friendly ones [3]. A **sociological research method** – an indirect questionnaire survey – was employed to obtain information. In 2023, 32 tourism service providers were surveyed in Tukums municipality and 40 in Smiltene municipality.

RESULTS AND DISCUSSION

Green thinking is an approach that contributes to a sustainable and environment-friendly attitude towards life and daily habits. It is an attitude encouraging people to consciously choose to take actions that reduce the negative impact on the surrounding environment, and this attitude should also be applied to tourism, thereby creating more environment-friendly travel destinations in the future. This phenomenon is supported by research. It is estimated that in the world, 10 % of environmental pollution is produced by the tourism industry. About 75% of the total environmental problems created by the hospitality industry could be attributed to unsustainable consumption of natural

resources, e.g. excessive consumption/waste of water, energy and food [4]. In a travel survey conducted by Booking.com, 81% travellers said they wanted to travel sustainably, but only 39% did so often, while 48% said they rarely or never did so, suggesting that while promising steps were being taken to go green towards the future, the travellers still failed to achieve more sustainable travel [5]. Due to the economic role of tourism, the ecological and socio-cultural impacts thereof are often disregarded. Climate change is a problem for the whole of Europe; therefore, one of the goals of the European Union is to achieve climate neutrality by 2050. To achieve this, in December 2019 the Commission issued a statement on the European Green Deal – a new growth strategy. Various initiatives have been proposed under the Green Deal; however, tourism is still not clearly recognised or identified as one of the drivers of sustainable development in Europe [6].

Ecotourism should be referred to as the first and most recognizable kind of nature-friendly tourism. The concept of ecotourism was presented almost simultaneously (just a few years earlier) with the concept of sustainability in 1983 in Central America. The founder, a Mexican architect, environmentalist and ecotourism and cultural tourism expert, Hector Ceballos-Lascurain defined it as environmentally responsible travel to relatively untouched natural areas to enjoy and appreciate nature, as well as existing cultural features of the past and present, **while promoting nature conservation and education during the trip, creating low environmental impact** as well as socio-economic benefits for the local population through their involvement and participation [7]. Three unifying fundamental prerequisites can be seen in the various definitions of ecotourism. Ecotourism is based on natural resources, is environmentally friendly and educational and contributes to the prosperity of local residents [8].

The most important document governing tourism in Latvia is the Tourism Law. In the context of nature-friendly tourism, it is especially important to mention the amendments to the Tourism Law made on 16 February 2006 because the definition of ecotourism was incorporated into the law. However, no legal act has been passed particularly for ecotourism in Latvia. Ecotourism is referred to in various other legal acts: the Environmental Protection Law (2006), which aims at the preservation and restoration of environmental quality, as well as the sustainable use of natural resources, the Law on Specially Protected Nature Territories (1993), which governs tourism in specially protected areas for recreation, ecological education and scientific research, the Law on the Conservation of Species and Biotopes (2000), the Law on the Protection of Cultural Monuments (1992) and others.

Over the last ten years in Latvia, ecotourism has been incorporated into strategic policy documents. The Ecotourism Development Strategy of Latvia for 2019-2023 states that ecotourism basically involves the principles of sustainable development, and many international research studies consider it to be one of the **best models for the development of the environment-friendly tourism industry** [8]. Namely, ecotourism is sustainable, environment-friendly and responsible tourism whose main purpose is to contribute to: the protection, administration and management of protected natural areas and natural sites, the prosperity of local residents, incomes for local businesses and the fair redistribution thereof and public education in environmental awareness and protection issues.

The legal regulation of environment-friendly destinations could also involve certification. No certification system for ecotourism is in place in Latvia and therefore many related certificates are used, which contributes to the introduction of stricter requirements for the tourism business.

Table 1. Eco-certificates and the responsible organization or institution in Latvia

Certificate	Responsible institution in Latvia
<i>Logo – Eco-flower</i>	State Office of Environmental Supervision
<i>Green Key</i>	Environmental Education Foundation
<i>Blue Flag</i>	Environmental Education Foundation
<i>Eco-product of Latvia</i>	Association of Latvian Organic Agriculture
<i>Rural tourism quality system of Latvia</i>	Association Rural Traveller
<i>Green certificate</i>	Association Rural Traveller

Source: developed by the authors based on an analysis of publications.

Discussing green tourism, Professor Sümer Gülez admits that nature tourism, ecotourism and alternative tourism are the kinds of green tourism that are environment-friendly and gentle in nature [9]. Green tourism is defined as environment-friendly tourism activities with a different focus and meaning. In Latvia, green tourism is not defined, while the Tourism Law defines nature tourism, which, as mentioned above, could be considered a kind of green tourism – “**nature tourism** is a kind of tourism whose purpose is to explore nature, see characteristic landscapes, habitats, observe plants and animals in natural conditions, as well as to learn about nature protection issues” [10]. Sustainable and environment-friendly management in the context of tourism is referred to in various policy documents. For example, the **Sustainable Development Strategy of Latvia** until 2030 puts emphasis on the capitalization of natural resources in connection with the growing global demand for organically certified and healthy food. In Latvia, the relatively large natural capital is an opportunity to increase exports and boost many economic and creative sectors, e.g. the services sector: environment-friendly tourism, relaxation, recreation and medical treatment, healthy catering services; agriculture: organic farming and aquaculture. A sustainable use of natural capital could contribute to the formation of the image of Latvia as a “green” country; therefore, an active business support policy for capitalizing natural assets should be designed [2]. In the context of ecotourism, it is imperative to mention the system of specially protected natural areas in EU Member States, or the **Natura 2000** network, representing each Member State. Since 2004, Latvia has also been part of this network. It included already existing specially protected natural areas, adding 122 new ones. The basic precondition for establishing such areas is the protection of rare and endangered species of plants and animals and their habitats (biotopes) throughout Europe. The Natura 2000 network includes 333 areas in Latvia: 4 strict nature reserves, 4 national parks, 239 nature reserves, 37 nature parks, 9 protected landscape areas, 7

protected marine areas, 9 natural monuments and 24 micro-reserves, and their number tends to increase [11].

The **National Development Plan of Latvia 2021-2027 (NDP2027)** has set four strategic goals that shape the public policy for the next seven years, and six priorities, which group eighteen lines of action [12]. The priority Quality living environment and territorial development, which aims to improve the quality of the living environment for balanced regional development, includes the line of action Nature and environment – the Green Deal. Another policy document, the **Action Plan for Tourism Development in Latvia** for 2021-2027, emphasizes sustainable tourism development by contributing to the creation of tourism products based on local values and lifestyles. It could be concluded that the policy documents envisage creating and developing Latvia as an environmentally friendly, “green” and sustainable environment [13].

In the globalized world, tourists are looking for the peculiar, ethnic, cultural and historical characteristics of each culture. Nowadays, the problem of the quality and attractiveness of the cultural environment has become relevant in Latvia as well. When designing tourism policies for rural areas, several aspects related to the preservation of the cultural environment in the rural areas and the incorporation thereof into the tourism product are considered. Natural and cultural values are prioritized; therefore, in the context of creating environment-friendly destinations, the authors also examined rural tourism. **Rural tourism** is any economic activity that is based on social, cultural and natural resources available outside the cities of national significance. Accordingly, it is necessary to go to the countryside to enjoy tourist accommodation facilities and rural tourism products and relax in nature. The recommendations by the World Tourism Organization [14] state that the most important goal is sustainability, i.e. it is necessary to create an environment where the economic, social and cultural environments, as well as nature protection, are highly appreciated, and each environment interacts and is in balance so that the resources would be used not only to promote and develop rural areas economically but also so that other generations have an opportunity to enjoy rural tourism in the future, public decisions are respected and nature is not harmed.

In Latvia, tourism service providers need to follow various laws and regulations to provide a safe rural tourism destination for travellers. To do the rural tourism business, according to the information available on the official tourism portal Rural Traveller, the businesses must comply with: the Tourism Law, the Regulations Regarding the Maximum Permitted Amount of Trans Fatty Acids in Food Products, the Handling of Alcoholic Beverages Law, the Consumer Rights Protection Law, the Regulations on the Placement of Advertising Objects or Information Objects along Roads, as well as the Procedure for Agreeing the Placement of Advertising Objects or Information Objects, the Procedures for the Training of Persons Employed in the Handling of Food in the Field of Food Hygiene, the Mandatory Safety and Quality Requirements for Drinking Water and the Monitoring and Control Procedure [15], as well as the regulations related to waste management and the use of natural resources in a particular municipality. Since 1999, rural tourism entrepreneurs in Latvia may operate if have undergone the eco-certification of rural tourism companies of national significance or have acquired the environmental quality mark. The Green Certificate is periodically renewed according to technological innovations and the public attitude towards environmental conservation problems. The criteria for a Green Certificate cover several practical areas of economic

activity of a tourism company, with each specifically indicating the options for environment-friendly actions available in Latvia: the vision of natural resource protection, cooperation and general problems; rational use of energy resources; rational use of water resources; waste management; rational use of cleaning, washing and disinfecting agents; restrictions on the use of substances and materials dangerous to the environment and human health; transportation services; catering services; environmental education, information flows and communication, environment-friendly activities and products; interests of children and persons with special needs; yards and greenery.

A total of 72 respondents – tourism service providers in Smiltene and Tukums municipalities – were surveyed to identify the practices and attitudes of businesses towards the creation of environment-friendly travel destinations and their future plans in connection with the Green Deal. The survey results revealed that everyone cooperated with waste and sewage management companies, while 25 respondents expanded their activities in the field of environmental protection by cooperating with the municipality and developing projects related to nature protection.

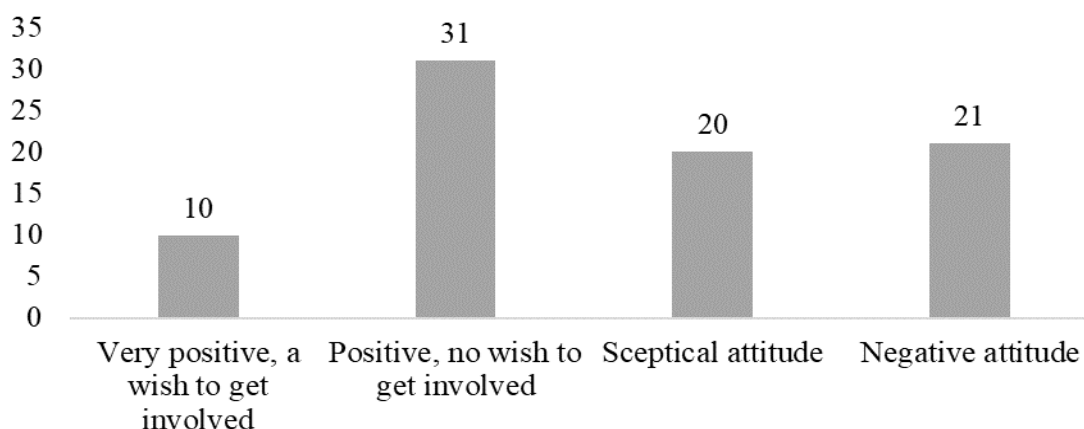


Fig.1. Attitudes of tourism service providers towards the Green Deal

Source: developed by the authors based on the research results.

Even though the attitude towards the Green Deal was overall mainly sceptical, the answers to the question of meeting various criteria for an environment-friendly travel destination revealed that in practice, the businesses already met the environmental protection requirements, even to the extent more than required.

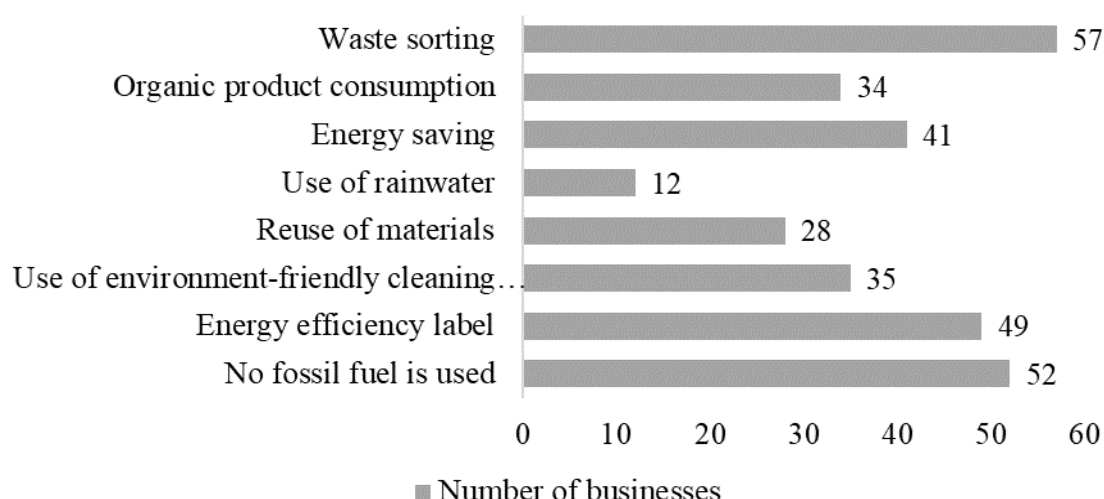


Fig.2. Actions for nature protection in rural tourism destinations

Source: developed by the authors based on the research results.

Most of the businesses believed that they operated in an environment-friendly manner, although only 12% had received an eco-certificate. Absolutely all the listed criteria for eco-friendly management were not observed at any tourist accommodation facility. The rural tourism service providers found that the main reasons that prevented them from buying an eco-certificate were a lack of information about the procedure for receiving and maintaining it, the fact that the business still needed improvements to meet the certification criteria, as well as uncertainty about the benefits of having the certificate.

CONCLUSION

The understanding of eco-friendly tourism is not unambiguous. The concepts such as sustainability, green tourism, nature tourism and ecotourism are often used to explain it. In the opinion of the authors, the principles of ecotourism and the definitions examined are the basis of nature-friendly tourism and most accurately describe environment-friendly tourism.

The legal framework for environment-friendly travel destinations could be conceptualized at three levels. The first represents trends in the European Union, with emphasis on the Green Deal. The second level is national laws, with the Tourism Law being the main one; however, it does not refer to environment-friendly tourism. There are other laws related to various environmental protection problems as well as regulations passed by the national government for specific activities. The third level involves various certification systems and the responsible monitoring organizations.

The activity of tourism service providers in rural areas is based on the principles of sustainable development, preservation of local values, creativity, quality, fair competition and cooperation, as well as efficient operation, which is also aligned with the principles of creating environment-friendly travel destinations.

In creating environment-friendly travel destinations, the systematization of legal acts could be put forward as the main objective to be achieved, thereby arranging them by

kind, by field of economic activity and by topic, which would facilitate and increase the supply of environment-friendly tourism products. The activity of various tourism organizations and information centres, which collect information and advise tourism service providers on creating environment-friendly offers, could be viewed positively.

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DETERMINANTS OF MIGRATION: A MACRO LEVEL PERSPECTIVE

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ABSTRACT

Migration is a multifaceted phenomenon influenced by several macro-level determinants. In this article we aim to analyze the key factors driving migration, and focus on violence and conflict, human rights, institutional quality, economic opportunities, governance, political factors, climate change, environmental threats. Based on an interdisciplinary approach, we synthesize the existing research and data to provide a comprehensive overview of these drivers. In order to understand the interaction between structural opportunities and individual aspirations, our methodology entails a review of cross-national studies and theoretical frameworks, notably Carling's concept of involuntary immobility and also Sen's capabilities approach. The findings underline that major drivers of migration are violence and conflict, violations of human rights, bad government. Along with government policies, which although powerful sometimes yield mixed results, economic disparities and employment opportunities also play vital roles. Emerging concerns such as climate change and environmental degradation are increasingly relevant, with significant implications for future migratory trends. The study comes to the conclusion that tackling these determinants calls for a nuanced and holistic policy approach that combines insights from several disciplines. Limitations include the need for more detailed analysis of migration policies' impact on origin countries and also a clearer definition of environmental migration.

Keywords: migration, migration policy, macro-level factors, environmental factors, economic opportunities, institutional quality

INTRODUCTION

Human mobility in the 21st century represents a complex and dynamic phenomenon that includes acute implications for global societies and economies. The study of migration has been a central preoccupation of social research for many decades and it has attempted to explain population movements within an appropriate theoretical framework. Over the years, different theoretical paradigms have been proposed in order to understand the reasons and impact of migration, but the ongoing debates reflect the complexity and diversity of the phenomenon. In this context, our present article explores the main determinants of migration in the 21st century, with a focus on violence and conflict, human rights impacts, institutional factors and governance, economic opportunities,

climate change and environmental degradation, as well as displacement induced by the development of investment projects.

Each section and subsection of our article addresses a certain aspect of migration and presents a succinct analysis of the influences and interactions shaping migratory flows in the contemporary globalized context. First, we discuss violence and conflict as fundamental reasons for migration and examine how these influence individual and collective decisions to leave their places of origin in search of security and stability. Second, we focus on the impact of human rights and the importance of respecting them in the context of international and internal migration. The following subsections explore institutions, governance and political factors, and how institutional quality and migration policies influence population movements.

Discussions of economic opportunities bring to the fore the economic differences between countries and the impact of remittances on socio-economic development. Climate change and environmental degradation represent another key dimension, and how they drive migration in response to extreme weather events and long-term ecological threats. In the end, we also present the displacement induced by the development of investment projects and the impact of these interventions on local communities and the environment.

By integrating various theoretical perspectives and studies we try to provide a comprehensive understanding of migration's multifaceted nature. We highlight the need for a holistic and interdisciplinary approach so as to capture the interconnected elements that drive migration and shape its outcomes in the 21st century.

INSIGHTS OF THEORETICAL FRAMEWORK

Migration theory has been at an impasse for several decades, research by [1] showing that it remains anchored in 19th century concepts and models. Although historical-structural, neo-classical theories and also push-pull models were criticized by post-modern scholars, there have not been proposed viable alternatives.

Quantitatively oriented economists and social researchers continue to use the simplistic neo-classical assumptions and push-pull models that do not effectively explain actual migration. Migration studies remain poorly theorized, in part because of its proximity to the political sphere, although understanding migration offers valuable insights into contemporary social change.

In our studies we considered a theoretical framework based on the concept of involuntary immobility from Carling [2] and on capabilities approach from Sen [3]. It considers migration a function of people's capabilities and aspirations in opportunity structures, and offers a more nuanced understanding of human mobility [3]. In relation to Sen's capabilities framework, migration is defined as the ability to choose where to live, not just a passive reaction to static factors of attraction and repulsion. This approach enables the integration of existing theories, the development of a deeper comprehension of human mobility, and also recognizes the simultaneous role of structure and agency for the migration processes.

THE MAIN FACTORS DETERMINING MIGRATION

The macro level of migration includes traditional factors such as the political and economic context, but also additional factors such as migration policies and the impact of environmental factors, which influence migration, both voluntary and forced. These factors must be approached holistically like interconnected elements that can interact, and could possibly reinforce or inhibit each other. Researchers have argued that a comprehensive theory of migration cannot emerge due to the complexity of the phenomenon [4], and also that migration is too complex to fit one theory. Complexity should not justify abandoning theorizing, due to the fact that the largest part of social phenomena are rather complex, and this has not hindered theoretical advance within other areas of social research.

Violence and conflict

In specialized research, violence and conflict are presented as among the main reasons for migration. Quantitative cross-national studies show that violence plays a dominant role in the decision to migrate, exemplified by Aceh province in Indonesia and communities in Nicaragua [5, 6]. We noticed that studies recognize the diversity of other factors that influence the decision to migrate, in addition to threat and exposure to conflict, like economic incentives and individual characteristics, socio-economic and personality aspects. While the impact of violence is clear, there is debate over the type and extent of conflict that drives migration. Nevertheless, it is important to analyze the interdependence of violence with other factors such as stability and economic opportunities, some aspects that remain relevant for future research.

Human rights impact

In the research on migration, we found that lack of human rights and political rights can increase the likelihood of individual migration [7]. These factors are analyzed using measures such as the Political Terror Scale (PTS) and the Freedom House Index (FHI), which assess the impact of human rights violations on population mobility [8]. Studies show a significant correlation between political restrictions and increased numbers of refugees, pointing out that restrictive policies and repression can influence individuals' decisions to leave their countries of origin in search of a safer and freer environment. This connection is very important in understanding the dynamics of contemporary migration and the factors that motivate it.

Institutions, governance and political factors

Migration is significantly influenced by a number of institutional and political factors. These include institutional quality at destination, poor governance in countries of origin, as well as migration policies adopted by various states.

a. Institutional quality and governance

Institutional quality and governance have their important role in migration decisions. In the countries of origin, poor governance and corruption can stimulate migration, but in

the destination countries, strong institutions and protection of human rights are the ones that attract the migrants.

Regarding the impact of institutional quality, researchers [9] employed a gravity model and cross-national data and demonstrated that institutional quality has an important role in explaining the migration flows, even after adjusting it for other country-level indicators. As for corruption and human rights, others [10] highlighted that the prevalence of corruption and lack of human rights protection can stimulate migration. These elements underline the importance of effective governance in managing migratory flows.

b. Political factors and migration policies

Specific political and economic factors, such as economic crises and conflicts, have an important influence on migration. In addition, migration policies adopted by states also have a significant impact on migration flows.

Take into account the economic crisis and conflicts, migration in Europe was deeply influenced by the economic crisis of 2007, which caused rural population to migrate to cities due to inflation and lack of subsidies. Also, conflicts and instability, for example the Syrian refugee crisis of 2011, have led to a significant influx of refugees into Europe.

As for the restrictive policies and irregular migration, researchers [11] argue that more restrictive asylum and visa policies can encourage irregular movements. In contrast, the more optimistic supporters of migration policies argue that they have had a positive impact in limiting migration [2]. However, restrictive policies can also discourage departures, generating incentives for long-term settlement.

Additional factors, such as migrant networks, may encourage continued migration regardless of the policies adopted. Thus, migration can become self-reinforcing.

c. Examples of political factors in Europe on migration

The 2015 refugee crisis generated more than one million asylum applications in the EU, the majority of them due to the war in Syria. The 2016 Brexit decision had important implications for migration in the UK, with discussions about the types of Brexit and its impact on cross-border movement. The actual Brexit in 2020 has increased uncertainty and Euroscepticism.

Russia's invasion of Ukraine in 2022 led to a large migration of Ukrainians; Poland became one of the main destinations and the EU has been providing financial aid. Changes in migration policy influence migration flows, but assessing their effects is complex. Restrictive policies may change migrant routes, but without significantly reducing the total number of migrants.

Economic opportunities

Differences in economic opportunities, mainly in terms of employment and wages, are considered one of the main causes of migration, according to neoclassical theory that examines migration decisions based on wage differences between the countries of origin and destination, as a function of economic benefits. Martin [12] introduced the concept of the “migration hump” to illustrate a complex link between economic development and the rate of migration in developing countries. In developing countries, GDP growth may initially lead to an increase in emigration. This fact suggests that during periods of

economic growth, it is mainly those with sufficient resources to support travel who migrate, not the poorest.

Other researchers [13] highlighted the significant impact of remittances on national economies, and their crucial role in improving living standards and global economic development. These remittances have a profound impact, exceeding 2% of GDP in several countries, underscoring their importance at both the microeconomic and macroeconomic levels. Money obtained through remittances can be used both for personal consumption, individual savings and investments, and for public needs, through taxes and fees charged by some states. These resources are then directed to the development of infrastructure and public goods, improving living conditions and reducing poverty. The analytical perspective on remittances emphasizes their complexity and importance and requires a rigorous academic approach to understand how they influence national economies and social development.

Human capital flight, also known as the “brain drain”, is the migration of internationally educated workers in search of professional opportunities. Although it can be seen as a problem in home countries, it also brings benefits through remittances, skills and knowledge, but it can also generate challenges, such as competition in the labor market in host countries.

Environmental threats and climate change

Population movement due to environmental degradation and climate change is a complex and new phenomenon. Currently, the lack of a clear definition for environmental migration and the difficulties in statistical classification are accentuated by the overlap with conflict migration. UN Human Rights Committee (based on ruling CCPR/C/127/D/2728/2016) ruled in 2020 that states cannot deport asylum seekers due to climate threats.

Environmental degradation and climate change have driven migration due to extreme weather events, sea level rise and resource scarcity, both internally within countries and across borders. Environmental migration can be a temporary reaction to natural disasters or a more permanent movement caused by climate change. The impact is more pronounced in the dry, tropical, coastal regions, but also in island countries.

Climate change affects the local economies, it reduces production, and threatens food security. The unwanted weather events disrupt the local economy, mainly in those agricultural communities that lack adequate infrastructure. Environmental migration is influenced by factors such as land degradation, natural disasters, drought etc. [14]. Hundreds of millions of persons will be impacted by climate change in the near future, a phenomenon that may generate global climate segregation. Adaptation to climate risks includes circular or seasonal migration, which does not always involve crossing international borders.

Displacement induced by the development of investment projects

Displacement caused by development projects, such as dam construction, mining or urban infrastructure development [15], can have significant consequences. These include the forced relocation of the local population to make way for new construction such as roads

or ports. Although development projects can bring economic and social benefits, such as new employment opportunities or improvements in public services, they can negatively affect the environment and vulnerable communities, such as indigenous communities and ethnic minorities [15]. Secondary implications include environmental degradation, loss of biodiversity and changes in water levels, having a lasting impact on the environment and the affected population.

CONCLUSION

Migration represents a complex phenomenon that cannot be reduced to simplifications or to unilateral interpretations. It is important to truly understand its implications for global society, by approaching this topic objectively and based on verifiable data and reports.

Based on our research, compared to previous studies, employment opportunities, political-economic environment, infrastructure, development of health and education systems, living standards, geographical location, psychological and cultural climate, as well as leisure opportunities, freedom of self-expression are examples of “push” and “pull” factors. While these factors impact on a person's desire to emigrate, there are other considerations, like travel costs, the time and money required to settle in a foreign country, but also psychological concerns, like separation from family, that can diminish this desire. Spatial distance between home and host economies multiplies travel costs, but locally developed emigrant communities can help reduce them.

Push and pull forces are considered causal factors of migration. Push factors such as lack of economic opportunities or social persecution can force people to leave their own country and move to another. People are pulled to certain characteristics, such as economic success or political stability, which together serve as reasons why individuals choose to migrate and can have a considerable influence on both the communities of origin and destination.

In conclusion, a more nuanced theoretical approach, such as that proposed by Carling [2] and Sen [3], is needed to understand the phenomenon of migration, which views migration as a function of people's capabilities and aspirations within opportunity structures. This approach recognizes the simultaneous role of structure and agency in migration processes and allows the integration of present theories to foster a deeper comprehension of human mobility.

The complexity of the migration phenomenon is accentuated by the interdependence of macro factors, such as the political and economic context, migration policies, the impact of environmental factors, violence and conflicts, respect for human rights, the quality of institutions and governance, and economic opportunities. Climate change and environmental threats, and the displacement caused by development projects also contribute to migration dynamics. Therefore, an ample comprehension of migration needs a holistic and interdisciplinary analysis taking into account all these interconnected elements and recognizing the diversity and complexity of this global phenomenon.

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DETERMINANTS OF THE TRADE BETWEEN BRICS COUNTRIES A GRAVITY MODEL APPROACH

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ABSTRACT

The aim of this paper is to find out the main determinants of the bilateral trade between the BRICS countries. The BRICS countries are fast growing, emerging markets, relatively recently known as a group that counts for more than a third of the world's land and more than 40% of the world's population.

The augmented gravity model was used because is the model that explains most of the international bilateral trade and a panel approach was chosen to address the heteroskedasticity issues. The linear regression using Panel Least Squares Method was performed, with bilateral trade as dependent variable.

The findings: The GDP, the population, common language and trade openness have a positive influence on bilateral trade, which is in line with the previous studies. The geographical distance, as a proxy for trade costs, the exchange rate, the market concentration index, the inflation and the export market penetration index are determinants with the negative impact of the bilateral trade of the BRICS countries in the 2009-2021 period.

Keywords: BRICS countries, gravity model, international trade determinants

INTRODUCTION

In the beginning, BRIC was an acronym introduced in 2001 by an American economist for countries which at that time were considered attractive to invest in. Brazil, Russia, India and China held their first summit in 2009 as BRIC countries and a year later, when South Africa joined them, BRIC naturally became BRICS and remained so until 2024, when became BRICS +, as other 40 countries joined the club. The BRICS are major players among the over 200 countries and territories involved in the international trade. In this study, the major determinants of the bilateral trade between the BRICS countries in 2009-2021 period were analyzed. In the considered period, China was the second most important importer in the whole world following USA and the second most important exporter between 2009 and 2012, again after USA, while from 2013 to 2021 it became the first exporter in the world. China was followed by India ranking 13th to 15th for exports and 7th to 13th for imports and by Russia ranking 9th to 20th for exports and 14th to 20th for imports. Brazil came 20th to 25th for exports and imports as well and South Africa from 35th to 40th for both imports and exports, according to World Bank trade statistics. The percent of the BRICS exports to the world was between 16% in 2009 to 21% in 2021, while the imports of the BRICS from the world counted for 15% to 17%.

Not surprisingly, China share in BRICS exports was 70% on average for both exports and imports, than it was India with 9% for exports and 14% for imports and Russia with 9% for imports and 14% for exports, followed by Brazil with 7% for exports and doubled for imports and South Africa with 3% for exports and imports as well.

The pattern for Brazil and South Africa export partners was quite the same, China and USA (in this order), while for China and India and even Russia for last five years USA was the most important export partner, for India and Russia, China was the second or the third export partner, while for China in top 3 export partners there were only Asian countries. The pattern for BRICS imports revealed China as the main import partner for all the BRICS countries, while most of China imports came from Japan and Korea, according to WITS data.

LITERATURE REVIEW

The economist Jan Tinbergen [9] introduced the gravity model in 1962, the name and the model were inspired by Newton's gravity law, which states that the attraction force between two particles is directly proportional with their masses and inversely proportional with the squared distance between them. In the gravity model, the two particles are considered two countries, the attraction forces between the two particles are considered the trade flows between them, the masses of the two particles are considered the economic sizes of the two countries and the distance between the two particles is the geographical distance between the two countries, regularly the distance between their capitals.

The literature review reveals some interesting results when other authors applied the gravity model to study the trade flows of the BRICS countries. Laskar (2015) [5] made a research focused on the factors responsible for trade and foreign direct investments (FDI) flows in the BRICS countries. The results are that the market size has a positive influence on the bilateral trade and FDI flows, while the distance has a negative influence.

Manzoor, Safdar and Mahmood (2021) [7] realized a study on the international migration from Brazil, Russia, India and China (BRIC) countries to developed world (OECD Countries). The study indicated that the GDP of host nation is the most important factor for migration, while common language, trade and foreign direct investments also encourage migration.

Mishra, Gadhia, Kubendran, and Sahoo (2015) [8] found out that the transport cost has an essential role. If the transport cost has a negative influence on the foreign trade among BRICS countries, other variables as exchange rate, inflation and import-GDP ratio can't compensate it.

From the five BRICS countries, India is the one with the most case studies. Kubendran (2020) [3] analyzed trade relation between India and other BRICS nations on short term, as on long term. The results are that except inflation, per capita GDP differential and distance, all the other variables (GDP, GDP per capita, exchange rate, Trade-GDP ratio and Trade Agreement) have a positive influence to the volume of trade of BRICS nations.

In addition to this, Bhat, Jamal and Beg (2022) [1] found out that, besides the conventional variables of the gravity model, India's outward multilateral trade resistance and BRICS inward multilateral trade resistance significantly increases India–BRICS trade.

Many authors highlight the importance of free trade in the BRICS countries. The study of Lohani (2024) [6] showed that the trade between India and the other BRICS countries is affected by tariff and non-tariff barriers. The study suggests that the Indian government should negotiate with the other governments to remove the trade barriers and the other hurdles among the BRICS countries. These findings are sustained by those of Wani (2024) [11], who highlights the importance of increasing the cooperation among BRICS countries in terms of developing infrastructure, signing of free trade agreement (FTA) and increasing people-to-people contacts.

Wang, Yu and Zheng (2018) [10] give some policy recommendations: increase the economic cooperation between BRIC countries, exert international influence, increase BRIC trade competitiveness, promote free trade and firmly oppose protectionism.

Yotov, Piermartini, Monteiro and Larch (2016) [14] draw attention to the fact that, despite the gravity model is a strong theoretical foundation and it has a consistent predictive power, however it should be applied with caution, because sometimes the results could be biased and inconsistent.

MATERIALS AND METHODS

The aim of this study is to find out the major determinants of the intra BRICS international trade using the gravity model. The data were organized as a balanced panel to address the heteroskedascity issues and to control the factors that are constant in time and not represented in the gravity model.

The dependent variable was the bilateral trade between each pair of BRICS countries from 2009 to 2021, the sum of imports values (CIF) in thousands US dollars, in natural log form, the data are from International Trade Center [4].

The independent variables were partly traditional ones, as aggregated GDP and population, reflecting the market size and expected to have a positive influence on bilateral trade, the data are from World Bank statistics [12] and the distance between the countries, used as a proxy for trade costs, expected to a negative influence on trade flows, according to gravity model. A dummy variable was used, the Comlang, meaning a common language spoken by a percent of the population of the two countries, this is a dichotomic variable with value 1 for common language and 0 in rest. Both distances and common language are from a traditional gravity dataset, CEPII [2]. Another traditional variable is the exchange rate, which is the value of a nation's currency when is traded for another currency. The importers' exchange rate directly affects international trade because it can increase or decrease exports and imports, if exchange rate decreases so do the imports, while the exports will increase. The exchange rate is expected to have a negative impact on trade flows and the data are from the World Bank database [12].

Other variable used is inflation, refering to the loss of purchasing power, reflected in the rise of the prices for goods or services in a period of time. Inflation of the importers influences international trade flows directly by affecting the purchasing power and

indirectly by affecting the exchange rate. It is expected to have a negative influence on international trade and the data are from World Bank database [12].

Trade openness is another variable often used in gravity models, expected to have a positive influence on trade flows, because the more trade opened a country is, the more it trades with other countries. Trade openness, which is the ratio between the sum of imports and exports and GDP, measures how much is a country engaged in international trade.

The next two variables are not usually used in gravity models: The first one is the Index of Export Market Penetration, which shows the extent to what the exports of a country reach the international markets, it is the ratio between the number of countries receiving a product exported by a particular country and the number of countries importing the same product in the same year. It measures the exports' competitiveness, the strength of an exporter compared to its competitors, a value closed to 1 means the country reaches to a larger market. It would expect to have a positive influence on trade flows, the more competitive a country is referring to exports, the more it trades. The second one is The Market Concentration Index or the Herfindahl-Hirschman Index, it is a measure of dispersion the trade values across a country's trade partners. If the value is closed to 1, it means the country has a trade that is concentrated in a few market, it has a very limited number of trade partners, while if the value is closed to 0, it means a country has a diversified trade portfolio and a large number of trade partners. It is expected to have a negative influence on the trade flows. The data for both variables are from World Integrated Trade Solutions-WITS [13].

RESULTS

First, Unit Root Tests were applied to determine if the time series are stationary and the results showed all the time series are stationary at level, with a probability of 0.0000, except for *inflation*, which has a probability of 0.0012 and *sumGDP*, which has a probability of 0.0227.

The gravity equation is:

$$\text{LNTRADE}_t = C + c_1 \text{LNSUMGDP}_t + c_2 \text{LNPOP}_t + c_3 \text{LN SUMGDP}_t + c_4 \text{LNDIST}_t + c_5 \text{LNIMPEXCHANGERATE}_t + c_6 \text{LNIMPINFLATION}_t + c_7 \text{LNTRADEOPENESS}_t + c_8 \text{LNEXPMARKETPEN}_t + c_9 \text{LNMARKET\_CON}_t + c_{10} \text{COMLANGOFF}_t + e_t$$

$t=2009, 2010, \dots, 2021$ and e_t is the error term.

The Pearson Correlation Tests were conducted to assess the correlations between the dependent and the independent variables. The positive correlations are strong, while the negative correlations are quite weak and two of the correlations have unexpected negative signs.

Table 1: The Pearson Correlations with LNTRADE

The independent variables	Pearson Correlation with LNTRADE
LNSUMGDP	0.934
LNEXPMARKETPEN	0.555
LNPOP	0.533
LNDIST	-0.006
COMLANGOFF	-0.065
LNMARKET_CON	-0.077
LNIMPEXCHANGERATE	-0.104
LNTRADEOPENESS	-0.111
LNIMPINFLATION	-0.333

Source: Author's table based on EViews outputs

Pairwise Granger Causality Tests were conducted and the following Granger causalities were found: one Granger causality between LNSUMGDP and LNTRADE and Granger causalities between LNTRADE and all the independent variables, except COMLANGOFF.

Table 2: Granger Causality Results

The Null Hypothesis	F-Statistic	Probability
LNSUMGDP does not Granger Cause LNTRADE	10.6181	4.E-05
LNTRADE does not Granger Cause LNEXPMARKETPEN	4.74912	0.0096
LNTRADE does not Granger Cause LNIMPEXCHANGERATE	3.91167	0.0215
LNTRADE does not Granger Cause LNIMPGDPPC	5.74483	0.0037
LNTRADE does not Granger Cause LNIMPINFLATION	4.97010	0.0078
LNTRADE does not Granger Cause LNPOP	4.14331	0.0172
LNTRADE does not Granger Cause LNTRADEOPENESS	6.34276	0.0021
LNTRADE does not Granger Cause LNSUMGDP	10.1025	7.E-05

Source: Author's table based on EViews outputs

The Hausman Test was conducted to test if errors are correlated with the regressors, to find out whether the fixed effects or the random effects are most appropriate and the test

results proved the random effects should be used, which allow to include time invariant variables.

Table 3: Hausman Test Results

Test Summary	Chi-Sq. Statistic	Chi-Sq. d.f.	Prob.
Period random	0.000000	9	1.0000

Source: EViews output

A regression was run using EViews 8 for the dependent variable LNTRADE, the method used was Panel EGLS (Error Components Generalized Least Squares), which is ensuring unbiased and normal slopes even with non-normal errors. The Cross-section SUR (Seemingly Unrelated Regressions) technique is valuable when standard estimators like fixed or random effects may lead to biased inferences due to strong cross-sectional dependence. Panel data was used to address and control individual heterogeneity, to control variables which cannot be observed, like cultural factors, as well as time change variables, like international agreements.

Table 4: The panel EGLS regression results

Variable	Coefficient	Standard	t-Statistic	Probability
C	-59.50207	1.749807	-34.00494	0.0000
LNEXPMARKETPEN	-1.013615	0.104588	-9.691546	0.0000
LNIMPEXCHANGERATE	-0.656621	0.039342	-16.68994	0.0000
LNMARKET_CON	-0.512001	0.077201	-6.632030	0.0000
LNIMPINFLATION	-0.183895	0.064110	-2.868417	0.0045
LNDIST	-0.126408	0.035781	-3.532879	0.0005
LNPOP	0.623136	0.050808	12.26442	0.0000
COMLANGOFF	0.655160	0.064444	10.16628	0.0000
LNTRADEOPENESS	1.551768	0.142118	10.91889	0.0000
LNSUMGDP	2.083810	0.048545	42.92511	0.0000
R-squared	0.934113			
Adjusted R-squared	0.931621			
F-statistic	374.9147			0.000000

Source: Author's table based on EViews output

DISCUSSION

The considered independent variables were the sum of the GDP of each pair of BRICS countries, the total population of pair countries, both of them measuring the economic size, the distance between the capital cities of the countries used as a proxy for the trade cost, the importers' exchange rate and the importers' inflation, the trade openness, the export market penetration index, the market concentration index and as dummy the common language as a proxy for cultural effects. Some of the independent variables, like the sum of GDP, total population, trade openness, common language, export market penetration, were expected to have a positive influence on the trade flows, while the other ones were expected to have a negative impact on trade flows. All the signs of the coefficients were as expected, with a notable exception of the export market penetration index. The sign of this variable was expected to be positive, based on the assumption that the more competitive a country is regarding to exports, the more that country will trade. And yet the sign of the coefficient of the export market penetration turned to be negative and a possible explanation is that particularly the more a country is more competitive in exports the more would trade, but not just with the other BRICS, but with many other countries and trading with non-BRICS could have a negative impact on the intra BRICS trade, this result is sustained by the statistical data, the BRICS intra - trade is about 20% of the world trade.

CONCLUSION

The aim of this study was to find out the determinants of the international intra trade among the BRICS countries. All the signs of the coefficients were as expected, except the one of the export market penetration index. This variable was expected to have a positive influence, but its influence proved to be negative. The market concentration has a negative influence on bilateral trade as expected, a 1% increase of the market concentration leads to a 0.5% decrease of the bilateral trade. The sum of GDP and the total population has not only the expected sign, but also the expected value for the first one and a lower value for the last one considering that BRICS countries counts for about 40% of the global population, in line with previous studies of Kubendran (2020) [3], Laskar (2015) [5] and many other studies. The distance had the expected negative sign, but the coefficient is smaller than expected, therefore the distance influence is less important for the BRICS countries, in contradiction with other studies on BRICS trade like Mishra, Gadhia, Kubendran and Sahoo (2015) [8]. Trade openness instead has a strongly positive impact on trade flows and so is the common language. Importers exchange rate and inflation had a negative but limited influence on trade flows, again in contradiction with Mishra, Gadhia, Kubendran and Sahoo (2015) [8] and Kubendran (2020) [3] studies. The value of the coefficient proves that there were variables not included in the model, which have a negative impact on trade flows, as the ones specified in the study of Wani (2024) [11]. The value of R-squared is high, meaning the gravity model has a great explanatory and predictive power for BRICS trade according to Yotov, Piermartini, Monteiro, and Larch (2016) [14].

Further studies should be made to compare the BRICS intra trade with the whole BRICS trade and an extension of the time period should be considered.

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ENERGY SMART GRIDS AND SUSTAINABLE DEVELOPMENT: THE PRINCIPLE OF «MAXIMUM DATA PROTECTION»

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ABSTRACT

The paper addresses the impact of smart grids on the energy sector and personal rights. Renewable conversion of the energy cycle has been deemed insufficient over time, and the production perspective has been complemented by innovation and research that have changed the transition process, which now also involves the digitization of the entire electricity system. Sustainable development is also technological, incorporating both the energy transition and the digital transition, aimed at creating an efficient electricity system that can reduce consumption, lower energy prices, protect the environment and safeguard the interests of stakeholders, both producers and consumers, especially those who are vulnerable or poor. The intertwining of the two transitions was captured, first by European legislative acts in 2009 and developed in the Fourth Energy Package, with the creation of *smart grids*. *Smart grids*, as the energy sectoral declination of the smart city model, give the electricity grid a new qualification that frees it from the merely passive vision of reducing it to the status of a means of transporting energy, to consider it as a tool for realising energy efficiency, allocating resources and protecting all those connected to it. The harmful impact of *smart grids* on the right to privacy and on all users' rights of freedom imposes the need to envisage a new Euro-European energy digital law aimed at providing general rules to regulate the proper exploitation of data collected by the network, without affecting the rights of all users of the network. In the area of negative effects, it emerged that *smart grids* restrict the rights of the individual in terms of personal identity and personal freedom, directing the behaviour and everyday choices of all energy consumers. Protection tools include the introduction of a special and detailed informed consent by users and the provision of non-judicial dispute resolution tools that allow for faster protection of rights.

Keywords: smart grid, energy, digital transition, prosumer, sustainable development

INTRODUCTION

Energy efficiency and technological innovation are closely linked, as energy efficiency can only be achieved through technological research and innovation. Innovation and research, which have enabled the introduction of multiple institutes, such as 'green patents' [1], *blockchains* and *distributed ledger technology* mechanisms [2]. The pursuit of a high level of efficiency in the energy system allows, even in the urban context, the implementation of the principle of sustainability, which today represents the result of a balanced relationship between two different transitions, the energy transition, in the context of which the instances of green conversion of the energy cycle dominate, and the digital transition, aimed at the predisposition of an interconnected and technological system to connect all the points of the network and search for new energy sources and new types of energy generation plants. It is precisely the improvement of the urban

environment that represents the new challenge for the EU institutions, which are preparing an appropriate regulatory framework to introduce rules to boost renewable forms of energy generation, the green regeneration of each state's building stock, and the widespread deployment of the smart grid to connect individual meters with generation plants. The combination of the two transitions makes it possible to affirm that in the territorial sphere the paradigm to be followed will be that of the sustainable and self-sufficient city [3], which would best achieve the desired *missions*, in the European and international spheres, of 'greening buildings, creating new jobs and improving people's lives' (*Recital* no. 3 of Directive 2024/1275/EU) and 'make cities and human settlements inclusive, safe, resilient and sustainable', in line with the UN 2030 Agenda for Sustainable Development. The new paradigm of the sustainable city operates as the evolution in an environmental key of the theory of the *smart* city or *intelligent city* [4], which has allowed ecological and energy issues to be reinterpreted in the light of digital innovations. In fact, the integration of technology in environmental and energy choices has led to a new reading of the notion of the city, which, from being intelligent on a purely technological level, has come to be realised as a *self-sufficient city* that, in the words of Guallart in 2012 [5], is characterised by being a true circuit, in which the various nodes (think of individual houses and entire neighbourhoods) are interconnected, thanks to technology, to address urban challenges, correct any pathologies and achieve true sustainability. Only in this way is it possible to effectively implement the principles of the *smart city* model of collective governance and *urban tech justice* (UTJ), which emphasises precisely access to technology and the presence of digital infrastructures and open data protocols to accelerate the construction of a self-sufficient and self-sustainable community, including in terms of energy [6]. In the specific field of energy, the *smart city* supports the use of digital innovations to accelerate the spread of renewable energy, flexible clean technologies and to connect, aggregate and control all energy production units, energy consumers and *prosumers*. In this context, inspired by the principle of efficiency and the sustainable and self-sufficient citizen model, so-called smart grids operate, which guarantee the constant and stable transmission of electricity, the connection of producers, commercial enterprises and *prosumers*, and individual energy consumers to the grid. Access to technologies, to create the installations and connect the users, is essential to develop collaborative and innovative energy projects within the urban context, giving private individuals an active role (so-called *empowerment*) [7] in the entire energy cycle.

MATERIALS AND METHODS

The method used for this survey takes into account the analysis of EU legislative developments on the goals to be achieved in the energy sector and the effects produced by the application of the smart city model. The last few years have been characterised by the constant spread of digital tools and the perceived need to make cities increasingly sustainable, so much so that supranational legislative developments have addressed these issues, focusing their efforts on achieving sustainable growth in terms of energy, through the respectful management of natural resources and participatory *governance of* citizens. The so-called 'fourth energy package', implementing the 2016 *Winter package* (which has become the *Clean energy package*) [8] has taken up this need and extended

the scope of the sustainable energy growth objectives, already envisaged by the previous acts of 2009, to efficiency and technological and digital innovation. Central to this dynamic is the ‘*Energy Efficiency First*’ principle [9], which should guide EU and state legislators in making energy choices in the present and near future. The principle, indirectly referred to in Regulation no. 2018/1999/EU on the governance of the Union for energy and climate action and in Directive 2018/2002/EU on energy efficiency, is expressly provided for in Article 3 of Directive 2023/1791/EU and aims to ensure that only the energy that is really needed is produced, to reduce consumption, so as to adapt the supply of energy to its real demand. The ‘cumulative energy savings in end use’ is the goal to be pursued in the implementation of the principle that, as outlined in the 2023 Directive, must be qualified as a dominant overall coordination of the entire electricity system, in all its phases and sectors. *Recitals* 14 and 18 of the Directive stipulate that from its implementation, security of supply should be ensured with the ‘more efficient solutions for climate neutrality along the entire value chain, from energy production and grid transport to final energy consumption, so as to achieve efficiencies in both primary energy consumption and final energy consumption’. The relevance of *smart grids*, the result of the link between the green and blue transition, was already taken up by the European Commission's Communication on the *Digital Agenda for Europe* in 2010, which qualified technology, and in particular smart grids, as necessary tools for achieving more sustainable and resilient energy models; this link was emphasised, above all, in the fourth and fifth energy packages, adopted in 2018 and 2021 respectively, which had the merit of definitively implementing sustainable energy policy objectives with digital transformation, to which the institutionalisation of the smart grid is linked, according to the *smart grid* mechanism. *Smart grid* -type technologies [10] according to Regulation 2019/943/EU are smart equipment and smart grids that are useful for ‘rewarding the flexible use of energy’ and ‘integrating increasing shares of renewable energy’, thus ‘facilitating the dual transition, green and digital’ [11]. The *smart grid*, as a sector of the *smart city* model applied to the electricity grid, can be defined as the intelligent network that makes possible the use and application of digital and communication technologies to the electricity grid. Already envisaged in Article 2, no. 130 lett. v of Regulation no. 2014/651/EU, it creates an innovative electricity grid capable of intelligently integrating the actions of all users connected to it, such as consumers, producers and *prosumers*, in order to distribute energy in an efficient, sustainable, cost-effective and secure manner. These networks use innovative services together with intelligent monitoring, control and communication technologies to facilitate the connection and operation of power generators and provide consumers with information tools to help optimise the operation of the overall system. In fact, unlike the traditional network [12], a means of transporting energy, the smart grid gives the electricity grid a new qualification as a tool for realising energy efficiency, the correct allocation of resources and the protection of all those connected to it. The European legislator's dream is to create a single smart grid, within which the various metering systems must operate and ‘collaborate’ in order to read, in a unified and complete manner, all the data collected with clarity and immediacy. On this point, the *IEMD* has taken up this need and emphasized the installation of ‘smart meters’ in the distribution network to help citizens control their consumption and ‘profitably

participate in programs and other demand management services and reduce electricity bills'. This is reflected in Article 19 of the Directive, which provided for *smart grids* the criterion of the interoperability of smart metering systems, understood as the 'ability of two or more networks, systems, devices, applications or components in the energy or communications sectors to interact and exchange and use information to perform the required functions'; this criterion is extended to all energy services and is useful for implementing the pillars of the fourth package, implementing the principle of '*Energy efficiently first*', understood as the guarantee of energy system efficiency.

RESULTS

There are several aspects that outline the face of *smart grids* [13], starting with the subjective one that involves all users, without distinguishing between commercial producers, *prosumers* and mere energy consumers; on an objective level, its use extends to all phases of the electricity system, from production to final consumption, using communications, sensors, computers and automation to improve the efficiency and safety of the electricity system. From an operational perspective, *smart grids* facilitate dynamic interconnectivity between energy production facilities and individual consumption points by facilitating real-time transmission, monitoring and management of energy distribution data at various points in the grid. The presence of *prosumers* determines a new form of distributive generation, in which individual users no longer suffer the unilateral input of product, but directly regulate the flow of the same on the grid, which, in fact, becomes bi-directional, as energy can be received and fed into the grid. Bi directionality, guaranteed by the new intelligent energy metering systems, directs the action of all those involved, producers and users, who will be able to access information on consumption, adopt the most appropriate choices to regulate production and, therefore, the supply of energy as well as the relative demand. As the Opinion n. 12/2011 on smart meters adopted by the Art. 29 group on data protection (00671/11/IT WP 183) points out, there are multiple benefits [14] generated by the widespread deployment of smart appliances and grids. They improve energy efficiency and contribute to sustainable development by bringing together different systems of rules and principles, aimed at achieving green regeneration of urban fabric, reduction of the greenhouse effect, consumer protection and sustainable growth. They encourage the exchange and processing of information, giving industries and energy consumers the *inputs* they need to better synchronize their consumption with production cycles. The use of *smart grids* enables producer-suppliers to change tariffs to the benefit of users, as energy prices will be dynamic and no longer based on forward-looking calculations, i.e. *input-based regulation* that identifies tariffs on the basis of prior information produced by the customer, but on *output-based* regulation that links to real-time data collected from the 'immediate' transmission of equipment [15]. Therefore, as part of the smart grid, the primary focus will be the installation of smart meters. *smart meters*) that allow, also thanks to artificial intelligence, to obtain precise data on electricity consumption, calculate usage thresholds and the amount of electricity fed into the system and verify the vulnerability of the individual user, comparing consumption data to income data or verifying the actual use of energy-consuming health devices; they create a new communication network between the various nodes of the *smart grid*, monitoring

incoming and outgoing energy flows for each individual user, especially if equipped with a renewable energy production plant, so as to optimise the system with two-way communication, in the case of a user connected to a *digital energy community*. In this sense, Regulation 1747/2024/EU, gives all energy consumers, regardless of geographic location, the ‘right’ to the installation of a smart meter, pre-contractual and contractual information as well as the necessary technical assistance. In this way, the creation of the smart grid succeeds in outlining the model of the innovative city, as it concentrates the two transitions and speeds up the reading of data in order to optimise self-consumption, both individual and collective, and efficiently manage the electricity service to ensure economic and energy savings for all [16].

DISCUSSION

In addition to the advantages, there are several dangers associated with the digital conversion of the entire electricity grid such as its *cybersecurity*, continuous functionality and the safeguarding of users, in relation to the protection of their right to *privacy*, personal identity, behaviour and everyday choices, especially if some of the data fed into the grid comes from *smart grids* located in users' homes. The problematic relationship between the dissemination of information and the protection of related parties was partly grasped by Directive 944/2019/EU, which, in Articles 23 and 24, imposed the obligations of anonymity and aggregation of data, in addition to compliance with the guarantees of the *Privacy Regulation* 2016/679/EU, specifying in Article 7b of Regulation 1747/2024/EU those who assume the role of data controller of the personal data of others. However, the referral to the 2016 Regulation, with only the requirement for the consent of producers and users, concerning metering and consumption data, as well as data relating to the chosen supplier and demand management, is characterised by being insufficient. It is necessary to raise the level of protection of users, because from the knowledge of generation and consumption data it is possible to deduce not only economic information, such as the profits made and the expenses incurred in relation to each person's income, but also information related to the individual dimension, such as ‘habits, health conditions or other characteristics related to users’ behaviour’ [17]. The uncontrolled transfer of the same unveils the users' places of consumption, the type of tools used and the behaviours implemented with the risk of giving rise to forms of discriminatory or invasive treatment of the personal sphere of others, in the name of collective needs to control the network, transforming it into a form of conditioning on the private life, on the freedom of self-determination and consumption of individual consumers. The need to offer the highest level of protection to those connected to the network requires an evolution of the schemes set out in Regulation 679/2016/EU with the introduction by the Union of a new European digital energy law, to dictate general rules governing the exploitation of data collected by the network, preserving the rights of all network users. The new energy privacy law will have to introduce transparent rules that establish non-discriminatory conditions of use and ensure the highest level of cybersecurity and data protection, as well as the impartiality of the entities processing the data. The rules must stipulate that the data acquired must be made available, free of charge and at any time; data subjects will be able to revoke their consent or freely scale back the scope of acquisition. Managers will

be able to use the data exclusively for commercial and billing purposes, as well as to orient future production choices, without ever being able to disclose the acquired information to third parties. Finally, an ‘enhanced’ consent seems to be envisaged, when all energy service operators use the data obtained from smart metering devices for observation activities, even of a statistical nature, or in order to regulate one of the flexibility services, such as demand management and energy storage. Excessive dissemination of personal data must be prevented, taking into account the specificity of the data processed, by harmonizing the various national legislations in the energy sector.

CONCLUSION

The solution to the various problems surrounding this issue should be the introduction of an *energy privacy law* that will have the task of regulating the operation of *smart grids* to protect the privacy and confidentiality of all those connected to the smart grid. The regulatory intervention must, from a proactive perspective, ensure that individual users have the right to obtain an effectively ‘informed’ consent, strengthened and previously identified by the legislator. It is not enough to recall the relevant obligation, but it is necessary to introduce reliable rules capable of ensuring, for users and producers, the ‘maximum protection of personal data’, guaranteeing the correct use of the *big data* acquired and the proper functioning of devices. The sensitivity of the data being processed, the interests at stake, and technological developments must favor the individual who provides his or her data to the network, ensuring that his or her information is processed in the least invasive way possible. One can derive, from the dynamic integration between the two transitions to create sustainable and self-sufficient cities, the introduction of a principle of ‘maximum protection of a person's privacy and personal data’, which parallels the principle of ‘maximum renewable deployment’ aimed at encouraging the development of models to limit the negative effects of data use. One must look beyond just the sphere of informational self-determination or privacy to protect other fundamental rights and freedoms of the data subject, such as personal identity, human dignity, and the right not to be discriminated against jeopardized by the new invasive forms of processing, whether on an individual or collective basis. Therefore, the protection of the personal demands of those involved and the proper functioning of the market requires stopping the abusive conduct of electric service providers through the introduction of a permanent, *step-by-step* disclosure obligation on the part of the provider on the continuously collected data. In reactive terms, the protection of consumers connected to the *smart grids* must come through the provision of expeditious and deformed dispute resolution tools. The provisions of Article 26 of the *IEMD* Directive, which requires member states to set up energy ombudsmen or specific consumer bodies to which to entrust part of the disputes pertaining to the abusive use of data placed on the grid by all *market participant*, by distributors, suppliers or energy production companies, is also deemed applicable with regard to conflicts generated by the operation of smart grids. Less serious violations of consumers' privacy and liberty rights can be quickly resolved by *ADR* methods to which powers to impose refunds and compensation can be attributed. This preserves the Euro-constitutional reasons of due process and does not diminish the position of users who, for more serious violations, will always be able to turn to independent administrative

authorities and the courts. Again, the new European energy *privacy* law will have to require member states to provide for out-of-court dispute resolution mechanisms in which all legal entities connected to the smart grid will have to participate. These bodies will have to be equipped with the ability to impose increasingly strict sanctions other than purely economic ones, in order to prevent strategic malfeasance in the use of others' personal data by industry professionals.

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THE IMPACT OF DEMOGRAPHICS ON ECONOMIC DEVELOPMENT OF THE BRICS COUNTRIES

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ABSTRACT

The aim of this paper is to assess the impact of the demographics on the economic development on the BRICS countries during 2009-2021. The BRICS countries as Brazil, Russia, India, China and South Africa are known starting 2009 (and 2010 for South Africa respectively), they are fast growing economies, emerging markets in the second stage of demographic transition and highly heterogeneous countries in most social economic features. Due to the fact they are counting for more than 40% of the global population, the demographic impact on the economic development should be significant.

EViews 8 was used for linear regression with Ordinary Least Squares, where the dependent variable is GDP per capita and the independent variables are age dependency rate, death rate, fertility rate and labor force population 15-64. Correlations, Unit Root Test, Collinearity Test and Granger Causality were performed as well.

The findings: There is a strong, positive correlation between GDP per capita and labor force 15-64 and negative correlations between GDP per capita and fertility rate and age dependency rate respectively, which is in line with the previous studies. Among the demographic indicators, fertility rate has a negative influence on GDP per capita, while age dependency rate, death rate and labor force have a positive influence. Death rate was found to have a positive influence on GDP per capital, in contradiction with the previous studies. There is Granger causality between labor force and GDP, as well as between GDP per capita and life expectancy.

Keywords: BRICS countries, demographics, economic growth

INTRODUCTION

BRIC was an acronym introduced in 2001 by an American economist to name what seems most promising to invest in: Brazil, Russia, India, China. The first summit of these BRIC countries was in 2009 and a year later the group became BRICS due to South Africa joining. Even then the BRICS countries were rather different than similar. There are all from the global South and there are developing countries and middle income countries. According to World Bank analytical classifications, in terms of GNI per capita, the BRICS countries might be considered middle income economies, in the 2009-2021 period India was a lower middle income country, Brazil and South Africa were upper middle income and so were China and Russia with two specific exceptions, China was a lower middle income economy just in 2009, while Russia was a high income country between 2012 and 2014. The relationships between the BRICS countries became more formalized and more institutionalized.

This study investigates the impact of the demographic determinants on the economic growth, measured by GDP or GDP per capita in the 2009-2021 period of time. In the 13 years considered, China started on third place, but it remained on the second place for the rest of the time, Brazil and India were in top 10 for 11 years, for Brazil best position was the 7th, the worst place was 12th, for India the best place was 5th and the worst position was 11th. In the same time, Russia was in top 10 for five times, the best place was 8, the worst one was 12. On the other hand, South Africa had the best position on 27th and the worst one on the 39th. On GDP per capita terms, Russia and Brazil were between 71th and 80th position, China improved its position from 93th to 70th, South Africa lies between 85th and 97th place, followed by India on 152.

Out of over 200 countries, the BRICS are among the largest 25, with Russia on the first place, China on the third place, Brazil on 5th, India on 7th and South Africa on the 25th, as for population India and China are the leading two countries in the world, followed by Brazil on 7th and Russia on 9th and South Africa on 24th.

If a country is ageing or aged depends on the 65+ population percent over the total population. When this percent is equal or greater than 7% the country is considered to be ageing and when the same percent is equal or greater than 14% the country is considered aged. The percents are available on World Bank population database until 2023 and the estimates and projections of the percents are available on United Nations, World Population Prospects. Based on these databases, Russia became ageing in 1967, remained in that stage for 50 years and become aged in 2017. China became ageing since 2001 and it took 22 years to become aged in 2010. Brazil become ageing since 2011 and is expecting to be aged in 2033, after 22 years same as in China. As a strange coincidence, 2023 is both the year when China became aged and India became ageing. In 25 years, in 2048, India will eventually become aged. South Africa is not only the youngest of the BRICS countries, but also the youngest, as it is expected to become ageing in 2030 and aged in 2059, with a time gap of 29 years. Therefore, all BRICS countries have entered the demographic transition, at different stages and they are in the opportunity window to develop socioeconomic, to become rich before getting old.

The other demographic determinants, the birth rates, the death rates, the fertility rates, of the BRICS countries followed the global trend and declined with several exceptions. South Africa was above the world average at births rate, the death rates of Russia and South Africa were above the global average. Life expectancy for BRICS is consistent with the world trend and improved for South Africa and India at a slower pace.

LITERATURE REVIEW

The growth rate of per capita GDP is influenced positively by the initial human capital and negatively by the initial per capita GDP (Barro, 1991) [1]. When dependent population and working population grew at different rates, they impact the economic growth (Bloom and Williamson, 1998) [3]. The major determinants of the economic growth proved to be the improvement of health, life expectancy, education variable and increasing labor force to population ratio according to Bloom, Canning and Fink (2010) [2]. The working population positively influences, while the 65+ population negatively influences the per capita GDP growth (Callen, Batini and Spatafora, 2004) [4]. Martine, Alves and Cavenaghi (2013) [10] found out that urbanization directly affects the birth rate and the fertility rate and indirectly affects the economic growth.

Some researches like Lewis (1954) [8] have argued that population growth will speed up economic development. The study by Kelly and Schmidt (1995) [6] concluded that population size and density have a transitional impact on economic growth. Other studies have reported that the shift in age distribution pattern had a significant impact on economic growth through savings and investments (Mason, 1988) [11]. Livingston (2002) [9] mentions that Malthus and neo-Malthusians believe that population growth is negatively correlated with economic growth. But Simon argues that the correlation is positive. According to Simon (1977) [14], the newer generation of job-seekers who enter the workforce will have better education than the previous generation of workers, and so the former will be more productive than the latter, leading to greater economic development. Bloom and Williamson (1998) [3] found that the economically active population (aged 15-64) exerted a strong positive impact on GDP per capita growth rate, but changes in life expectancy, age structure and population density had a significant impact on economic growth.

There is a strong negative correlation between fertility rates and GDP per capita, correlation that holds both across the countries and over the time (Doepke, Hannusch, Kindermann and Tertilt, 2023) [5]. A biunivocal relationship between GDP and life expectancy was found by Miladinov (2020) [12]. Rocco, Fumagalli, Mirelman and Suhrcke (2021) [13] found a negative correlation between mortality and per capita GDP, while Vandenbroucke (2022) [15] found a 0.31 correlation between death rate and GDP. Koppes (2022) [7] found an insignificant relationship between birth rate and GDP per capita.

RESEARCH QUESTIONS

The aim of this study is to find out the impact of the demographic variables: age dependency ratio, birth rate, death rate, fertility rate, life expectancy, human development index, labor force, labor force population aged 15 to 64 years old, population aged 15 to 64 years old, the percent of urban population of the total population, GDP or GDP per capita as measures of economic growth.

GDP (Gross Domestic Product based on purchasing power parity) is the total monetary or market value of all the finished goods and services produced within a country's borders in a specific time period.

GDP per capita is the sum of gross value added by all resident producers in the economy plus any product taxes (less subsidies) not included in the valuation of output, divided by mid-year population.

Purchasing power parity (PPP) is a macroeconomic analysis metric used to compare economic productivity and standards of living between the countries.

Age dependency ratio is the ratio between the dependents, people younger than 15 years old and people older than 64 years old to working age population, people aged 15 to 64 years old, data typically shown as the number of dependents to 100 working people.

Birth rate is the number of life births per 1000 people per year.

Death rate is the number of deaths per 1000 people per year.

Fertility rate is the total births per women per year in their proper time for childbearing.

Life expectancy is the average number of years one may expect to live.

HDI (Human Development Index) is a measure system introduced by the United Nations in 1990 to evaluate a country's level of social and economic development.

Labor Force represents all the people in a country that are able to work.

Labor Force population aged 15 to 64 years old is a part of the labor force aged 15 to 64 years old as a percent of total labor force.

Population 15-64 represents all the people in a country aged 15 to 64 years old.

Urban population refers to population living in urban areas expressed as a percent of the total population.

MATERIALS & METHODS

The data were organized as a balanced panel and two regressions were applied in EViews 8, using GDP PPP and then GDPPC PPP as dependent variables and all the others as independent variables.

Table 1: Descriptive statistics

	Descriptive Statistics				
	N	Minimum	Maximum	Mean	Std. Deviation
Age Dep R	65	37.10	57.28	46.46	5.44
BirthRate	65	7.52	22.66	15.72	4.14
Death R	65	6.15	16.70	8.84	2.74
FertilityR	65	1.16	2.67	1.94	0.37
GDP PPP	65	634258446718.83	27519108869623.48	6669963031752.76	6681390074650.50
GDPPCPPP	65	3892.53	33185.66	9223.37	6916.03
LFRpop1564	65	53.20	77.39	66.92	8.146483
LF	65	19990943	780709584	294375762.95	296859887.45
LifeExpectancy	65	57.44	78.21	70.70	5.04
Pop1564	65	33868111	988302343	425689867.15	414534772.40
Urban population (% of total population)	65	30.58	87.31	62.58	18.23
HDI	65	0.565	0.845	0.724	0.069
Valid N (listwise)	65				

Source: Author's table based on EViews outputs

Unit Root Tests were applied to assess if the time series are non-stationary to determine the most appropriate form of the trend in data and the data were transformed into stationary form using first difference level.

RESULTS

Table 2: Correlations between variables

Variable	Pearson correlation GDP PPP	Pearson correlation GDPPC PPP	Variable
Labor Force	0.900	0.936	HDI
Population 15-64	0.823	0.741	Death Rate
Life Expectancy	0.672	0.693	Urban population as % of total population
LFR Pop 15-64	0.389	0.644	LFR Pop 15-64
HDI	-0.32	0.150	Life Expectancy
Urban population as % of total population	-0.354	-0.331	Age Dependency Rate
Death Rate	-0.363	-0.463	Labor Force
Age Dependency Rate	-0.417	-0.567	Population 15-64
Fertility Rate	-0.455	-0.592	Birth Rate
Birth Rate	-0.526	-0.618	Fertility Rate

Source: Author's table based on EViews outputs

The regression was applied first for the dependent variable GDP PPP and then for GDPPC PPP, using Panel EGLS method in EViews. After conducted the Hausman Test, the Period Random Effects were considered appropriate in both cases due to the fact that the probability was 0.33 and 0.1 respectively. Out of the 10 independent variables, 8 were statistically significant in the first case and 5 in the second one.

Table 3: The regression results

Independent variables coefficients	Dependent variable GDP PPP	Dependent variable GDPPC PPP
Birth Rate	1.27E+12*	Not significantly statistic
Death Rate	Not significantly statistic	770.0280*
Fertility rate	-1.46E+13*	-3979.895*
Life expectancy	-6.27E+11*	Not significantly statistic
Age dependency ratio	4.84E+11*	470.2495*
Population aged 15 to 64 years	21105.94*	Not significantly statistic
Urban population as % of total population	2.77E+11*	Not significantly statistic
Labor force	18021.96*	Not significantly statistic
Labor force aged 15-64 years	Not significantly statistic	158.9890*
HDI	6.25E+13*	66646.52*
C	-4.00E+13*	-65250.15*
R squared	0.98	0.98

Note: * probability 0.000

Source: Author's table based on EViews output

DISCUSSION

The correlations between the dependent and the independent variables were investigated. Labor force, population aged 15 to 64 years old, life expectancy and labor force aged 15-64 years old have a positive influence on GDP, all these results are in line with previous studies and explain the demographics statistics previously presented. The BICS of the BRICS, Brazil, India, China, South Africa, were considered ageing in the studied period, while Russia was already aged, therefore they benefited by the demographic dividend and, in addition, all BRICS are labor intensive economies, these are the reasons why Labor Force and Population 15-64 gave such a strong impact on GDP. As expected, birth rate and fertility rate negatively impact GDP, because the higher these two rates are, more and more women are out of the labor force, devoting themselves to child caring and child education. On the other hand, the GDP per capita has different determinants, HDI having the major positive influence, because the higher the Human Development Index is, a person is more educated, he / she benefits of complex healthcare, therefore the person's income is consequently higher and so is the GDP per capita. The correlation between death rate and GDP per capita is more than double compared to the value of 0.31 that Vandenbroucke (2022) [15] found, but still in line with the conclusions of his study, starting 2000 the countries with higher economic growth tend to have higher death rates compared to countries with lower economic growth. The correlation between the urban population and GDP per capita is positive and strong. The fertility rate and the birth rate have the two major negative influences on GDP per capita, because they contribute to a greater population, which means a greater denominator and therefore a smaller ratio for GDP per capita.

Human Development Index had a positive impact on both variables, consistent with Barro (1991) [1]. Age dependency rate had a positive influence on both dependent variables in line with Bloom and Williamson studies (1998) [3], while fertility rate had a negative influence on them, similar with Doepke, Hannusch, Kindermann, Tertilt (2003) results [5]. Other variables had an impact on GDP and were not statistically significant for GDP per capita, birth rate had a positive impact, same as in Simon's study (1977) [14], life expectancy had a strong impact, as in Bloom and Williamson (1998) [3], but unlike them this impact is negative. Working population and urban population have a positive influence, sustaining the findings of Bloom, Canning and Fink (2010) [2], as well as the study of Martine, Alves and Cavenaghi (2013) [10]. Some variables had influenced GDP per capita and were not statistically significant for GDP. HDI and Labor force aged 15-64 had the expected positive signs, consistent with the results of Bloom and Williamson (1998) [3] and death rate had a positive influence on GDP per capita, partially according to Vandenbroucke's (2022) [15], but against Rocco's, Fumagalli's, Mirelman's and Suhrcke's results (2021) [13], while birth rate is insignificant for GDP per capita, in line with the finding of Koppes (2022) [7].

CONCLUSION

This study aimed to find out the major demographic determinants of GDP and GDP per capita of the BRICS countries in the 2009-2021 period. The main determinants for GDP are birth rate, fertility rate, life expectancy, labor force, age dependency ratio and HDI. The major determinants for GDP per capita are death rate, fertility rate, age dependency ratio, labor force aged 15 to 64 and HDI.

There is a Granger causality between labor force, birth rate, death rate, life expectancy and GDPPC, because their respective probabilities are below 0.05, therefore their past data could be used to forecast the evolution of GDPPC. The coefficient C is negative in both cases, meaning there are other variables not included in this study which negatively influence GDP, as well as GDPPC. Further research is needed in order to identify and then study these other variables.

Further studies should be made to compare the demographics' determinants on economic growth either by extending the time period or by comparing the results on the BRICS countries with the results on the other groups of countries, like G7 countries or EU countries or Commonwealth countries or even the BRICS+ countries. Considering just the period between the first BRICS summit, 2009 and the year before the recent conflict, 2021 and the BRICS countries only could be seen as a limitation of the study.

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VIRTUAL CURRENCY: EVOLUTION, TECHNOLOGY, PERSPECTIVES

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ABSTRACT

In this paper we aim to present the theoretical foundations of virtual currencies, distinguishing them from legal tender, and to explore the blockchain technology that underpins their creation. We classify the existing virtual currencies into three categories (cryptocurrencies, stablecoins, and Central Bank Digital Currency), and analyze their characteristics and market evolution. We also present the evolution of popular cryptocurrencies, bitcoin and Ethereum, underline their market dynamics, historical price trends and mining distribution. Moreover, we assess the implications of these digital currencies on the economy and society with their potential and challenges. Our findings illustrate a substantial shift in the attitude of central banks, with many considering the issuance of their own digital currencies in response to the growing popularity of decentralized alternatives. In spite of their actual promise, virtual currencies face certain limitations such as high volatility and regulatory hurdles. Our study underscores the novelty and scientific contribution of virtual currencies and emphasizes their transforming potential in the current financial landscape.

Keywords: virtual currency, cryptocurrencies, stablecoins, CBDC, blockchain

INTRODUCTION

The emergence of digital/virtual currency coincides with the financial crisis of 2008, associated with the public's lack of trust in the financial system. Digital currency represents any currency that is only available electronically, so it has no physical existence. The popularity of digital currency has grown over time, so that there are thousands of such coins in circulation today.

The European Central Bank (ECB) defined the virtual currency as “a digital representation of value, not issued by a central bank, credit institution or e-money institution, which in some circumstances can be used as an alternative to money” [1]. The European Banking Authority (EBA) defines virtual currency as “a digital representation of value that is neither issued by a central bank or public authority nor necessarily attached to a FC (Conventional, Fiat currency), but is used by natural or legal persons as a means of exchange and can be transferred, stored or traded electronically” [2].

Virtual currency is not electronic money, because “e-money”, as defined in the E-money Directive (EMD) of the EU, means “electronically, including magnetically, stored monetary value as represented by a claim on the issuer that is issued upon receipt of funds for the purpose of making payment transactions and that is accepted by a natural or legal person other than the electronic money issuer” (Article 2.e from the Directive

2009/110/EC of EU). E-money represents the digital equivalent of banknotes and coins available through electronic payment systems. Fiat currency is therefore digitally represented by electronic currency. Unlike physical currency, digital currency is based on electronic transactions and does not exist in any physical form.

ECB considers that virtual currency does not match the economic or legal concept for money [1]. Virtual currency does not fulfill the three functions of money defined by economic literature due to: 1) low acceptance as a medium of exchange; 2) high exchange rate volatility and low liquidity, which makes them unsuitable as a reserve of value; 3) the first two drawbacks make them unsuitable as a standard of value. From a legal perspective, money is “anything” in the form of coins and banknotes that is extensively used to exchange value. In contrast, virtual currency is not widely used in the exchange of value, nor does it have a physical form. Nationwide payment must use the legal tender by law. If a virtual currency is not declared as a state's legal tender, creditors are not required to accept it for debt payments. Virtual currency can only be used as a contractual currency, when the partners involved accept its use as a means of payment [1].

BLOCKCHAIN TECHNOLOGY

The majority of cryptocurrencies are based on blockchain technology. The term “blockchain” refers to a relatively new category of information technology (IT) that combines cryptography with an existing distributed ledger which is overseen by a network of individual computers working together. The model's computer network collaboratively maintains a database safe without keeping the data at a single location [3].

Blockchain uses a cryptographically secure decentralized ledger system so as to circumvent the need to trust anyone. A “mining” procedure has been put in place, where computers and specialized machinery are required to solve hash problems in order to receive cryptocurrency [4]. However, not all blockchains use the mining process, few use alternative consensus mechanisms like Proof of Stake (PoS). The “ex nihilo” printing and passive production of cryptocurrency are prevented. Blockchain technology offers transparent and immutability for the underlying data [5]. Each transaction is recorded in the blockchain once it has been approved, the ledger being spread throughout a peer-to-peer network of nodes. In order to complete a blockchain transaction users need three things: the address where the bitcoins are kept, the private key used to send or receive bitcoins, the wallet software on their computer. A single data structure is based on these parts. The bitcoin wallet software generates all transactions, sends them out to the network in order to be validated and then adds them to the blockchain. Blockchain technology differs from traditional banking in that it does not rely on a central authority to update its ledger or on trusted third parties to verify transactions. Instead, miners or other validators validate and approve transactions using safe crypto algorithms to ensure the security [5].

The size of the network and blockchain computing capacity influence cryptocurrency prices. There are also other factors like market sentiment, regulatory environment, technological advancements etc. which can also impact prices. Due to their reflective nature, aggregate network size and computing power ought to play a significant role in clarifying cryptocurrency profits. The total number of active addresses that are able to transact on the blockchain represents a good indicator of the widespread use of cryptocurrencies, and this is what aggregate network size measures. Aggregate processing power is a good proxy for mining resources when discussing cryptocurrency blockchain

trustworthiness and safety. Monitoring these two key factors should reveal the cryptocurrency market's status. Like fiat currencies used by many businesses, a large network suggests more people are using cryptocurrency. A high volume of individual blockchain users is another indicator of a cryptocurrency's potential for increased market value. A larger blockchain network encourages developers to create blockchain apps, increasing the cryptocurrency's utility [3, 4].

TYPOLOGY

The experience of recent years has established the existence of three categories of digital currencies [6]: Cryptocurrencies, stablecoins, Central Bank Digital Currency (CBDC).

Cryptocurrencies

The emergence of cryptocurrencies was generated by the desire to create an alternative to traditional currency, which is not controlled by central banks, governments and public authorities [4]. Cryptocurrencies are decentralized digital currencies, and they use cryptography, hence their name. When developing a new cryptocurrency, one can select between a coin and a token. A token is based on an existing network, but a coin has its own blockchain. The first and most popular of the cryptocurrencies is bitcoin, and the others are called altcoins (among them, the most known and used are Ethereum, Tether, Solana, Binance Coin, Ripple XPR, Litecoin, etc.)

While El Salvador was the first country to officially recognize bitcoin as legal tender in 2021, the imbalanced and neocolonial consequences of cryptocurrency on local people, land, resources, and power have severely curbed the opportunities that bitcoin has brought to smaller scale aid and businesses. Crypto reproduces several of the unequal trends of neoliberal economic growth and it enables new forms of control over territory, resources and politics [7]. After being the second country to officially recognize bitcoin as legal tender April 2022, the Central African Republic had to reevaluate its choice a year later; the widespread lack of Internet connection among its citizens was an important concern in the decision to forsake bitcoin [8]. Cryptocurrency trading is legal in some countries (USA, Australia, EU, UK), but not in others (Algeria, Bolivia, China, Russia) [4].

In the EU virtual currencies are not yet regulated and not yet considered legal currencies. The process of their regulation was initiated by the European Commission by a proposal for a Regulation on crypto-assets markets (COM/2020/593 that amended the Directive (EU) 2019/1937). MiCA (Markets in Crypto-Assets) was developed in 2022 by the European Parliament and the Council of EU as a proposal to control the crypto-assets market, and came into effect in June 2023 [9]. In order to include public feedback into the measure packages, the relevant European authorities will hold public consultations on technical standards during the implementation phase. The outcomes will be released in three packages successively. The measures' scheduled implementation date is contingent upon their acceptance by the European Commission, as well as their approval by the European Parliament and the Council of the EU.

Stablecoins

As a specific category of cryptocurrencies, stablecoins have recently gained traction as a means to limit price fluctuations by linking their value to national currencies. A stablecoin is a cryptocurrency that, according to the current policy discussion, attempts to keep its value constant relative to another asset, or to a basket of assets [10]. The term “stablecoin”

refers to cryptocurrencies whose value is tied to the value of an underlying asset (another currency, a real asset such as gold or a financial instrument). Avoiding the extreme price swings of traditional cryptocurrencies, they are engineered to keep their value constant over time [11].

Tether, USD Coin, and Dai are recent stablecoins backed by real assets, making them more stable payment methods. Their introduction opens up new opportunities for innovation and adoption, but their risks to the economy, consumers, and financial system must be monitored and assessed. Morgan (2022) highlights two main stablecoin adoption issues: the accumulation of government currencies by reserve-linked stablecoin issuers and commercial banks disintermediating [12].

MiCA will have the role of requiring issuers of stablecoins to hold a suitably liquid reserve, a ratio of 1/1 and partially in the form of deposits for the purpose of protecting consumers. Any holder of stablecoins will receive a claim at any moment and free of charge from the issuer, and the guidelines governing reserve operations will also provide an acceptable minimum level of liquidity. Also, EBA will supervise all stablecoins; this is a precondition for any issue being the presence of the issuer in the EU [9].

Central Bank Digital Currency (CBDC)

In the last years, central banks began to research and develop their own digital instrument, the CBDC. The central bank is directly liable for emitting and managing CBDC, a certain form of digital money denominated in the national unit of account of a country. CBDCs are in essence virtual money, issued and backed by the central bank. Seeing that stablecoins and cryptocurrencies have grown in popularity, central banks worldwide have realized they must offer an alternative or miss out on the future of money [4].

CBDC represents the electronic version of cash issued by the central bank that brings together cryptography and the technology of digital ledger. It is a claim on the central bank that can be used like cash if it is held by the public and can serve as bank reserves if it is held by banks and financial institutions [13]. In the future, CBDC may become legal tender and circulate alongside cash, so everyone can use it. As its issuance would be guaranteed by the central bank, CBDC can serve as a store of value.

Reports shows that approximately 80% of central banks have been analyzing the possibility of implementing CBDC [14]. According to IMF, more than 100 central banks are conducting CBDC studies at one level or another [15]. CBDCs are already available in several countries: Bahamas (Sand Dollar), Nigeria (e-Naira), Jamaica (JamDex). Other countries, such as China, have launched pilot projects regarding the adoption of CBDC. Nonetheless, CBDC acceptance is still at the conceptual and investigation level; many nations of the world are far from using digital currency in the near future [6].

EVOLUTION

Two of the most popular cryptocurrencies are bitcoin and Ethereum. By April 2024, bitcoin has been one of the costliest cryptocurrencies, despite fluctuating values, while Ethereum was substantially cheaper. Figure 1 shows their June 21, 2024 pricing.

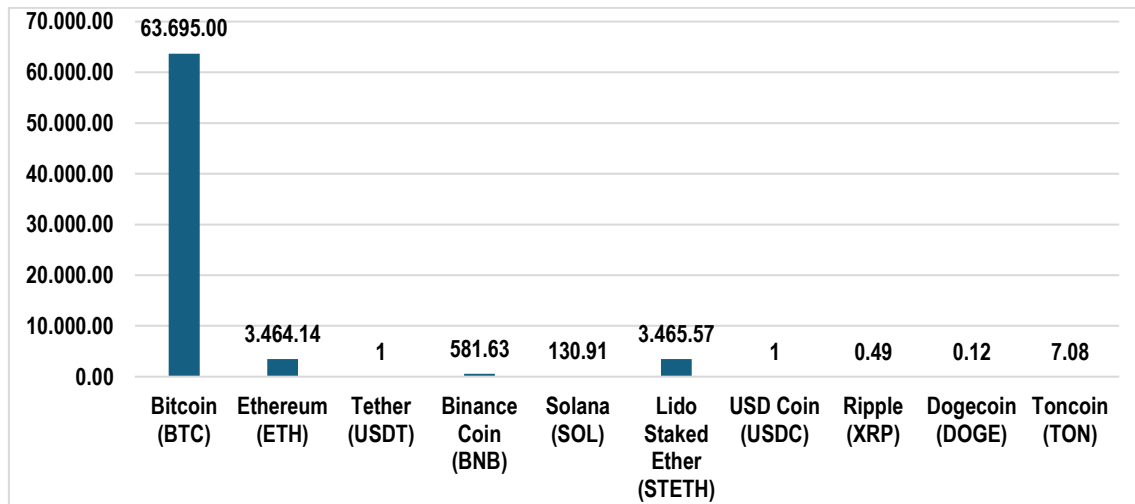


Figure 1. Price of the top 10 cryptocurrencies June 21, 2024 (in USD)
(Source: Own processing based on the data collected from www.statista.com)

Several of these coins stand out for their stable prices - the stablecoins that are tied to an external asset's price level. This collection of digital assets is growing, some crypto investors see it as the future of retail payments or “safe” investments.

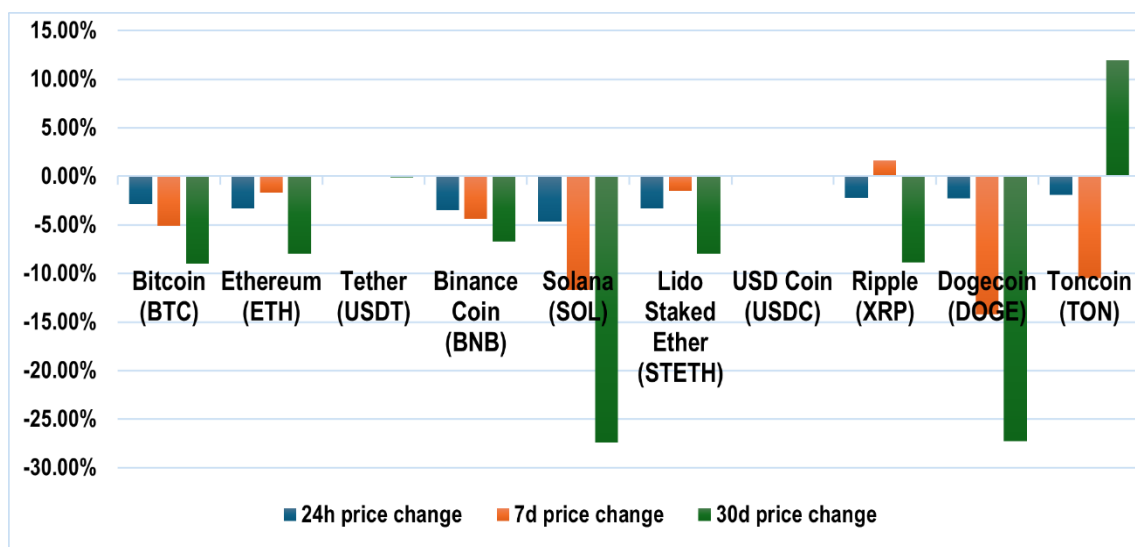


Figure 2. Price change of the top 10 cryptocurrencies as of June 21, 2024
(Source: Own processing based on the data collected from www.statista.com)

Bitcoin was launched in 2009 by an unknown author under the pseudonym Satoshi Nakamoto as the first cryptocurrency and remains the most valuable and influential. Bitcoin (BTC) prices reached an all-time high in March 2024, surpassing 73,000 USD, due to the US legalization of Bitcoin ETFs (Exchange-Traded Funds), whereas previous hikes in 2021 were caused by Tesla and Coinbase (Figure 3). As of June 30, 2024, Bitcoin values were 62,678.29 USD after another crypto exchange, FTX, filed for bankruptcy.

According to IP addresses from hashers that used various bitcoin mining pools in 2021, the US mined the most bitcoin (Figure 4). This relates to global energy prices: German electricity costs were nearly 10 times higher than in China, the world's largest crypto

miner until late 2021. Bitcoin hashes or builds the blockchain by using PC processing power, bitcoin being mined as hashing increases.



Figure 3. Bitcoin (BTC) price per day from October 5, 2021 to June 21, 2024 (in USD)
(Source: Own compilation based on the data collected from www.statista.com)

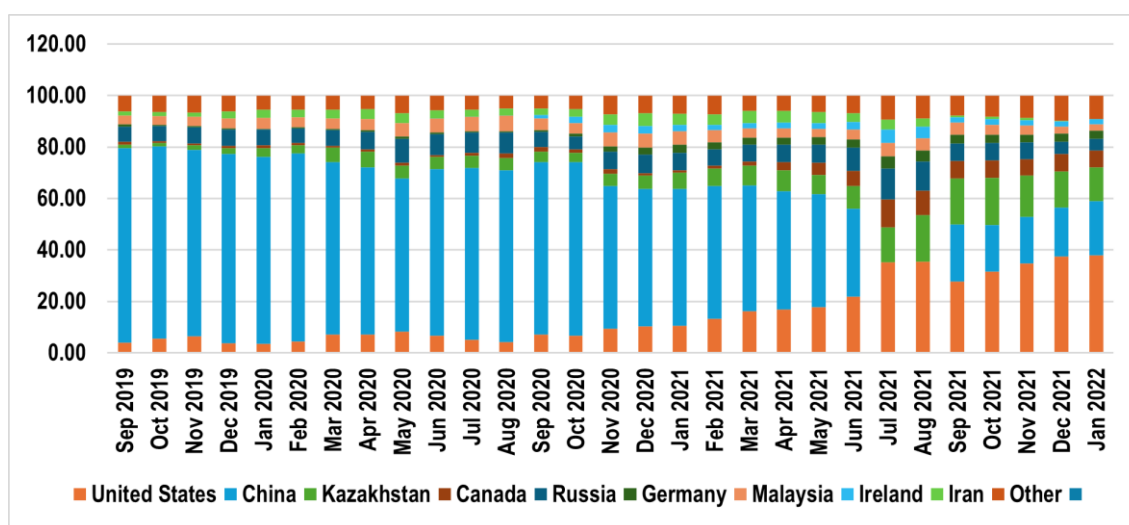


Figure 4. Bitcoin mining hashrate by country (Sept.2019 – Jan. 2022)
(Source: Own processing based on data collected from www.statista.com)

Ethereum, proposed by Vitalik Buterin in 2013 and launched in 2015, allows automatic smart contracts, enabling decentralized applications (dApps). Its price followed an upward trajectory, more volatily than bitcoin. In 2022 the price was lower than late 2021, but not the lowest. ETH rose in 2021 for distinct reasons: Digital art sold for over 38,000 ETH (69.3 million USD) was the most expensive NFT (non-fungible token). ETH rose due to technology advances that excited traders, unlike bitcoin's IPO powered by Coinbase. Ethereum Merge in 2022 and lower ETH gas costs or transaction fees followed the April 2021 “Berlin upgrade” of Ethereum network. But the late 2022 FTX collapse changed cryptocurrency. ETH fell from 4,400 USD in 2021 to 3,432.89 on June 30, 2024.

Beyond the spectacular progress of the cryptocurrency market, its fantastic appeal for certain investors, and the large profits that can be made in some periods but partly offset by the losses in others, a constant feature of digital currencies remains their high volatility.

CONCLUSION

Virtual currencies' naissance is viewed as a response to global financial instability from the 2008 crisis and as a reflection of public lack of trust in traditional financial systems. These currencies are decentralized alternatives, unlike conventional currencies controlled by the governments and central banks. In this paper we presented the theoretical aspects of virtual currencies, and distinguish them from legal tender. Blockchain technology is the basis of their operation, a decentralized ledger secured through cryptography for maintaining transaction integrity without central oversight. The typology of virtual currencies comprises cryptocurrencies, stablecoins pegged to fiat currencies or commodities, and the CBDCs issued and regulated by central banks. From enabling secure, peer-to-peer transactions to potentially stabilizing volatile markets, every category has specific functions. The evolution of well-known cryptocurrencies like bitcoin and Ethereum underlines their increased acceptance and influence. In spite of volatility, these assets have garnered attention and investments, and their potential as future financial instruments. Virtual currencies' future is based on regulation and technology. While their status and integration into mainstream economies are debated, innovations and regulatory frameworks like MiCA in the EU will shape their future.

In conclusion, virtual currencies are transforming finance and creating new economic and social opportunities worldwide. These currencies' effects on financial markets and regulatory environments must be properly monitored and managed.

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**SECTION BUSINESS, MANAGEMENT, AND
DIGITAL INNOVATION**

DEVELOPMENT OF AVIATION INDUSTRY ENTERPRISES IN THE CONTEXT OF INNOVATIONS AND CORPORATE SOCIAL RESPONSIBILITY

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ABSTRACT

The idea of Corporate Social Responsibility (CSR) evolves with the development of the economy. The new areas and issues in this concept are linked to the changing reality and the impact that business puts on its environment. The overexploitation of natural resources, climate change, increasing pressure on the reduction of production costs, often resulting in violations of fundamental human rights, are not so new. The problems of the 21st century have shown that business must create innovations that are in line with the CSR concept. The aviation industry has a significant impact on the environment, health or quality of life. CSR issues become more and more important for the development of innovations from this industry.

The aim of this article is to identify the context for the development of innovation and CSR concept in the aviation industry, and to demonstrate that combining the development of innovation with CSR policy provides a competitive advantage to the enterprise. On the basis of the analysis of aviation industry companies, the authors present the relationship between the achieved innovation indicators and the implementation of CSR norms and standards. The research was conducted on the basis of desk research of strategic documents, company reports, statistical data and case study method of selected enterprise. It has been found, that the development of pro-environmental innovations has a significant connection with the implementation of the CSR concept in aviation enterprises. The analysis confirmed the assumption that developing innovation in line with long-term CSR policy – “strategic” CSR – enables enterprises to achieve a competitive advantage.

Keywords: innovations, corporate social responsibility, aviation industry companies

INTRODUCTION

Many CSR researchers indicate an important link between the implemented CSR concept in an enterprise and the development of innovations, which are currently of great interest to researchers. Asongu [1] found evidence that innovation should be considered as a legitimate argument for conducting CSR policy, as well as for social responsibility, morals, and sustainable development. CSR can be assessed as a resource that improves the overall reputation by increasing the opportunities to commercialize the developed innovations [2]. Other researchers have assumed that only “strategic”

CSR, relating to innovative issues, is important for profitability, as it shows the possibilities of increasing the company's value. Kim and You [3] stated that building strategic CSR should be based on implemented and successful innovations. Innovation has become the key to understanding the relationship between CSR and the company's social and financial performance [4] explicitly pointed out that CSR is the primary driver of innovation. There is scientific evidence that companies that strongly adhere to CSR principles were, in most cases, highly innovative. Moreover, Rexhepi, Kurtishi and Bexheti [5] argued that, nowadays, CSR and innovation are the basis of business competence [6]. There is a correlation between CSR and innovation, and innovation is the driver of CSR.

Over the past few years, there has been a growing interest in the concept of Corporate Social Responsibility of the aviation industry, which is directed towards conscious action, oriented not only towards financial profit, but also to social and environmental development in its broadest sense. This is due to the contemporary challenges of climate change mitigation and environmental protection, as well as human rights. The Flightpath 2050 report [7] and the European Aviation Environmental Report 2019 [8] show that environmental protection is a significant driver of growth in the aviation industry and transport infrastructure [9]. The responsibility for the environment and the related requirements, that the aviation industry faces, leads to continuous fundamental changes and the search for new innovative solutions that comply with the principles of sustainable development.

The importance of CSR in the creation and implementation of innovative solutions for the aviation industry

There are many challenges for the aviation sector to mitigate the negative environmental impact of the industry and to achieve sustainability objectives. The negative impact of the aviation industry on the environment is mainly related to CO₂ and NO_x emissions and noise, as emphasized in the strategic documents. The European Commission's vision for Aviation for 2050 also mentions noise reduction by 65% [10].

New technologies are the most important factor in achieving the objectives set for the aviation industry and the chance of success of the environmental mission. The aviation industry has an important role to play in this respect. They must, therefore, focus on the continuous creation and implementation of innovative solutions, in particular environmental innovation, sustainable development innovation. This is also linked to the need to improve competitiveness due to the ever faster technological and organizational changes and the ongoing deep socio-economic changes [9]. Already now, aircraft and engine producers, pressed by the airlines, are making constant efforts to develop more efficient, modern aircraft and power unit models. Such new aircraft models would significantly reduce the amount of produced emissions. The world's largest engine manufacturers are racing to find innovative solutions to save fuel and reduce emissions. The new generation of sustainable aviation fuel is being made from recycled materials, like cooking oil or municipal waste. In comparison to fossil fuels, they can reduce CO₂ emissions by 80% [11]. Laboratories are working on slightly more futuristic concepts of aircraft propulsion, such as plasma engines, which use electricity to produce electromagnetic fields [12]. In parallel with the development of new aircraft designs, some of them are progressing in the development of new, renewable fuels that

will be replaced by other forms of clean energy, in particular electricity. There is a growing interest in “electro fuels”, which are potentially alternative zero emission fuels [8]. Both in the design of new innovative solutions, production, as well as repairs, the aviation industry must meet the highest safety requirements. Quality in the aviation industry (from commercial to defense aviation) is measured against the AS 9100 series of standards, which are applicable to design, development, production, installation and service organizations. Meeting the requirements of AS/EN 9100 is equivalent to meeting the requirements of ISO 9001, which reduces costs [13]. The implementation and acquisition of these certificates provides many benefits.

MATERIALS AND METHODS

The aim of the article was to identify the context for the development of innovation and the implementation of CSR concepts in the aviation industry.

On the basis of theoretical and cognitive research, a gap was identified reflecting the shortcomings of scientific research on the development of innovation and the implementation of the concept of corporate social responsibility in the aviation industry. On the basis of the research, the research problem was identified and expressed in the form of the following research question: is there a relationship between expenditure on innovation development and the implementation of CSR norms and standards?

Desk research of strategic documents and reports, consisted of analysing data and information from existing sources, and then formulating conclusions about the studied problem on their basis. Analysis of selected rankings, indicators and other data made it possible to conclude that expenditures on the development of innovative solutions in the aviation industry have an upward trend.

In order to analyse the topic in depth, the authors used the case study method, which allows empirical conclusions. The study provided the authors with an empirical, in-depth insight into the specifics of innovation and corporate social responsibility in purposefully selected company in the aviation industry. Based on an analysis of the company, the authors presented the relationship between achieved innovation indicators and the implementation of CSR norms and standards. It was also found that the development of pro-environmental innovations is related to the implementation of CSR concepts in aviation company. The research was able to confirm the assumption that the development of innovation in line with a long-term CSR policy enables companies to achieve competitive advantage.

RESULTS

The 2023 EU Industrial R&D Investment Scoreboard Report indicates that global R&D has been driven mainly by the ICT services sector (10.9%), followed by the ICT producers sector (7.4%) and the health sector (12.9 %). In the aerospace and defense sectors, increase in R&D investments was recorded (4,5%).

The results of R&D investment in aerospace and defence EU vs other regions/countries 2022 are presented in the table below.

Table 1. R&D investment in aerospace and defence EU vs other regions/countries 2022.

	EU	US	CHINA	JAPAN	RoW	TOTAL
firms	12	15	3	0	11	41
share	29,3%	36,6%	7,3%		26,8%	4,5%
R&B Euro million.	8686	9362	362	0,0	2945	21357
share	40,7%	43,8%	1,7%		13,8%	7,9%

Source: The 2023 EU Industrial R&D Investment Scoreboard. European Commission, JRC/DG R&I

Characterizing R&D investment in aerospace and defence of various countries it can be observed that the US steal leads in aerospace and defence both in terms of number of companies and R&D investment.

Table 2 shows R&D investment growth (in %) compared with the previous year since 2012 for the aerospace and defense sectors, both in nominal values and in inflation-adjusted growth rates (in brackets).

Table 2. Nominal and inflation adjusted growth rates of aerospace and defense sectors %, 2012-2022.

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Aerospace & defence	6.2 (4.2)	3.6 (2.1)	2.6 (1.2)	0.3 (-0.7)	2.3 (1.2)	-4.9 (-6.5)	2.7 (0.7)	-0.6 (-2.3)	-15.3 (-17.1)	3.1 (-0.3)	16.2 (10.1)

Source: The 2023 EU Industrial R&D Investment Scoreboard. European Commission, JRC/DG R&I.

In 2022, aerospace and defence achieved the highest increase in R&D investment.

Between 2010-2019 patenting activity in clean transport technologies (CTT) inventions are concentrated in internal combustion engines (29%), electromobility (27%), aeronautics and air transport (15%) and hybrid vehicles (12%). [The 2023 EU Industrial R&D Investment Scoreboard. European Commission, JRC/DG R&I]

Table3. Globally patenting activity in clean transport technologies (CTT)

patenting activity	%
internal combustion engines	29
electromobility	27
aeronautics and air transport	15
and hybrid vehicles	12

Source: The 2023 EU Industrial R&D Investment Scoreboard. European Commission, JRC/DG R&I.

The area with the largest number of patents are concentrated on internal combustion engines and electromobility.

The table below presents ranking 5 top companies Aerospace & Defense industry from the perspective of expenditure on development and research.

Table4. Ranking 5 top companies Aerospace & Defense industry from the perspective of expenditure on development and research

Rank	Company	Year	Country	Region	R&D (€ million)	R&D one-year growth (%)
56	AIRBUS	2022	Netherlands	EU	3398	17,3
84	RTX	2022	US	US	2541,72245	-0,8
90	BOEING	2022	US	US	2470,46797	29,4
115	LEONARDO	2022	Italy	EU	1975	238,2
145	LOCKHEED MARTIN	2022	US	US	1593,8503	13,3

Source: 2023 R&D Investment Scoreboard (World 2500) -

https://iri.jrc.ec.europa.eu/scoreboard/2023-eu-industrial-rd-investment-scoreboard#field_data, 27.06.2024

From the table, it can be seen that the leading company allocating a significant amount of resources to the development of innovations is Airbus (56 ranking place). It was therefore subjected to a deeper analysis.

Airbus is leading the way in helping the industry develop and commercialize new technologies that support its environmental goals. As the company states on its website: “The future of flight is electric, autonomous and zero-emission. At Airbus, we believe innovation can contribute to a more sustainable world. By taking an unconventional approach to the challenges of today, we can build the sustainable aviation of tomorrow.” [10] Airbus is an aerospace corporation employing approximately 50,000 people in various European countries: Germany (Hamburg), France (Toulouse), Great Britain (Bristol), Spain (Seville), Poland (Warsaw) and, since 2009, also in China (Tianjin). Airbus has implemented AS 9100, which ensures a high standard of quality management and implements social responsibility guidelines. Airbus is committed to various initiatives related to social responsibility and sustainability, such as environmental protection, human rights, diversity and inclusion, and community support. Airbus has established a foundation (Airbus Corporate Foundation) to assist in charitable activities around the world through an international network of employees, associations and international organizations. The Foundation focuses its activities on three key areas: humanitarian aid and support for local communities, youth development and environmental protection [11]. The foundation is concerned with improving and increasing awareness of environmental issues and supporting projects. With the global participation of its employees, Airbus wants to promote and share the values that have made the company successful and that will ensure its future: innovation and pioneering spirit, talent development around the world and value creation with minimal impact on the environment [11]. Airbus invests in research and development of new technologies, including environmental innovations, such as sustainable aviation fuel [10].

DISCUSSION

The social responsibility of enterprises in the aviation industry is reflected, among others, in the pursuit of sustainable development objectives through investments in R&D activities related to the development of new technologies, in particular environmental innovations, mitigating negative impact on the environment, and the so-

called green patents. Investment in research and development is fundamental to enterprises' ability to innovate and their competitiveness. It also contributes to sustainable and inclusive growth [14].

Analysis of results of R&D investment in aerospace and defence shows the EU is second after the US, followed by RoW, while China and in particular Japan have only little (or no) representation in the Scoreboard in this sector. While RoW countries have almost the same number of companies as the EU, the EU companies invest almost four times more in R&D.

Characterizing nominal and inflation adjusted growth rates of aerospace and defense sectors %, 2012-2022, shows increase in spending in this area. This situation is the cause connected with driven by the simultaneous events of easing COVID-19 restrictions and the Russian war against Ukraine, which caused a strong increase in military spending.

Globally, patenting activity in clean transport technologies (CTT) accounted for about 23% of total green high-value inventions EU and Japan led in CTT inventions in the period 2010-2019, which include High-value CTT inventions for internal combustion engine improvement accounted for the largest category in the EU's CTT patent portfolio, aeronautics and air transport in the US, and electromobility in the major Asian economies.

Airbus was ranked among the top 56 companies in the world in terms of total investment in research and development, according to the 2022 scoreboard [15]. An analysis of the area of corporate social responsibility at Airbus found that CSR itself primarily through the following elements:

- striving to mitigate negative impacts on the environment and improve the quality of life through the development of new technologies, in particular environmental innovation and investment in R&D, obtaining green patents, technological partnerships;
- supporting and caring for company employees;
- working for the benefit of the society and the community through investments in various civic organizations etc., as well as volunteering.

It should be emphasized that the achievement of the goals set for the aviation industry for sustainable and balanced growth requires the use of new effective mechanisms aimed at broad cooperation of many entities in this industry.

CONCLUSION

The aforementioned data and the results of research of aviation industry enterprise indicate that factors particularly related to the demand driven by increasing social responsibility, legal regulations concerning environmental protection, may cause the development of environmental technologies and R&D investments by the biggest investors. Investment in R&D for technological innovation has already changed many aspects of the aviation industry in the recent decades, significantly improving sustainability.

Aerospace and defence industry enterprises, following analyses conducted in accordance with the CSR concept, more and more often include the needs and interests of the social environment in their activities, paying attention to broader social and environmental aspects. This is reflected primarily in the pursuit of sustainable development objectives set for the sector through the development of new green technologies, with increasing frequency in network cooperation with other partners, obtaining green patents, increasing investment in R&D, as well as engaging in a number of initiatives for the benefit of society aimed at improving the quality of life and creating value for stakeholders.

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EMPIRICAL INSIGHTS INTO POST-PANDEMIC INNOVATION: A BIBLIOMETRIC EXAMINATION

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ABSTRACT

This paper presents a bibliometric analysis of post-pandemic innovation, utilizing data from the Web of Science database and Biblioshiny from bibliometrix R package. Analyzing 712 documents spanning the years 2020 to 2023, this study aims to identify trends, themes, and impactful contributions in the field of post-pandemic innovation. Key themes identified include the impact of innovation on performance, management strategies, health outcomes, and technological advancements. The most frequent words found in the analyzed documents include "innovation," "impact," "performance," "COVID-19," and "management", underscoring the centrality of these concepts in contemporary discourse on post-pandemic innovation. The study highlights the most globally cited documents in the field, providing insights into influential research publications. The analysis also examines country-wise scientific production, with the UK, China, and the USA emerging as the top contributors. Overall, this study offers valuable insights into the landscape of post-pandemic innovation research, informing future scholarship and policy decisions in this critical area.

Keywords: bibliometric analysis, post-pandemic innovation, Web of Science, global research landscape.

INTRODUCTION

The COVID-19 pandemic has triggered an urgent need for innovative solutions to address the challenges faced by societies worldwide [1,2]. As countries adapt to the post-pandemic effects, there is a growing recognition of the importance of post-pandemic innovation in shaping recovery efforts and building resilience against future crises [3,4]. Post-pandemic innovation encompasses a broad spectrum of research and development activities aimed at addressing the complex socio-economic, environmental, and public health challenges arising from the pandemic. This study aims to contribute to the understanding of post-pandemic innovation by conducting an empiric bibliometric analysis of scholarly literature, shedding light on key themes, trends, and contributors shaping research agendas in this domain.

The COVID-19 pandemic has highlighted the interconnected nature of global challenges and the need for collaborative, interdisciplinary approaches to address them effectively [5]. From healthcare systems and supply chains to education and governance, the pandemic has exposed vulnerabilities and inequities that demand innovative solutions grounded in science, technology, and social innovation [6]. Post-pandemic innovation encompasses efforts to develop vaccines and medical treatments,

reimagine urban spaces, promote digital transformation, and foster sustainable business models. By harnessing the power of innovation, societies can not only mitigate the immediate impacts of the pandemic but also drive transformative change towards more resilient, equitable, and sustainable futures.

This research seeks to systematically analyse the scholarly literature on post-pandemic innovation, providing insights into key thematic areas, emerging trends, and regional disparities in research output. This paper aims to provide answers to the following research questions:

1. Who are the key contributors and influential works in the field of post-pandemic innovation, and how do they influence research directions?
2. What are the main research themes and trends in post-pandemic innovation, as evidenced by bibliometric analysis?

Through bibliometric analysis, the study aims to identify influential documents, prolific authors, and collaborative networks driving research agendas in the post-pandemic era. The findings of this research can inform evidence-based decision-making, policy formulation, and strategic planning efforts aimed at fostering innovation and resilience in the face of global challenges. By gaining a deeper understanding of post-pandemic innovation, stakeholders can develop more effective strategies and interventions to address the complex socio-economic, environmental, and public health challenges posed by the COVID-19 pandemic and beyond.

MATERIALS AND METHODS

The conducted bibliometric analysis focused on post-pandemic innovation within the Web of Science database, utilizing the "All Fields" category. Initially, a search yielded 794 results related to "innovation" and "post-pandemic". To ensure the accuracy of the analysis, the ongoing year 2024 was excluded, resulting in the elimination of 70 results. Subsequently, years up to 2020 were excluded from the dataset, generating a refined dataset of 712 results. This meticulous curation of data allowed for a comprehensive examination of the scholarly output pertaining to innovation in the aftermath of the pandemic, providing valuable insights into the research landscape and trends within this critical domain. The data set was analysed using Biblioshiny, a user-friendly interface within the bibliometrix R package. This provides robust tools for analyzing publication trends, author networks, citation patterns, and thematic evolution within the field of innovation in the aftermath of the COVID-19 pandemic.

The data set was analysed using Biblioshiny, a user-friendly interface within the bibliometrix R package. This provides robust tools for analyzing publication trends, author networks, citation patterns, and thematic evolution within the field of innovation in the aftermath of the COVID-19 pandemic.

RESULTS

The dataset analyzed for this research article comprises data spanning from 2020 to 2023, inclusive. This timeframe captures the immediate aftermath of the global COVID-19 pandemic, offering a comprehensive view of scholarly output concerning innovation

in response to this unprecedented crisis. The dataset encompasses 712 documents sourced from various academic channels, including journals, books, and other scholarly publications, totaling 481 sources (Table 1).

The negative annual growth rate of -11.24% may be attributed to various factors, including the initial disruptions caused by the COVID-19 pandemic on academic research activities. The sudden transition to remote work, closure of laboratories, and disruptions in funding streams likely impeded research productivity during the early stages of the pandemic. Furthermore, the uncertainties surrounding the duration and severity of the pandemic may have led to caution among researchers, resulting in a temporary slowdown in scholarly output. However, despite this decline, the dataset's average document age of 1.83 years suggests that the research produced remains relatively recent and thus highly pertinent to the ongoing discourse on post-pandemic innovation. Analysis of authorship patterns reveals a diverse scholarly community contributing to the discourse on post-pandemic innovation, with a total of 3,062 authors identified. Notably, 76 single-authored documents indicate individual scholarly contributions, while collaboration is prevalent, as evidenced by an average of 4.49 co-authors per document. Furthermore, international collaboration is robust, with 31.74% of documents featuring co-authorships across borders, underscoring the global nature of research endeavors in addressing post-pandemic innovation challenges.

Table 1. Description of the Analysed Dataset (Timespan 2020 – 2023)

Description	Results	Description	Results
Sources (Journals, Books, etc)	481	DOCUMENT TYPE	
Documents	712	article	505
Annual Growth Rate %	-11.24	article; book chapter	4
Document Average Age	1.83	article; early access	42
Average citations per doc	7.329	proceedings paper	80
References	37831	review	50
Authors	3062	Other types	31
Authors of single-authored docs	76		
Co-Authors per Doc	4.49		
International co-authorships %	31.74		

The analysis of the most globally cited documents within the research dataset reveals key scholarly contributions that have gained significant attention and recognition within the academic community. The high citation counts and annual citation rates of these globally cited documents reflect their significance and impact within the scholarly community, indicating that they have contributed valuable insights, methodologies, and theoretical frameworks to the ongoing discourse on post-pandemic innovation and resilience.

Among these influential papers, several themes emerge, reflecting the diverse and interdisciplinary nature of post-pandemic research. For instance, papers such as Shin and Kang [7] in the *International Journal of Hospitality Management* and Devereux, Béné and Hoddinott [8] in *Food Security* highlight the critical intersections between the pandemic and sectors such as hospitality and food systems (Table 2). These papers offer

valuable insights into the impacts of COVID-19 on these industries and propose strategies for resilience and adaptation in the face of unprecedented challenges.

Additionally, papers such as Leach et al. [3] in *World Development* and González-Pérez and Ramírez-Montoya [9] in *Sustainability-Basel* analyse broader socio-economic and environmental dimensions of the pandemic, examining issues related to sustainable development, resource management, and resilience-building efforts. These papers present the interconnectedness of global crises and the importance of adopting holistic and interdisciplinary approaches to addressing complex challenges. Papers such as Vahdat [10] in *Kybernetes* and Shulla et al. [11] in *Discovery Sustainability* explore topics related to technology, cybernetics, and sustainable practices, highlighting the role of innovation and technological advancements in shaping post-pandemic recovery and transformation agendas.

Table 2. Most Global Cited Documents

Paper	Total Citations	TC per Year	Normalized TC
SHIN H, 2020, INT J HOSP MANAG	264	52.80	5.99
DEVEREUX S, 2020, FOOD SECUR	214	42.80	4.85
KUZEMKO C, 2020, ENERGY RES SOC SCI	199	39.80	4.51
LEACH M, 2021, WORLD DEV	185	46.25	17.22
BARBIER EB, 2020, ENVIRON RESOUR ECON	108	21.60	2.45
GONZÁLEZ-PÉREZ LI, 2022, SUSTAINABILITY	89	29.67	13.27
ZIEGLER V, 2020, IEEE ACCESS	80	16.00	1.81
VAHDAT S, 2022, KYBERNETES	78	26.00	11.63
CLARKSON BG, 2022, MANAG SPORT LEIS	69	23.00	10.29
SHULLA K, 2021, DISCOV SUSTAIN	68	17.00	6.33

The analysis of country scientific production within the dataset offers valuable insights into the global distribution of research contributions on post-pandemic innovation. By fostering international collaborations and knowledge exchange, researchers from diverse regions can leverage their unique perspectives, expertise, and resources to develop holistic solutions to global challenges. The widespread engagement of countries across different continents highlights the universality of the issues at hand and the shared responsibility of the global community in addressing them.

Among the regions with notable scientific output, the United Kingdom emerges as a frontrunner, with 366 documented research contributions (Figure 1). This substantial scientific production from the UK reflects the country's robust research infrastructure, interdisciplinary collaborations, and strategic investments in innovation and knowledge generation. Moreover, the high frequency of research output from China, with 296 documented contributions, underscores the country's growing prominence as a global leader in scientific research and development. China's significant scientific output in the post-pandemic context reflects its concerted efforts to leverage research and innovation as key drivers of economic recovery and societal resilience.

Similarly, the United States, with 260 documented contributions, maintains a strong presence in the global research landscape on post-pandemic innovation. As a leading hub for scientific innovation and entrepreneurship, the US continues to contribute valuable insights and expertise to the ongoing discourse on addressing the challenges and opportunities arising from the COVID-19 pandemic. Furthermore, countries such as Canada, Spain, Italy, Brazil, Australia, and Portugal also make notable contributions to the scientific production in this domain. These countries' active engagement in post-pandemic research reflects their commitment to advancing knowledge, fostering innovation, and addressing the complex socio-economic and environmental implications of the pandemic.

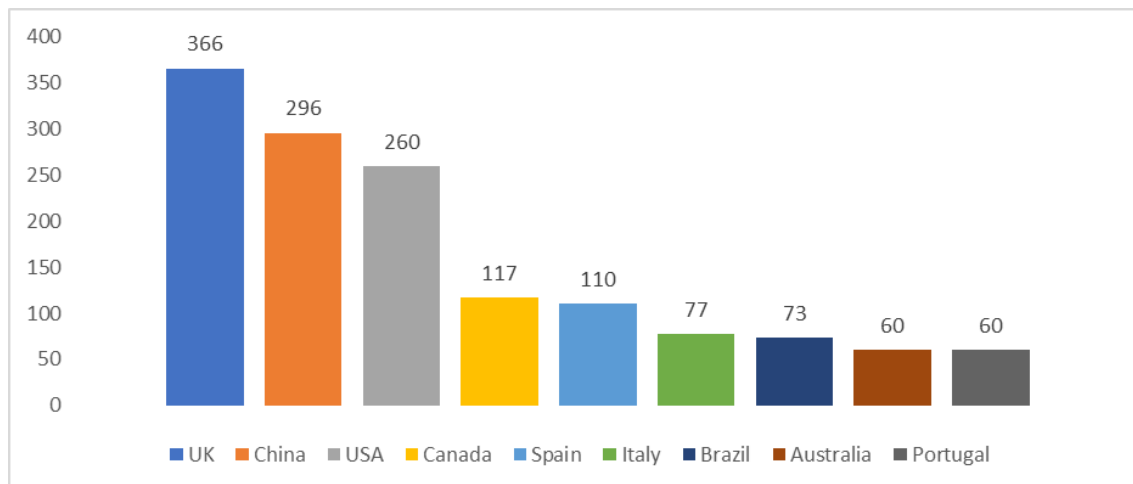


Figure 1. Country Scientific Production

The distribution of country scientific production within the dataset reflects a complex interplay of factors influenced by the evolution and spread of COVID-19. Regions heavily impacted by the pandemic exhibit heightened research activity as they grapple with urgent public health challenges, economic disruptions, and social upheavals. For instance, countries such as the United States, the United Kingdom, and China, which experienced significant COVID-19 outbreaks and subsequent waves, likely intensified their research efforts to understand the virus's transmission dynamics, develop diagnostic tools, and formulate effective mitigation strategies. The urgency of the situation likely catalyzed collaborative research endeavors and resource mobilization to address immediate needs and long-term implications of the pandemic. The prominence of the United Kingdom, China, and the United States in scientific output can also be attributed to their robust research ecosystems, including well-established universities, research institutions, and funding mechanisms. These countries have historically invested heavily in research and innovation, fostering a conducive environment for knowledge generation, technology development, and academic collaboration. As such, their high frequency of scientific production in the post-pandemic domain reflects their capacity to mobilize resources and expertise to address pressing global challenges.

The distribution of scientific production reflects disparities in the response capacity and resilience of different regions to the COVID-19 crisis. Countries with robust healthcare systems, well-established research infrastructure, and ample funding have been better equipped to mount comprehensive research responses to the pandemic. Conversely, nations facing systemic challenges such as limited healthcare resources, infrastructure

deficits, and socioeconomic disparities have struggled to allocate resources to research activities amidst the demands of pandemic response and recovery efforts. Consequently, disparities in scientific output across regions mirror underlying inequalities in healthcare access, research capacity, and socioeconomic development exacerbated by the pandemic.

The analysis of the most frequent words within the dataset provides valuable insights into the predominant themes and topics addressed in scholarly discussions on post-pandemic innovation. The word "innovation" emerges as the most frequently occurring term, highlighting the central focus of research on exploring new approaches, strategies, and solutions in response to the challenges and opportunities arising from the COVID-19 pandemic (Figure 2). In the wake of unprecedented disruptions to societal norms and systems, innovation emerges as a critical enabler for adaptation, resilience, and progress. Scholars are keenly interested in understanding how innovative strategies and practices can drive recovery, transformation, and sustainable development in various sectors, including healthcare, business, technology, and governance.

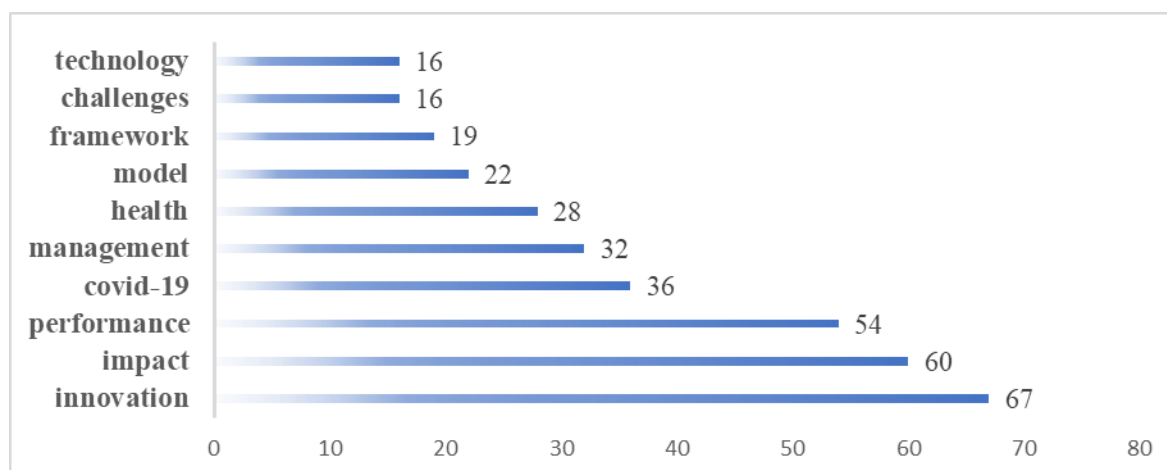


Figure 2. Most Frequent Words

The prominence of terms such as "impact" and "performance" suggests a keen interest among researchers in assessing the consequences and outcomes of innovative initiatives in various domains. Given the urgency of responding to the immediate and long-term impacts of the pandemic, researchers are increasingly focused on evaluating the tangible and intangible effects of innovative initiatives on individuals, organizations, and communities. This emphasis on impact assessment reflects a growing recognition of the need for evidence-based decision-making and accountability in shaping post-pandemic policies and practices. By systematically evaluating the outcomes and implications of innovative approaches, scholars aim to inform strategic decision-making, optimize resource allocation, and enhance the overall effectiveness and efficiency of post-pandemic recovery efforts.

The frequent occurrence of terms such as "COVID-19," "health," and "management" highlights the interdisciplinary nature of research on post-pandemic innovation, spanning across domains such as public health, healthcare management, business, and technology. These terms reflect the impacts of the pandemic on society and underscore the need for integrated and collaborative approaches to addressing the complex challenges posed by the crisis. Additionally, the presence of words like "model,"

"framework," and "technology" suggests a concerted effort among researchers to develop conceptual frameworks, methodologies, and technological solutions to support innovation and resilience-building efforts in the wake of the pandemic. Scholars from diverse disciplines, including public health, healthcare management, economics, sociology, and technology, are coming together to develop holistic solutions that address the multifaceted impacts of the pandemic. This interdisciplinary collaboration not only enriches the depth and breadth of research but also fosters innovation and resilience-building efforts that are grounded in a comprehensive understanding of the interconnected challenges and opportunities in the post-pandemic landscape.

CONCLUSION

This research paper has provided a comprehensive analysis of post-pandemic innovation, examining key themes, trends, and contributors within the scholarly literature. Through bibliometric analysis, significant patterns and insights that shed light on the global research landscape surrounding innovation in the wake of the COVID-19 pandemic have been identified. The analysis of most frequent words, globally cited documents, and country scientific production has revealed the multifaceted nature of research efforts, spanning disciplines such as public health, economics, technology, and sustainability. These findings underscore the interdisciplinary nature of post-pandemic research and highlight the interconnectedness of global challenges and opportunities in the aftermath of the pandemic.

The study has highlighted the critical role of innovation in navigating the complexities of the post-pandemic world. As evidenced by the frequent occurrence of terms such as "innovation," "impact," and "performance," researchers across the globe are actively engaged in developing novel approaches, strategies, and technologies to address the challenges posed by the pandemic. The analysis of country scientific production has underscored the importance of international collaboration and knowledge exchange in advancing research agendas and addressing global challenges collaboratively.

The study offers valuable insights, but also has a number of limitations. First, it focuses exclusively on research indexed within the WoS database and the specified time period, which may omit non-indexed or emerging research areas. In addition, its reliance on bibliometric analysis may neglect qualitative aspects of the research, which may impact on interpretation. Future research directions may include systematic analysis of this area and identification of key enablers of innovation in a post-pandemic context, development of bibliometric analysis using other databases, e.g. Scopus, or replication of research after a different time period.

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ENTREPRENEURIAL CAPACITIES DEVELOPMENT THROUGH ECOSYSTEM SUPPORT

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ABSTRACT

Innovation and economic growth depend on entrepreneurial potential, which is fostered by a multimodal strategy that includes risk acceptance, education, resource accessibility, and supportive environments. The literature emphasizes how important training approaches, exercises, and critical phases of entrepreneurship are as success factors. The provision of mentorship, networking opportunities, and financial assistance are essential components in the encouragement of entrepreneurial pursuits, as they cultivate a mentality of adaptability and daring. Critical thinking and risk readiness are encouraged throughout the many stages of entrepreneurship through active learning, specialized courses, and real-world internships that enhance capacities development.

This study used a qualitative methodology, focusing on group discussions with twelve seasoned business owners. The approach enabled a range of viewpoints and views, revealing tactics for promoting entrepreneurship. Participant involvement and organized talks brought important details to light; they were then analyzed to find recurring themes and useful strategies. This research highlights the necessity for fostering entrepreneurial ecosystems through inclusive, supportive, and educationally robust environments, nurturing a culture of innovation and sustained success.

Keywords: Entrepreneurial Potential, Ecosystem, Capacities Development, Qualitative Methods, Active Learning.

INTRODUCTION

Developing an atmosphere that encourages growth and innovation is essential to realizing the potential of entrepreneurs [1]. Education is crucial because it provides resources and mentorship to enhance critical entrepreneurial skills like financial literacy, flexibility, and problem-solving [2]. It is essential to encourage creativity in this setting by pushing people to try new things, think creatively, and see setbacks as teaching opportunities.

In order to enable budding entrepreneurs, access to resources is essential [3]. In order to turn ideas into successful businesses, this involves making money, technology, and infrastructure more accessible [4]. This is further enhanced by networking and mentoring, which offer direction and assistance from seasoned people who have traveled comparable routes.

Taking risks and being resilient are essential to being an entrepreneur [5]. Therefore, it is crucial to establish a culture that values taking cautious chances and sees failures as stepping stones to success [6]. Furthermore, maintaining entrepreneurial activities depends on developing resilience against setbacks.

Potential unlocking is greatly aided by supportive habitats [7]. This includes pro-business laws, the existence of incubators and accelerators, and government initiatives that promote entrepreneurship [8]. This encouraging atmosphere is further reinforced by a culture that values entrepreneurship.

In order to create an entrepreneurial ecosystem that benefits from a variety of viewpoints and concepts, it is imperative to embrace diversity and inclusivity [9]. Promoting entrepreneurship among people with different origins contributes to the development of an inclusive environment that fosters creativity [10]. In the path of entrepreneurship, constant learning and adaptability are essential qualities [11]. Fostering an attitude that values continuous learning, adjusts to market fluctuations, and leverages technical breakthroughs is essential for long-term success [12].

Furthermore, telling the stories of successful entrepreneurs encourages others and highlights the opportunities and benefits of being an entrepreneur [9]. This success celebration inspires business owners. In the end, people and communities may unleash and ignite the entrepreneurial potential in themselves and others by concentrating on these interrelated elements, which will promote innovation, economic expansion, and societal advancement.

LITERATURE REVIEW ON ENTREPRENEURIAL POTENTIAL

The literature was analyzed with an emphasis on the features of entrepreneurship training, which allowed for the identification of specific ways to encourage entrepreneurial activity [13, 14, 15,], as well as activities for promoting entrepreneurship [13, 14, 15,], and phases of the entrepreneurial start-up process where training can be beneficial [13, 14, 15].

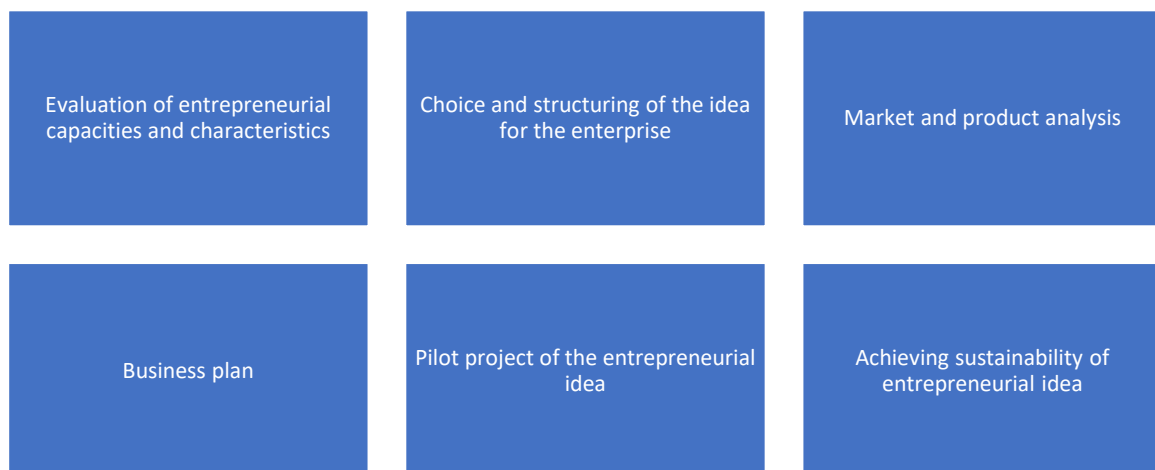
The methods to promote entrepreneurial activity [13; 14; 15] are the following:



The activities for promoting entrepreneurship [2, 13, 15] are the following:



The stages of the entrepreneurial start up process where training can be important [2, 13, 15] are the following:



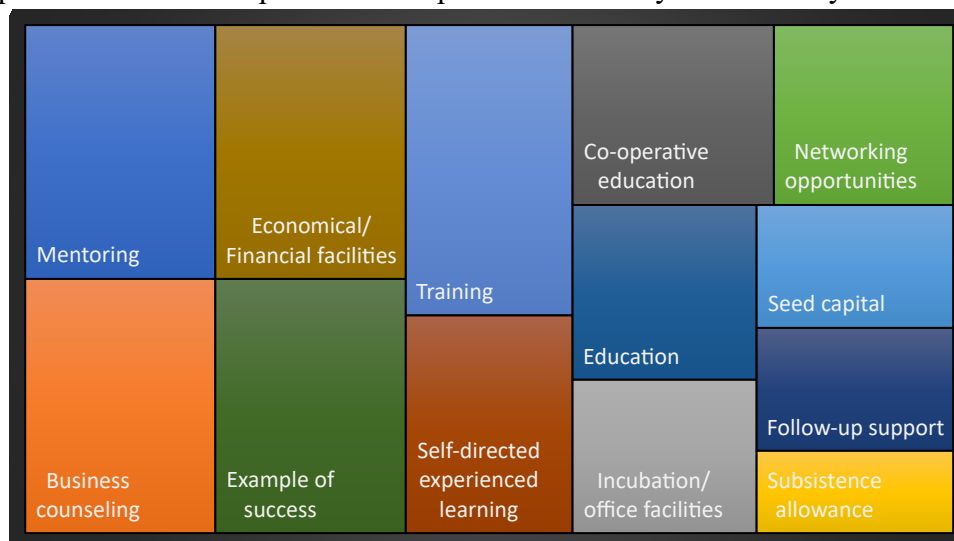
METHODOLOGY

The qualitative approach, which involved holding one focus group with twelve entrepreneurs, proved to be a very successful way to find tactics to encourage entrepreneurial activity. The focus group gives participants a forum for sharing their varied perspectives and views. It was first important to identify the objectives, including the specific entrepreneurial features and the outcomes, in order to undertake this data collection procedure. In the context of this research, participants were chosen based on the criterion that they had been entrepreneurs for at least three years and had relevant expertise in entrepreneurship. Choosing the participants' makeup and group size is an important first step.

The focus group followed an organized discussion guide with open-ended questions meant to elicit members' perspectives, problems, and creative solutions regarding methods to support entrepreneurial endeavors. The session was recorded (with participant consent) in order to collect data. The analytical phase, which followed data gathering, required transcription of the notes and audio recordings. Finding recurring patterns, new perspectives, and cutting-edge tactics to encourage entrepreneurial endeavors was the goal of the analysis.

DATA ANALYSIS AND RESULTS

In graph 1 the methods to promote entrepreneurial activity will be analyzed:



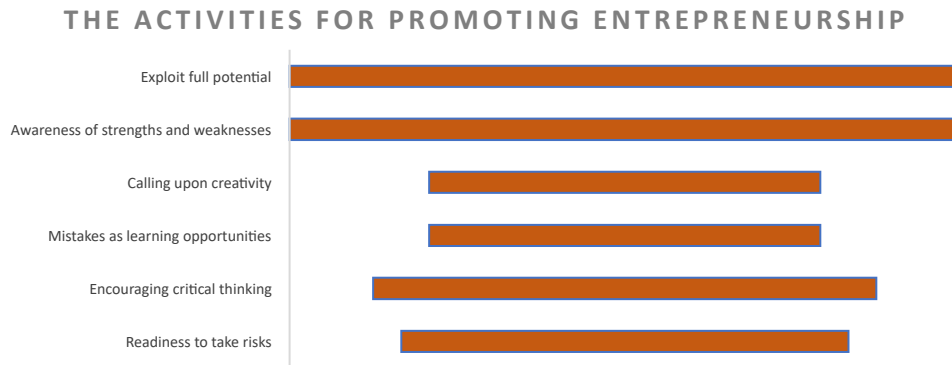
Graph 1 – Methods to promote entrepreneurial activity.

Mentoring, business counseling, success stories, training, and financial and economical facilities score highest, all at 12. These elements point to the urgent need for direction, knowledge from effective role models, and significant funding.

Cooperative education and self-directed experiential learning, both rated at nine, come closely behind. This suggests an understanding of the benefits of both solitary study and group learning opportunities. Networking possibilities are evaluated as highly significant, indicating the importance of establishing professional relationships and connections.

Rankings between 7 and 6 indicate that follow-up support, startup funding, and incubator/office facilities are somewhat lower in importance. They may not be as urgently needed as financial support, education, or mentoring, but they are still vital. Additionally, the subsistence allowance (ranked 4) seems to be considered somewhat less important or necessary.

In graph 2 the activities for promoting entrepreneurship will be analysed:



Graph 2 – Activities for promoting entrepreneurship.

"Awareness of strengths and weaknesses" and "Exploit full potential" get the greatest scores, with a top rank of 12. This highlights how crucial it is to recognize one's own strengths and constraints in order to work toward realizing one's potential. It demonstrates a keen understanding of how important it is to build strengths and solve problems to succeed and grow.

"Encouraging critical thinking" comes in close second, scoring a 9, demonstrating its significant contribution to creating an atmosphere that values critical thinking and problem-solving skills. This implies an understanding of the role critical thinking plays in decision-making and general growth.

With a grade of 8, "Readiness to take risks" occupies a noteworthy position, suggesting recognition of the benefits of taking measured risks. This points to a well-rounded strategy that weighs the possible benefits of venturing outside of comfort zones against any negative effects.

"Mistakes as learning opportunities" and "Calling upon creativity" rank somewhat lower, at 7 and 8, respectively. They may not be given the same priority as away as things like critical thinking and self-awareness, even though they are still crucial. This suggests that, although sometimes viewed as having a somewhat less pressing immediate influence, innovation and the lessons learned from mistakes are valued.

In graph 3 the Learning activities for promoting entrepreneurship will be analyzed:



Graph 3 – Learning activities for promoting entrepreneurship.

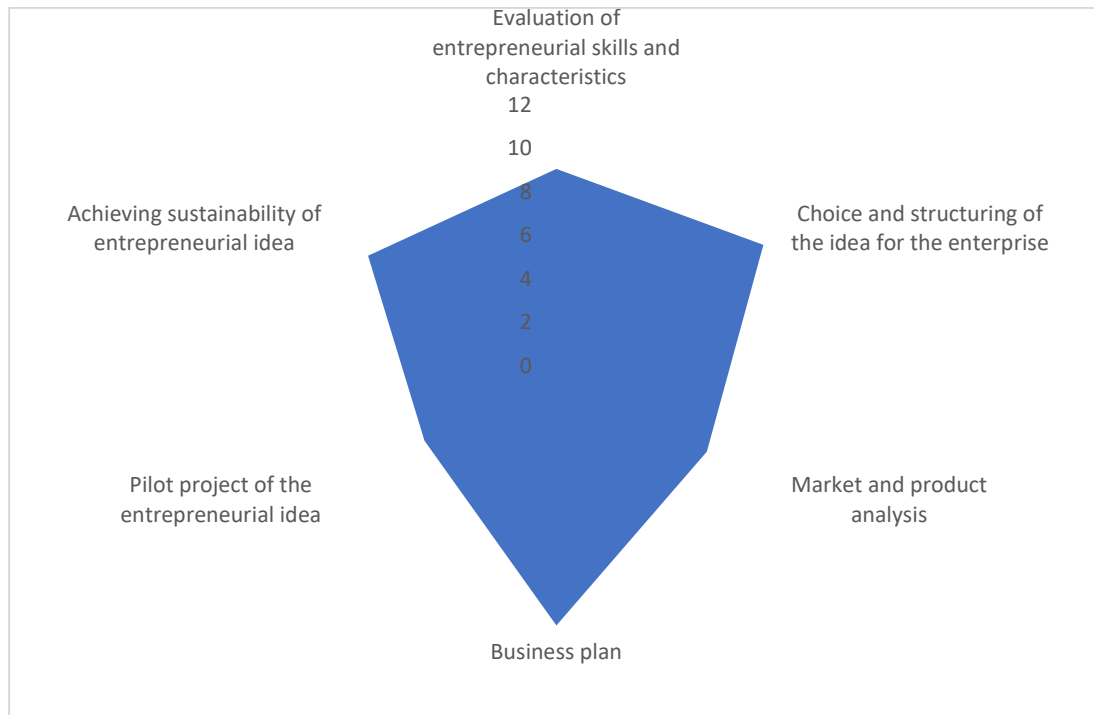
"Workshops, videos, conferences" and "Networking spaces," both placed at 12, are at the top of the list. These things are extremely significant because they highlight the importance of interactive learning environments and networking and collaboration areas. This implies a good understanding of the short- and long-term advantages these components provide in the fields of education and employment.

"Practical internship" and "Specialized courses," both ranked at nine, are next in line. This suggests that practical application and targeted learning in particular fields are highly valued, and that practical experience and specialized knowledge are heavily valued.

With a grade of 8, "Case studies of success" is rather less important. Although acknowledged as significant, it may not be as urgently important as the previously described components. This implies that success stories are valuable, albeit perhaps with less focus on their immediate effects on schooling or the workplace.

"Networking courses" and "Projects (university, consultancy, research projects)" are ranked lower on the scale, at number seven and six, respectively. They might not be given the same immediate priority as networking events, workshops, and hands-on learning opportunities, even though they are still vital. This may indicate a belief that formal networking education and specific project-related experiences have a marginally smaller immediate impact.

In graph 4 the entrepreneurial activities will be analyzed:



Graph 4 – Entrepreneurial Activities

"Business plan" is ranked #1 with a 12-point rating, indicating how important it is to the entrepreneurial process. This emphasizes how important it is to have a well-organized plan as the cornerstone of every business endeavor.

Next, with a ranking of 11, "Choice and structuring of the idea for the enterprise" is highlighted as having substantial worth. This implies a good understanding of the crucial significance that a clearly defined and thoughtfully organized idea plays in an entrepreneurial endeavor's success.

The fact that "Achieving sustainability of entrepreneurial idea" is placed 10th indicates how important it is. This illustrates a comprehensive approach to entrepreneurship by emphasizing not just the initiation of an idea but also its longevity and sustainability.

"Evaluation of entrepreneurial capacities and characteristics" is scored at 9, which indicates that it is somewhat less important than other categories and that human qualities and abilities have a significant role in the success of entrepreneurs. This may imply that, although important, assessing one's abilities and traits may not be as important as other steps in the entrepreneurial process right away.

"Market and product analysis" is ranked 8th on the scale, indicating that its importance is acknowledged but may not be given as much immediate attention as other factors. Although considered as important, the "Pilot project of the entrepreneurial idea" may be seen as having less immediate influence than previous stages of the process due to its lower ranking of 7.

CONCLUSIONS

A context that is enhanced by mentorship and education fosters an increase in entrepreneurial potential. While education builds the necessary skills, mentoring offers priceless advice on problem-solving, flexibility, and financial knowledge.

The ability to obtain resources is a key factor in turning concepts into successful business endeavors. Innovation is progressing due to the availability of infrastructure, technology, and finance. It is, nevertheless, supplemented by networking and mentoring, which provide entrepreneurs with access as well as vital guidance and support.

An environment that is favorable to entrepreneurial ventures is created by supportive laws, government policies, and the existence of incubators. These components have a major role in creating an atmosphere that supports the growth of enterprises and ideas.

Honoring accomplishments is a catalyst as well as a formality. Showcasing inspirational tales of successful entrepreneurship helps as motivation. One essential function of training approaches is to support entrepreneurs. Specialized education, real-world exposure, and networking opportunities round out this ecosystem.

Training becomes the guiding force during critical stages such as capacity evaluation, idea structuring, market analysis, creating strong business plans, concept piloting, and sustainability assurance, setting up entrepreneurs for success.

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INNOVATION AND HUMAN DEVELOPMENT IN COUNTRIES EUROPEAN UNION

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ABSTRACT

Innovation and human development are key determinants of social and economic progress. The purpose of the article focused on identifying the relationship between innovation and human development in European Union (EU) countries. In order to achieve the goal, qualitative methods were used by analyzing statistical data, source documents on the European Innovation Scoreboard published annually and the Human Development Index (HDI). A theoretical-cognitive analysis was also conducted. The results of the comparative analysis show that innovation and human development are strongly linked in European Union member states. Countries that have a high level of innovation also achieve a high level of human development. In contrast, countries with a lower level of innovation tend to also have a lower rate of human development. The analysis thus highlighted differences among European Union countries, indicating that countries that invest in innovation perform better in terms of human development, driving not only economic and technological progress but also improving the quality of human life, which is key to sustainable development. Innovation is an important factor in supporting social development in EU countries affecting, among other things, improvements in the quality of health and education care and their increased access, the creation of new jobs. Policy making around the world in pursuit of responsible and sustainable development should therefore take into account not only aspects of economic, innovative development, but also human development.

Keywords: innovation, human development, Human Development Index (HDI)

INTRODUCTION

Both innovation and human development are important issues with a significant impact on socio-economic progress. They play an important role in the development of EU countries. It is possible to point out many relationships between these complex constructs. Innovation is most often understood as the ability to create, introduce and improve products, ideas, processes leading to increased efficiency and competitiveness being the driving force of development [1], [2]. Innovation can be referred to both the micro level, individual organizations, and the macro level, i.e. different countries and regions. It can also be referred to the individual level. The literature distinguishes many approaches and indicators for measuring the level of innovation. Human development, on the other hand, is a multidimensional construct related to the realization of different human goals [3]. Human development is measured according to the Human

Development Index (HDI) in three dimensions: long and healthy life, a decent standard of living and knowledge [4]. The literature highlights the very large role of Human Development Reports issued periodically by the UNDP in recognizing the importance, not only of economic but also of human development, which has found an important place in international policy discourse [5]. Human Development has been defined as "the process of increasing people's choices" [6]. Thus, it is aimed at improving people's quality of life and increasing their opportunities, which can change over time [6]. Innovation has had a great impact on human development, which has contributed to the development and improvement of education, health care and access to it, sustainable development through the use of eco-innovation for environmental protection and better management of natural resources and waste, among other things. Innovation also creates new employment opportunities, new professions are created, and helps solve social problems. The introduction of innovation also brings with it a number of challenges on ethical and moral grounds related, for example, to the development of artificial intelligence (AI), genetics, biotechnology, as well as maintaining data security and privacy. Automation and robotization leading to the replacement of human labor with robots may lead to the loss of jobs by certain professional groups. In turn, limited access to particular innovations, technologies in different areas of the world can lead to the creation and deepening of inequalities. Innovations can therefore have different impacts on human and social development.

The purpose of this article is to identify the relationship between innovation and human development in European Union (EU) countries. To achieve the purpose, an analysis was made of the level of innovation of EU countries and the human development index in these countries. A comparison of these indicators was then made to highlight their interrelationships and differences. This analysis can help understand the impact of implemented human development and innovation policies in EU countries on the quality of human life.

MATERIALS AND METHODS

The purpose formulated in the work required the use of appropriate methods. A theoretical-cognitive analysis was carried out focusing on two key issues that are the subject of the work, namely innovation and human development. The analysis was also directed at identifying the relationship between these concepts. Based on the analysis of the literature, we suppose that there is a relationship between the level of innovation achieved by EU countries and the level of the Human Development Index. The study also used qualitative methods involving analysis of source documents, statistical data. In order to identify the level of innovation of EU countries, the European Innovation Scoreboard 2023 [7], published annually, was used. To illustrate the level of human development, Human Development Index (HDI) data from the Human Development Report 2023/2024 [8] was used. The temporal scope of the analysis due to the desire to have access to the most recent, up-to-date data possible with regard to the level of innovation of EU countries included 2023, 2022, and the reference year 2016. However, with regard to the HDI, data available as of October 31, 2023 were used. In addition, a comparative analysis was conducted to identify the relationship between innovation indicators and human development in EU countries. The multidimensional

nature of the research involving the use of different methods made it possible to illustrate the relationship of the analyzed constructs.

RESULTS

The analysis of statistical data carried out identified the level of innovation measured by the European Innovation Scoreboard 2023 [7] and the level of human development measured by the Human Development Index (HDI) in EU countries [8]. A comparative analysis was also made between the level of innovation and the level of human development in EU countries.

The European Innovation Scoreboard (EIS) is published periodically each year. The EIS provides a comparative assessment of the performance of EU member states and selected other non-EU countries, including global competitors and other European countries. The EIS 2023 methodology includes: four main types of activities with 12 innovation dimensions [7]:

- Framework conditions (human resources, attractive research systems, digitalisation)
- Investments (finance and support, firm investments, use of information technologies)
- Innovation activities (innovators; Linkages; intellectual assets)
- Impacts (employment impacts, sales impacts, environmental sustainability).

In total, the EIS includes 32 indicators within each of the four types of activities and 12 dimensions of innovation. Individual EU countries, depending on the Summary Innovation Index obtained, were classified into one of four separate groups: innovation leaders, strong innovators, moderate innovators and emerging innovators [7]. The results for EU member countries according to the European Innovation Scoreboard 2023 are presented in Figure 1.

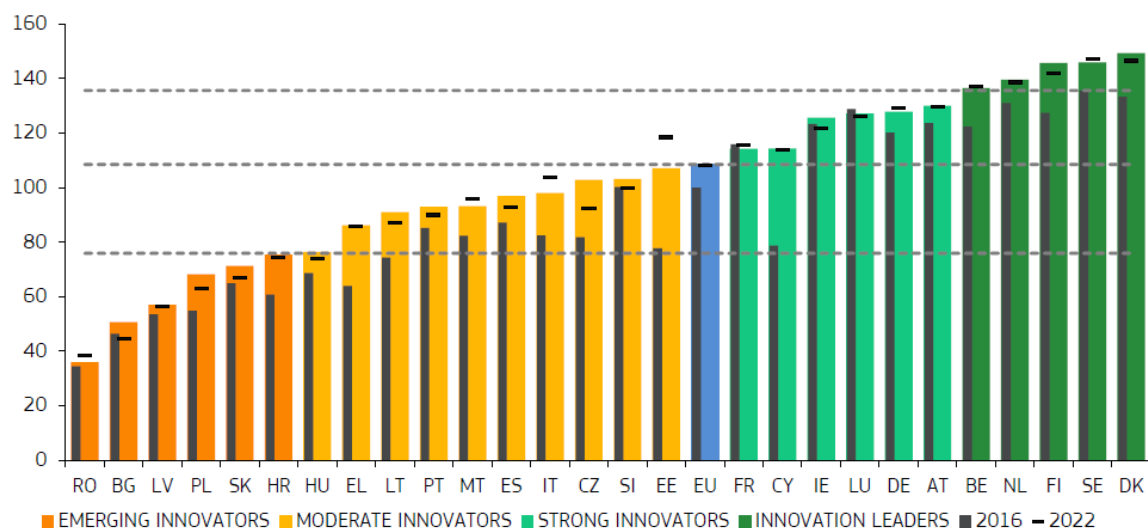


Figure 1. Innovation performance of EU member states in 2023 and in the period 2016-2022

Source: Human Development Report 2023/2024. Breaking the gridlock Reimagining cooperation in a polarized world. United Nations Development Programme 1 UN Plaza, New York, NY 10017 USA, 2024 [7].

As Figure 1 shows, most EU member states have increased their innovation performance between 2016 and 2023. At the same time, the performance differences between EU member states have narrowed somewhat. Countries that achieved an indicator above the EU average were classified as innovation leaders and strong innovators. The countries that achieved the highest level include (innovation leaders): Denmark, Sweden, Finland, Netherlands, Belgium [7]. On the other hand, the group of strong innovators includes: Austria, Germany, Luxembourg, Ireland, Cyprus, France. Countries with the lowest index, classified in the Emerging Innovators group, include: Bulgaria, Croatia, Latvia, Poland, Romania, Slovakia [7].

Human development of individual countries around the world, including EU countries, is measured on the basis of the Human Development Index (HDI) presented periodically in Human Development Reports issued by the UNDP. The Human Development Index (HDI) is a summary measure of average achievement in three dimensions (knowledge, long and healthy life and a decent standard of living) calculated on the basis of four indicators: life expectancy at birth, expected years of schooling, mean years of schooling and GNI per capita (PPP\$) [4]. Table 1 presents the four HDI indices belonging to the three dimensions and the Dimension Index.

Table 1. Dimensions and indicators HDI

Dimensions	Indicators	Dimensions Index
Long and healthy life	- Life expectancy at birth	- Life expectancy index
Knowledge	-Expected years of schooling -Mean years of schooling	- Education index
A decent standard of living	- GNI per capita (PPP \$)	- GNI index

Source: based on: Human Development Index (HDI), <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI> [4]

Depending on the human development index score obtained, countries are classified into one of the following four groups of countries in terms of their HDI level [8]:

- Countries with very high human development (0.800 or more)
- Countries with high human development (0.700-0.799)
- Countries with medium human development (0.550-0.699)
- Countries with low human development (below 0.550).

Table 2 summarizes the EU countries ranked according to the human development index (HDI) value obtained in 2022, calculated on the basis of four indicators falling within the three dimensions. The table also presents the country's ranked position. The index was calculated on the basis of data available in 2023. The table below presents the Human Development Index and its components for the 27 member countries of the European Union (EU) out of a total of 193 countries surveyed worldwide.

Table 2. Human Development Index (HDI) and its components - countries of the European Union (EU)

	HDI Rank	HDI Value 2022	Life expectancy at birth (years) 2022	Expected years of schooling (years) 2022	Mean years of schooling (years) 2022	GNI per capita (2017 PPP \$) 2022	GNI per capita rank minus HDI rank 2022	HDI rank 2021
	Very high HDI							
1.	Denmark	0.952	81.9	18.8	13.0	62,019	6	8
2.	Sweden	0.952	83.5	19.0	12.7	56,996	10	5
3.	Germany	0.950	81.0	17.3	14.3	55,340	11	7
4.	Ireland	0.950	82.7	19.1	11.7	87,468	-3	9
5.	Netherlands	0.946	82.5	18.6	12.6	57,278	4	11
6.	Belgium	0.942	82.3	18.9	12.5	53,644	9	13
7.	Finland	0.942	82.4	19.2	12.9	49,522	11	11
8.	Luxembourg	0.927	82.6	14.2	13.0	78,554	-15	19
9.	Austria	0.926	82.4	16.4	12.3	56,530	-5	22
10.	Slovenia	0.926	82.1	17.4	12.9	41,587	13	24
11.	Malta	0.915	83.7	15.9	12.2	44,464	5	25
12.	Spain	0.911	83.9	17.8	10.6	40,043	10	28
13.	France	0.910	83.2	16.0	11.7	47,379	-1	27
14.	Cyprus	0.907	81.9	16.2	12.4	40,137	7	29
15.	Italy	0.906	84.1	16.7	10.7	44,284	1	30
16.	Estonia	0.899	79.2	15.9	13.5	37,152	9	32
17.	Czechia	0.895	78.1	16.3	12.9	39,945	6	31
18.	Greece	0.893	80.6	20.0	11.4	31,382	20	33
19.	Poland	0.881	77.0	15.9	13.2	35,151	7	35
20.	Latvia	0.879	75.9	16.6	13.3	32,083	13	39
21.	Lithuania	0.879	74.3	16.4	13.5	38,131	2	36
22.	Croatia	0.878	79.2	15.6	12.3	34,324	5	37
23.	Portugal	0.874	82.2	16.8	9.6	35,315	0	39
24.	Slovakia	0.855	75.3	14.7	13.0	32,171	4	45
25.	Hungary	0.851	0.851	15.1	12.2	34,196	-2	46
26.	Romania	0.827	74.1	14.5	11.4	31,641	-1	52
	High HDI							
27.	Bulgaria	0.799	71.5	13.9	11.4	25,921	-12	70

Source: based on: Human Development Report 2023/2024. Breaking the gridlock Reimagining cooperation in a polarized world. United Nations Development Programme 1 UN Plaza, New York, NY 10017 USA, 2024 [8]

As can be seen from the data presented in Table 2, all EU countries except Bulgaria were categorized as having a very high Human Development Index (HDI). Bulgaria, according to the HDI, was counted among the high HDI countries.

Table 3 compares the results on the level of innovation and the level of human development of EU countries.

Table 3. Comparison of results on the level of innovation and the level of human development of EU countries.

Rank	HDI Rank	HDI Value 2022	Rank	Summary Innovation Index Rank	Summary Innovation Index 2023
1.	Denmark	0.952	1.	Denmark	137.6
2.	Sweden	0.952	2.	Sweden	134.5
3.	Germany	0.950	3.	Finland	134.3
4.	Ireland	0.950	4.	Netherlands	128.7
5.	Netherlands	0.946	5.	Belgium	125.8
6.	Belgium	0.942	6.	Austria	119.9
7.	Finland	0.942	7.	Germany	117.8
8.	Luxembourg	0.927	8.	Luxembourg	117.2
9.	Austria	0.926	9.	Ireland	115.8
10.	Slovenia	0.926	10.	Cyprus	105.4
11.	Malta	0.915	11.	France	105.3
12.	Spain	0.911	12.	Estonia	98.6
13.	France	0.910	13.	Slovenia	95.1
14.	Cyprus	0.907	14.	Czechia	94.7
15.	Italy	0.906	15.	Italy	90.3
16.	Estonia	0.899	16.	Spain	89.2
17.	Czechia	0.895	17.	Malta	85.8
18.	Greece	0.893	18.	Portugal	85.6
19.	Poland	0.881	19.	Lithuania	83.8
20.	Latvia	0.879	20.	Greece	79.5
21.	Lithuania	0.879	21.	Hungary	70.4
22.	Croatia	0.878	22.	Croatia	69.6
23.	Portugal	0.874	23.	Slovakia	65.6
24.	Slovakia	0.855	24.	Poland	62.8
25.	Hungary	0.851	25.	Latvia	52.5
26.	Romania	0.827	26.	Bulgaria	46.7
27.	Bulgaria	0.799	27.	Romania	33.1

Source: based on: based on: Human Development Report 2023/2024. Breaking the gridlock Reimagining cooperation in a polarized world. United Nations Development Programme 1 UN Plaza, New York, NY 10017 USA, 2024 [8]; European Innovation Scoreboard 2023. European Commission 2023 [7].

DISCUSSION

As assumed, the results shown in Table 3 indicate some dependence between the innovation index obtained and the human development index.

Countries ranked in the top nine for high levels of innovation (Denmark, Sweden, Germany, Ireland, Netherlands, Belgium, Finland, Luxembourg, Austria) were also among the top nine countries with very high HDI (Denmark, Sweden, Finland,

Netherlands, Belgium, Austria, Germany, Luxembourg, Ireland). Denmark and Sweden ranked first among the 27 EU countries with the highest HDI and Summary Innovation Index. Innovation in these countries increased between 2016 and 2023 due to, among other things, a significant increase in the number of SMEs innovating in business processes (Denmark, Sweden, Belgium, Finland); or product innovation (Denmark, Sweden); increased sales of innovative products (Finland, Sweden), increased employment in innovative companies (Denmark); broadband penetration (Finland) [7]. This translates into, among other things, the creation of new jobs, increased access to information, health care, education, which is important for human development.

Some dependence can also be seen among countries with lower scores on both HDI and innovation. Bulgaria and Romania are examples of such countries. This indicates regional differences among EU countries. Eastern European countries often have lower human development and innovation indicators compared to Western European countries.

Based on the comparison presented, it can be concluded that innovation has a great impact on improving the quality of human life, and is a key factor supporting human development in EU countries.

CONCLUSION

The analyses carried out indicate that innovation has a major impact on human development by increasing the possibilities of human choices and contributing to improving the quality of human life around the world in different areas. Taking up this issue was dictated by the desire to join the discussion emphasizing the importance not only of the topic of innovative and economic development but also of human development in shaping future policies in the world. A comparison of human development with innovation in EU countries shows the links between innovative development, technological progress and the quality of human life. Countries with a high level of innovation are also characterized by a very high rate of human development. On the other hand, the results show that countries achieving lower levels of innovation tend to have lower levels of human development. Thus, these results indicate some inequality among EU countries. What is important in this regard is the wise and responsible management of innovation, the implementation of appropriate policies that can contribute to a significant improvement in the quality of life of people around the world and sustainable development [9], [10].

The analysis carried out has some limitations due to the possibility of examining the correlation index of individual EU countries in the context of comparing their achieved level of innovation and human development index. This represents a further direction of research that may yield interesting results.

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INNOVATION MANAGEMENT MODEL FOR THE DEVELOPMENT OF ELECTROMOBILITY IN EUROPEAN UNION COUNTRIES

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ABSTRACT

The article describes the model of the innovation management system, which is to be implemented in a group of enterprises and organizations related to the development of electromobility (hab for electromobility). The author of the article identified a research gap in the bibliography (concerning the weak cooperation of various organizations for the development of electromobility). The research gap identified in the literature prompted the formulation of the research problem, i.e.: "Enterprises and organizations cooperate poorly for the development of electromobility innovations". The following goals were set by the researcher: - Identification of cross-sectoral stakeholders cooperating in the field of electromobility; - Identification of areas of cross-sectoral cooperation; - Identification of methods and techniques for managing cross-sectoral innovations. In the research process, the stakeholders of the innovation management system turned out to be: energy suppliers, energy cooperatives, managers of road infrastructure and intelligent transport systems, automotive cluster networks, manufacturers of electric cars. Stakeholders were surveyed using a survey technique (distribution of questionnaires on the survey portal allowed for quick collection of data from 120 managers of the above-mentioned organizations). The collected data allowed for identification of areas of innovation cooperation and desired methods and techniques of managing intersectoral innovations. The research gap identified in the literature was filled, because the article concluded that intersectoral cooperation should be strengthened for the development of electromobility innovations; effective instruments for supporting the innovation management system and the role of the system leader were indicated. Practical conclusions come down to recommendations of external support instruments and recommendations of innovation strategies, methods and management tools.

Keywords: Electromobility, Innovation management system, management methods

INTRODUCTION

The electromobility ecosystem

The development of electromobility is a project whose success depends on innovation from organisations belonging to many different sectors of the economy. The EU Commission, in its 'Regulation for the Deployment of Alternative Fuels Infrastructure'[1], recommends that member states create dynamic environments in which different actors support each other's electromobility efforts. At EU level, The European Battery Alliance (EBA) was established in 2017. This collaborative platform brings together: the European Commission, interested EU countries, the European Investment Bank, key industry stakeholders, innovators. The immediate goal of the

European Alliance is to create a competitive value chain for battery cell production in Europe.

The experience of EU countries to date shows that, in addition to central and local government, electromobility development must involve: industry, early stage companies, financial institutions (public and private, including seed and venture capital funds, business angels, accelerators) and the world of science and NGOs. Without the creation of an ecosystem, electromobility development will be fragmented and will not allow cross-sector and cross-organisational innovation to emerge. Creating an ecosystem will be a long-term process and must take into account existing barriers.[2] Leading countries in electromobility (Norway, Sweden, the Netherlands) have already built ecosystems.[3] There, special purpose vehicles have been established to coordinate research and industrial potential in the area of electromobility. [4] The companies are most often set up by entities in the energy sector and are open to all stakeholders in innovation creation. One of the tasks of such companies is the creation of new, inclusive business models. A financial tool for the development of electromobility is a fund - The Connecting Europe Facility, Alternative Fuel Infrastructure Facility (CEF 2 AFIF). The fund is managed directly by the European Commission. In addition, there are private equity and venture capital funds. Member states can also set up government funds. For example, the Polish government has set up the Low Emission Transport Fund.

Also important for the creation of an ecosystem is the creation of a favourable regulatory environment, which is the task of various levels of administration. National and regional public administrations have a dual role in the development of electromobility. On the one hand, it coordinates the whole endeavour, ensuring that the pace of change is appropriate. A diagram of the electromobility ecosystem is shown in Figure 1.

1. European, national and regional regulators	2. NGOs supporting electromobility; Universities and research institutes
3. Owners and users of electric vehicles: companies, urban transport management and service companies, individual users	4. Electromobility industry including: manufacturers of electric vehicles and components and start-ups
5. Smart grid managers, smart grid hardware and software providers	6. Energy suppliers including prosumer cooperatives

Figure 1: Diagram of the electromobility ecosystem

Source: based on: Jing W., Yan Y., Kim I., Sarvi M., Electric vehicles: A review of network modelling and future research needs, *Advances in Mechanical Engineering*. 2016, 8(1). doi:10.1177/1687814015627981

Special purpose vehicles established in EU countries support the administration in setting out an electromobility strategy and plan. The aim of the plan is to prepare a sequence of measures to link the development of the electromobility industry and the vehicle market with the development of the electricity grid.[5] The idea is, for example, that incentives for vehicle purchases will be intensified once the industry is able to respond to the demand generated by the support instruments and the grid is able to handle the growing demand for power and energy for vehicle charging.

The example of countries (Norway, Germany, the Netherlands) where electromobility has been developing for years shows that the development of the market is the result of both long-term environmental policies of governments, as well as a response to local needs of industry, startups and society. There, innovative electromobility solutions created by startups have been developed with corporate partners and tested on their infrastructure. Many countries had/have programmes (e.g. in Poland the Pilot Maker Elektro programme) to integrate key players in the electromobility industry and create space for joint projects within industry innovation HUBs.

Innovation management system for electromobility

Innovation management can be taken broadly and narrowly: In broad terms, innovation management includes the management of the innovation system i.e. the interactions between firms for the generation of innovations.[6]

In a narrow view, systemic innovation management means:[7]- developing strategies for their implementation; - defining the objectives of innovation activities; - selection of an organisational structure conducive to the course of innovation creation and implementation processes; - selection of tangible and intangible resources conditioning the efficient course of innovative activity; - selection of technologies ensuring the highest level of created innovations.

When preparing a strategy and action plan for the development of innovation in the electromobility ecosystem, Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021[8] should be used and those responsible for the interaction of the ecosystem should be appointed. A good plan is a prerequisite for linking electromobility development to industrial development and the integration of electric vehicles into the electricity grid. The basic planning dilemma is deciding what to spend funds on first (infrastructure or vehicle market development). There is no clear-cut solution to this issue.[9] Creating a vehicle market too quickly through an extensive system of incentives may result in first-time users being discouraged by the fact that there is no adequate charging infrastructure. As a result, the perception of the electric vehicle as not fully functional may become entrenched. On the other hand, excessive focus on infrastructure without vehicle market development forces the commitment of large resources to a venture that will be loss-making in the first period. The European Electromobility Development Programme suggests an algorithm to optimise the deployment of infrastructure. It is important that this algorithm looks for synergies between the development of car charging infrastructure and the development of infrastructure for public transport. In the first instance, infrastructure will be developed in large conurbations and along the TEN-T trans-European transport network running through areas of EU countries. In parallel, vehicle market development tools are to be implemented. Many players from different industries see opportunities to develop products and services for electromobility. Companies will only come together and develop innovations and transform their business models if they know the strategy and a step-by-step action plan.

Building inclusive business models and organisational structures that are conducive to the flow of innovation creation and implementation processes in partnership is not easy. Company managers face cognitive, structural and legal barriers to managing inter-organisational innovation. Especially the early stages of the innovation process are characterised by high uncertainties regarding the organisation of cooperation with the

partner, the contribution of intellectual property, the financing of the innovation process, the capital risks of developing new technologies, etc. An SPV operating at member state level could verify, authenticate the innovator partners. In its digital databases, it would collect data on resources and projects under development, guarantee reliability and confidentiality. By analysing data on the course of cooperation in the databases, it will be possible to identify and remove barriers to the development of cross-sectoral and inter-organisational innovation. The selection of tangible and intangible resources determines the smooth course of innovation activity. Selection of technologies that ensure the highest level of innovation created. The above selections can be managed in the future using AI

By setting out top-down areas of cooperation, announcing competitions and distributing grants, it is possible to stimulate entrepreneurial innovation within specific technologies. The identification of specific financially supported technologies inspires entrepreneurs to create innovations.

The authorities of EU regions (including the Silesia/Poland region) support electromobility. The document 'Regional Innovation Strategy of the Silesian Voivodeship 2030' [10] distinguishes smart specialisation - Energy; Emerging industries; Other. Groups of indicated technologies in RIS: Energy include: Fuel cell manufacturing technologies; Energy storage technologies. RIS: Emerging industries include: Mobility industries. Supported technologies in this industry in the Silesia region include: Modern and environmentally friendly propellants; innovative propulsion systems; control systems for autonomous vehicles; intelligent networks and ICT technologies; modern refurbishment and recycling technologies. Based on the technologies identified in the Silesia region, areas of innovative cross-sectoral cooperation were identified for the study.

MATERIALS AND METHODS

Conducting and presenting the research will allow areas of innovation cooperation and desirable innovation management methods and techniques (which can be used for successful joint innovation projects) to emerge.

The research was conducted using a survey method. The individuals surveyed were managers of organisations featured in the electromobility ecosystem (see Fig. 1). The geographical scope of the research is the region of Silesia/Poland. The time scope of the study is May/June 2024.

Respondents were selected by purposive sampling. In the metric of the survey questionnaire, managers specified their company's affiliation to the smart specialisation of Silesia (Energy and/or Emerging Industries) and their declared affiliation to one of the six groups of the electromobility ecosystem. The survey sample size was 120 managers (20 managers from each electromobility ecosystem group). For the purpose of conducting the survey, technologies related to electromobility were selected and mentioned in the specialisations: Energy and/or Emerging Industries. They were then asked to assess the likelihood of creating an innovative solution using the listed technologies by calculating the average brewed from the responses.

Next, an attempt was made to identify support instruments and management methods effective in managing joint (cross-sectoral and inter-organisational) innovation projects. Respondents estimated the impact of potentially proposed methods (known from the

literature or actually used in the world) on management effectiveness. The research used an additional technique, i.e. a focus interview. Questions were asked about the management methods currently in use and those that might be used in the future. Finally, an ‘impact’ matrix of different management methods for innovation projects for electromobility development was prepared.

RESULTS

The results of the research identified a technology within which stakeholders in the innovation ecosystem would be willing to collaborate on innovative development (table 1). The literature was traced and desirable innovation management methods and techniques (which can be used to successfully conduct collaborative innovation projects) were identified (table 2). Additionally, the effectiveness of these methods for the development of a co-created innovation in the electromobility ecosystem was examined (table3).

Table 1. Assessment of the ability of different stakeholder groups in the electromobility ecosystem to work on the development of innovation in the area of technology (scale from 1 to 5 - the highest score)

Technology / brief description of ongoing exemplary innovation projects	Ecosyst em group number	Average rating of opportunities collaboration in innovation development	
Technologies for producing fuel cells • fuel cells interacting with a smart road	1	3.8	Average rating 3,8
	2	2.7	
	3	1.9	
	4	4.2	
	5	4.8	
	6	4.6	
Energy storage technologies • energy storage roads/solar road; lighting that follows • warehouses with wireless energy transfer function • transfer of energy between members of energy cooperatives	1	4.8	4.6
	2	4.7	
	3	3.8	
	4	4.0	
	5	4.9	
	6	5	
Modern and ecological propellants • ecological materials for combustion engines • piezoelectric materials that transform vibrations from vehicle movement into energy	1	1.9	2.4
	2	1.8	
	3	2	
	4	4.8	
	5	2	
	6	2	
Innovative drive systems • drive systems that absorb energy from the road • inductive charging systems on the road • vertical wind turbine systems set in motion by gusts of passing traffic	1	1.9	3,2
	2	1.8	
	3	2	
	4	4.8	
	5	4.8	
	6	3.9	
Intelligent networks and ICT • networks supporting smart road monitoring; lighting that follows • Smart Pavement technology, Integrated Roadways as the backbone of the smart city and national 5G network • wireless communication for charging vehicles in motion, V2V and V2I • read by autonomous car systems and AI-powered camera systems	1	4.8	4.3
	2	4.6	
	3	4.8	
	4	4.5	
	5	5	
	6	3.9	
Modern renovation and recycling technologies • materials for renovation and recycling of energy-emitting roads • piezoelectric materials convert the vibrations of car traffic into energy • concrete for self-repairing roads and recycled plastic road	1	4.9	4.0
	2	4.2	
	3	3.5	
	4	4.5	
	5	3.9	
	6	2.8	

Source: Own study based on: Kumar M., Panda K.P., Naayagi R.T., Thakur R., Panda G., Comprehensive Review of Electric Vehicle Technology and Its Impacts, Detailed Investigation of Charging Infrastructure, Power Management, and Control Techniques. Appl. Sci. 2023, 13, 8919. <https://doi.org/10.3390/app13158919>

Table 2. Literature review of selected methods for managing collaborative innovation

Type of method	Example method	Description of the method
Workshop methods	Finding similarities	The method is recommended by Mitrega and Pfajfar [11]. Finding similarities between companies and connecting them. Research shows that searching for affinities in innovation activities increases innovation performance.
Methods structural	Smart Gird Maturity Model	The SGMM can be used to self-assess and evaluate the innovation maturity of co-operators - Rampersad et al. [12]. The SGMM can be used to identify the competence gap of suppliers in developing innovations (measure the state of maturity from the perspective of the expected state).
Market analysis	Formal mechanisms for investment management in an innovation project	The main formal mechanisms are: estimation and valuation of the investment input and regular updating of innovation processes, general contracts, non-disclosure agreements for engineering research Lawson et al [13], Maufoet al. [14]. Smart Contract (blockchain technologies) in automotive is intended to be used by Toyota. Toyota Research Institute (TRI) has stated that it will apply it to each of the following stages of the product life cycle: concept development, design, product distribution, trade finance, retail sales and use of the product, product recycling and aftermarket and parts operations.
Workshop methods	Tools for imitation	Schleich [15] presents a comprehensive cost model for comparing a variety of products from developed and emerging markets. The method of doing this is not to introduce a new technology and commercialise new solutions as the first organisation. Wait until other manufacturers, preferably Toyota, have established the technology in the market.
Creative methods	Failure Modes and Criticality Analysis	The FMECA method involves analytically establishing cause-and-effect relationships of potential product defects and including a criticality (risk) factor for all components/co-operators in the analysis. [16]
Support by IT software	Information technology, databases of resources and capacities of co-operators	Methods for managing non-native resources. The tool is the idiosyncratic resource base Dougherty and Dunne [17]; (Zott, Amit, and Massa [18]. Methods for supplier resource management in the automotive industry have been developed by researchers: Aggarwal and Hsu [19]; Other researchers recommend the use of ICT with embedded mechanisms for sustainable value creation, supported by principles of equitable value capture from co-operators Afuah and Bogers [20]

Source: Own study based on: <https://www.improve-innovation.eu/our-insights/research/>

Table 3. Matrix for evaluating the methods of innovation management by different groups in the electromobility ecosystem (scale from 1 to 5- highest rating)

Type of method	Example method Ecosystem group number	Scoring of the innovation management method used by the electromobility ecosystem groups						
		1	2	3	4	5	6	Average rating
Workshop methods	Finding similarities	5	5	3.5	4	3	3	3.9
Methods structural	Smart Grid Maturity Model	2	2	2	4.5	4.8	4.9	3.3
Market analysis	Formal mechanisms for investment management in an innovation project	1	2	3.5	5	4	5	3.6
Workshop methods	Tools for imitation	1	1.6	3	3.5	3.9	2	2.6
Creative methods	Failure Modes and Criticality Analysis	2	2	1	5	5	4	3.2
Support by IT soft	Information technology, databases of resources and capacities of cooperators	4	4	2	4.7	5	3.8	3.9
Average rating		2.5	2.8	2.5	4.4	4.3	3.8	

Source: Own elaboration based on primary research

DISCUSSION

The research shows that stakeholders in the electromobility ecosystem understand the need for cross-sector and cross-organisational collaboration in creating innovation. A clear need for collaboration relates to the development of energy storage technologies and smart grid and ICT technologies. Analysing the collaboration needs of the different groups of the innovation ecosystem, it is clear that it is: group 4 - Electromobility industry including: manufacturers of electric vehicles and components and startups and group 5 - Smart grid managers, suppliers of smart grid devices and software, that need partners. A matrix of evaluations of the innovation management methods preferred by the different groups in the electromobility ecosystem shows that the most effective innovation management method is: Finding similarities between companies and connecting them; and Information technology, databases of resources and capabilities of co-operators.

CONCLUSION

The objectives of this study were to: Identify cross-sectoral stakeholders working together on electromobility; Identify areas of cross-sectoral collaboration; Identify methods and techniques for managing cross-sectoral innovation. The stated objectives were achieved by surveying 120 organisations developing innovations for electromobility. Conclusions were drawn and recommendations prepared: 1. describe electromobility ecosystems is recommended. 2. companies and other organisations can work together on innovative solutions for electromobility (implemented on a European, national or regional scale). (3) It is recommended to create a list of technologies in which the organisations belonging to each ecosystem group will specialise. 4. it is recommended to investigate which technologies under development require cross-

sectoral and inter-organisational partnerships. 5. it is recommended to use the most effective management methods from the point of view of the technology being developed and preferred by the ecosystem group.

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MANAGE THE CREATION AND PRESENTATION OF BEVERAGE MENUS IN FOODSERVICE OPERATIONS

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ABSTRACT

Creating a beverage menu requires a meticulous approach based on a solid understanding of customer preferences, current industry trends and the operational capabilities of the foodservice establishment. Menu presentation should be clear, concise and attractive to facilitate quick understanding of available options and to promote sales. One of the key points emphasized is that beverage menus are not just product listings, but true communication and marketing tools. They must reflect the identity and concept of the establishment, respond to the needs and preferences of customers, but also inspire and attract through their visual presentation and informative content. At the same time, the use of technology in menu presentation has become increasingly relevant in the digital age. Online platforms, mobile applications or interactive screens are just some of the ways that foodservice operations can present their menus in an efficient and attractive way, making it easier for customers to access information and improving their experience. The study also highlighted the key factors that contribute to the success of a beverage menu, including variety and balance of offerings, effective use of technology for presentation and promotion, and adaptability to ever-changing customer demands and preferences. At the same time, it highlighted the importance of complying with beverage information presentation rules and standards to ensure transparency and customer confidence in the products offered.

Keywords: beverage menu, digital menu, customer experience

INTRODUCTION

Menu management is a critical aspect of the food and beverage industry, involving ongoing processes of design, analysis, and revision. The Menu Management Process Model, when applied to a boutique café, revealed more significant changes to food menus compared to beverage menus, highlighting the dynamic nature of menu development [1]. Menu design plays a crucial role in shaping guest impressions, influencing selections, and setting expectations about food and beverages [2]. Effective menu design can serve as a powerful sales tool in full-service restaurants, with specific

techniques potentially increasing the sales of targeted menu items [3]. Successful restaurants and private clubs often employ distinctive menu design characteristics and pricing strategies, which can be analyzed and potentially adopted by other operators to enhance their competitive advantage [2]. Regular menu analysis and revision are essential for maintaining flexibility and adapting to changing market conditions.

The success of a beverage menu hinges on several key factors that work in tandem to satisfy customer preferences and drive profitability. A well-crafted menu strategy is essential, focusing on how each beverage contributes to the business's growth and aligns with high-level objectives. Innovation plays a pivotal role, as the beverage industry is dynamic, and staying ahead with unique and appealing offerings can captivate consumer interest. Branding is another crucial element, where a strong, recognizable brand can foster customer loyalty and differentiate from competitors. Additionally, understanding the market through data analysis, such as menu pricing and performance analysis, can inform strategic decisions to optimize the menu for both appeal and profitability [4].

Effective cost management is integral, ensuring that the price points are aligned with the value perceived by the customers and the cost of ingredients. Distribution channels also need to be considered, as they can significantly impact the accessibility and availability of the beverages to the target market. Taste, choice, and trust are foundational pillars; a menu must offer a variety of options to cater to different tastes and dietary requirements, and customers must trust the quality and consistency of the offerings. Lastly, the menu's presentation, including descriptions and layout, should be designed to guide the customer's eye to high-margin items, encouraging profitable choices while maintaining an enjoyable selection process. These factors, when addressed thoughtfully and strategically, can lead to a successful and profitable beverage menu [2].

Today, companies often turn to experiential marketing initiatives to gain a competitive advantage and stand out from the crowd. Some authors define experiential marketing as an event or series of events designed to provide a live experience in which the consumer participates, acquires, and consumes. Regardless of how the experience is designed, marketing activities focus on people's senses, taking into account consumer needs to be entertained, cautioned, emotionally moved, and informed. With advances in information technology and the widespread adoption of technological methods, the food and beverage industry has begun to look for new ways to influence consumers [5]. Restaurants and bars have always been a practice area for experiential marketing. Digital menu systems that are visually appealing and engage the customer are examples of experiential marketing.

A digital menu is an innovative solution for restaurants and food service companies to present their offerings to customers in a dynamic and interactive way. Unlike traditional paper menus, digital menus are typically accessed via smartphones or tablets, where customers can browse through food and beverage options. They come in a variety of forms, including static digital menu boards, interactive menus on devices, self-service kiosks, or even QR codes that customers can scan to view the menu on their personal device [5]. The flexibility of digital menus allows for real-time updates and changes, which is especially useful for adjusting prices based on inventory costs or displaying out-of-stock items. This technology not only enhances the customer experience by providing vivid images and detailed descriptions, but also improves operational efficiency by reducing the risk of order inaccuracies and eliminating printing costs.

Adoption of digital menus was accelerated by the need for contactless options during the COVID-19 pandemic, but their convenience and efficiency have solidified their place in the restaurant industry well beyond the pandemic. With the tools available to easily create and manage digital menus, they represent a significant shift toward a more tech-savvy, efficient, and customer-centric dining experience [6].

MATERIALS AND METHODS

Presenting a new idea for a digital beverage menu involves a strategic approach that combines innovation with user-friendly design principles. The first step is to assess the current menu and set clear goals for the digital transition. It's essential to choose a digital menu platform that integrates seamlessly with the existing restaurant management system, allowing for real-time updates and easy maintenance. When designing the digital menu, focus on creating an intuitive layout that enhances the customer experience, making sure to include high-quality graphics and divide beverages into categories for convenience.

RESULTS AND DISCUSSIONS

One idea that would bring benefits, but also a unique experience, is a beverage menu designed virtually directly on the customer's table (Figure 1).

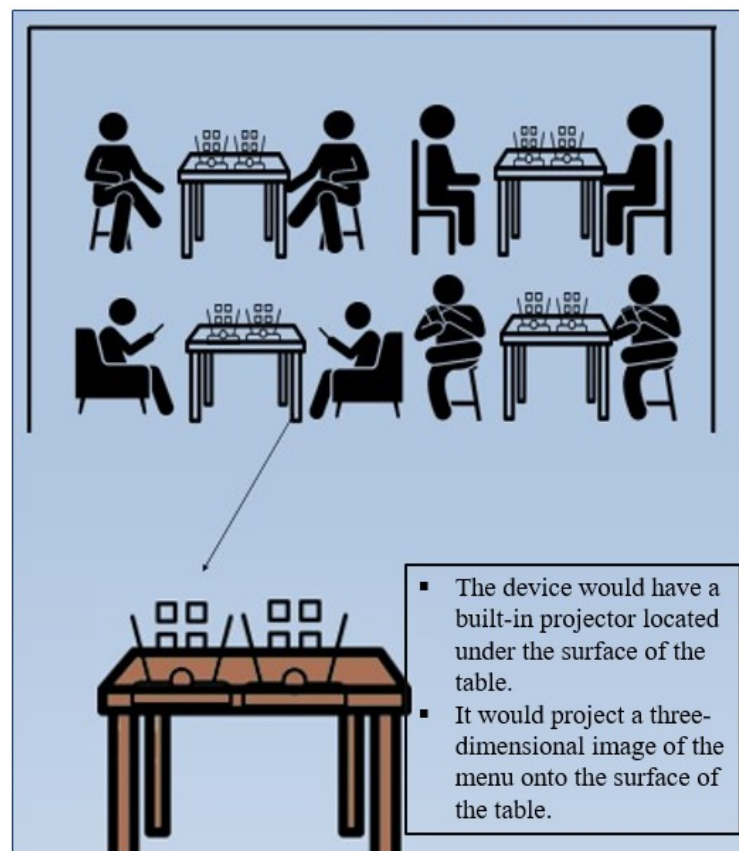


Figure 1 Virtual menu designed directly on the customer's table

A restaurant or bar can implement such an innovative approach, where the menu is no longer presented in the form of cardboard or paper, but is projected virtually onto each customer's table. As soon as the customer is seated at the table, a digital projection of the menu appears on the surface of the table.

This virtual projection can be controlled by each customer using a small interactive device, such as a tablet or smartphone, provided at each table. Using this device, customers can navigate through the different sections of the menu, view images of the beverages, read detailed descriptions, and select the options they want.

As customers navigate the menu, the digital projection can also provide other interactive elements, such as personalized recommendations, information about ingredients and allergens, or even stories about the provenance and preparation of each beverage.

In addition to adding an element of innovation and entertainment to the dining experience, this approach has practical benefits. The virtual menu can be easily updated to reflect seasonal changes or to add new beverages without having to reprint or replace physical menus.

Moreover, the virtual menu can provide restaurants and bars with valuable data about customer preferences and ordering behavior, helping them to optimize their offerings and customize their services according to the individual needs and tastes of their customers.

With this technological innovation, a restaurant can offer a modern and exciting dining experience that perfectly combines traditional gastronomy with cutting-edge technology, leaving a lasting impression on customers and turning a simple meal into a memorable experience.

Another idea with many advantages is to project a menu on a wall using a video projector (Figure 2).

In a café, for example, this is a modern and attractive solution for displaying products. This system allows for quick menu updates and provides a pleasant visual experience for customers. After selecting the equipment and creating the content, it is time to install and configure the system. The video projector is mounted to the ceiling or a fixed support, ensuring that it is positioned correctly to project the image onto the chosen wall. It adjusts the focus and size of the image to fit perfectly on the wall. Connect the content source to the projector and test the projection to make sure everything is working properly.

Digital beverage menus are becoming increasingly popular in the food and beverage industry, offering various advantages over traditional paper menus. These digital menus can be categorized into non-touchscreen and touchscreen types, with options including tablet menus, kiosks, and iPad menus [5]. They can enhance communication, marketing, and sales for businesses while providing a more interactive experience for customers.



Figure 2 Video projector menu

Some digital menus utilize QR codes for easy ordering and payment processing [7]. Digital menus showed greater popularity and ease of use, while the use of digitization positively impacted the dining experience [8]. When designing digital menus, it's crucial to consider user requirements and avoid overwhelming guests with excessive information [9]. Augmented reality (AR) technology can be incorporated into digital menus, allowing customers to view 3D projections of menu items, potentially boosting sales and creating a more engaging dining experience [10].

Consumers benefit from digital menus in a variety of ways, including increased visual appeal, faster ordering, improved legibility, and better decision-making. However, digital menus have some drawbacks, such as menu loading issues, difficulty for older users, challenges with QR code scanning, and reduced interaction with servers [11].

Moreover, digital menus resulted in increased satisfaction, adoption intent, and faster ordering, but were only preferred for less experienced dishes [12].

The use of various technologies in menus - such as QR codes and e-tablets - has become increasingly important, especially in light of the COVID-19 pandemic. Using e-tablets or QR codes instead of traditional menu cards to take orders could improve customer satisfaction and give the company an edge over competitors. Leveraging these technologies is also critical to improving business performance [6].

Overall, digital menus offer innovative solutions for restaurants to improve service efficiency and customer satisfaction.

CONCLUSIONS

Digital menus offer a variety of benefits to restaurants and bars, improving both operational efficiency and the customer experience. They allow for real-time updates to menu items, prices, and promotions, which is especially beneficial when adjusting to inventory changes or updating seasonal offerings. The flexibility and customization of digital menus means that restaurants can instantly respond to customer preferences or market trends without the need for costly and time-consuming reprints of traditional menus. In addition, digital menus can be integrated with point-of-sale (POS) systems, streamlining the ordering process and reducing the likelihood of order errors by allowing customers to enter their selections directly. This integration also allows for a more accurate display of out-of-stock items, ensuring a smoother customer experience. The use of digital menus has been further popularized by the need for reduced staff-to-customer contact, a change brought about by the global pandemic. But the strategic value of digital menus goes far beyond this initial purpose. They contribute to cost savings by eliminating the need for physical menus, which is also in line with environmental practices by reducing paper waste. In addition, digital menus can enhance the aesthetic appeal of a restaurant or bar's offerings with visually appealing designs and high-resolution images of beverages and dishes, which can be a powerful tool for social media marketing and brand building. For customers, the benefits include an enhanced user experience with easy navigation and interactive features such as self-service kiosks or mobile ordering, which can lead to increased satisfaction and repeat visits. Restaurants and bars can also use digital menus to provide detailed ingredient and nutritional information, meeting the growing consumer demand for transparency in food choices. In conclusion, the adoption of digital menus represents a forward-thinking approach for restaurants and bars looking to innovate and improve service in a rapidly evolving industry. The combination of operational benefits, cost savings and enhanced customer experience positions digital menus as a key component in the future of restaurant and bar management and customer engagement.

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OPPORTUNITIES AND LIMITATIONS OF THE PERSONNEL MOTIVATION SYSTEM OF A METALWORKING COMPANY

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ABSTRACT

The problem of lack of motivation is considered one of the most urgent problems for organizations because not only an increase in the social and creative activity of employees but also the success of the organization depends on the creation and application of a successful motivation system. There are several methods of motivating employees, but in each specific situation, the most proper methods of motivating employees should be applied so that the employees work efficiently. Human motivation is primarily based on needs. Personal motivation in an organization involves both material and non-material incentives that inspire employees to work more efficiently, and it is also a way to attract and retain qualified specialists in the organization.

The authors examined the opportunities of the motivation system and the limitations of the system implemented in a metalworking company because nowadays it is important to hire and retain qualified specialists, which is becoming increasingly difficult.

Developing a motivational system in organizations is a significant challenge because the managers' understandings of the need for and essence of a motivational system are different. To establish an effective management system, it is important to know how motives responsible for the employee's actions arise and work, how motives become actions and how motivation is implemented. The research aims to analyse the motivation system of an international metalworking company and its opportunities and limitations.

Keywords: motivation, motivation system, employee motivation

INTRODUCTION

The problem of lack of motivation is considered one of the most urgent problems for organizations because not only an increase in the social and creative activity of employees but also the success of the organization depends on the creation and application of a successful motivation system. There are several methods of motivating employees, but in each specific situation, the most proper methods of motivating employees, both material and non-material incentives, must be applied so that the employees work efficiently and are satisfied with their work and working conditions, as well as the organization can hire and retain good and qualified employees.

To establish an effective motivation system, it is important to know how motives responsible for employee actions arise and work, how motives become actions and how motivation is implemented.

In most cases, the main reason is that the motivation system does not consider the specifics of the organization. The motivation system of each company has to be adapted to its specifics as well as the characteristics and needs of its employees. Most of the company's employees do not want to show initiative and creativity in their work and take full responsibility for the decisions made and implemented.

The research aims to analyse the motivation system of an international metalworking company and its opportunities and limitations.

MATERIALS AND METHODS

To achieve the aim, the research surveyed an international metalworking company. The name of the company is not disclosed at the request of the company's management. The number of employees was 165 as at 01/03/2023.

The authors applied a combined qualitative and quantitative research approach. First, a direct survey was conducted – five semi-structured interviews with informants representing various levels of the company's management to understand their roles and effectiveness in more detail, as well as the latent problems that could be faced at various levels in the context of employee motivation. During the interviews, two main issues were discussed: personnel motivation from the perspective of direct managers and the specifics of the managerial motivation programme.

The indirect survey method – questionnaires – was employed to identify employee satisfaction with the motivation programme in the company and the opinions of the employees about the motivational elements. In total, 108 respondents participated in the survey – employees from all production departments. Statistical analysis was employed to process the survey data.

DISCUSSION AND RESULTS

One of the significant and important elements of the successful performance of an organization is its personnel; therefore, socialization of the personnel is also important. The performance of an individual and his/her motivation for performing the work responsibilities depends on proper socialization. In case of incomplete socialization, both parties lose the opportunity to cooperate, share ideas or convey important information. According to the sociology of organizations, the concept of socialization is a process in which an individual learns a certain system of knowledge, social norms, values, attitudes and behavioural patterns that is specific to a social group, an organization or the whole society [1]. Learning the organizational culture unites employees, thereby increasing their performance. An effective new employee socialization process is crucial in integrating the new employees into the culture and norms of the organization. It has been found that structured training programmes help new employees to understand their roles, responsibilities and the organizational culture, thereby leading to faster integration and higher job satisfaction [2]. The purpose of this is to effectively integrate new employees into teams and use their full potential before they move to another job within or outside the organization.

The motivation system is essential in all organizational processes, thereby contributing to the successful performance, and represents a large part of organizational socialization. Full involvement of employees in their work assignments is not possible if the employees are not interested in the performance of their company and in achieving the common vision and goals, which in turn is possible through learning, understanding and communication. Any employee can socialize by establishing contact with the employer or manager and with the team. Individuals are different from each other. Motivation generally involves psychological forces encouraging the individual to take action [3]. This is a driving force that develops in an individual to face challenges. Employee motivation is one of the most important factors in increasing organizational performance [4]. In today's conditions, the management of an organization needs to examine employee motivation based on their needs and interests. This contributes to motivational management in an organization, while the **goal of motivational management** is to increase the effectiveness of the organization, i.e. to get the highest result at the lowest cost. This is the goal of economic activity performed by the organization in market conditions [4]. Personnel motivation management is an essential component of the management system of a modern organization, which largely determines the organization's performance. The key aspect of motivation is an objective assessment of personnel performance [5].

Employee performance at work is affected by intrinsic motivational factors such as responsibility, autonomy, interesting and important work, contribution or fairness. Maintaining a high level of employee engagement largely depends on the motivational potential of the job, which results from the variety of work assignments and the importance of the assignments. Assignment-oriented employees are highly motivated individuals who devote all their energy to their jobs and demonstrate a high level of engagement, which allows them to complete their assignments effectively. Employee engagement involves job attitudes, e.g. job satisfaction and trust in the organization, and is a direct predictor of employee job performance.

Researchers at the Centre for Creative Leadership believe that today's managers tend to discover new motivation methods. Not only classical economic manipulations in the form of monetary bonuses and high remuneration but also non-material and moral socio-psychological methods and measures are used as forms of mental stimulation [6].

Personnel motivation could be material and non-material. **Material motivation** involves the following factors: **remuneration** (increasing wages or salaries is one of the most effective methods of motivation); **bonuses** (good method to increase work efficiency); **promotion** (positive effect on the desire to present oneself well in the previous position, which in turn leads to high work efficiency and motivates the employee to complete assignments with full dedication); **any other material benefit** (work phone, paid lunch, work transport, health insurance, necessary electronic devices, working clothing etc.).

Individuals look for jobs that are adequately paid and secure. Remuneration is one of the important factors in looking for a job. This motivation pattern gives individuals a sense of security, and confidence about tomorrow is one of the priorities [7].

The above allows us to conclude that income is one of the important factors that gives a sense of security and motivates individuals to work, but it is by no means the only factor.

Excessive workloads, a lack of free time and unfavourable working conditions are often not adequately compensated in money [7].

If we consider the needs of the individual from different angles, one more factor is how to make employees more interested by other means. Any member of a team could be motivated to cope with the work assignments given by the methods and means of non-material motivation. **Intangible motivation** could include: praise (expressing the opinion that the employee is doing the job perfectly and if s/he continues in this way, s/he will succeed even better than expected); recognising individual merits both by the employer and colleagues; creating a favourable psychological environment (this is one of the most important factors in intangible motivation, the working atmosphere significantly increases efficiency); career growth opportunities (young professionals have a good opportunity to achieve their personal goals and grow as a professional and increase their professional level; education); management loyalty and communication with employees; flexible working hours; considering the employee's point of view in solving work problems; holding corporate events; spending holidays together etc. Some of the intangible aspects mentioned are very important and applicable; however, given the overall economic situation in Latvia, managers who want to help their employees to develop as well as receive benefits in non-monetary terms face some difficulties.

It is important to set goals and give assignments that are clear and understandable to employees; if they understand the sequence of actions to be made to achieve a specific result and are aware of how it could be achieved, then the likelihood of their engagement increases. When goals are unclear or unattainable and assignments are conflicting or impossible to complete, employees are less likely to make maximum efforts.

It is in the best interest of an organization that the top management perceives the personnel as resources in which to invest both tangible and intangible capital. In each organization, employee motivation should be individual. The development and implementation of the employee motivation programme should begin with a detailed analysis of the background of motivation, the kinds of employees, their needs and interests, as well as the degree of employee interest in work. The motivation programme of a successful company cannot simply be transferred to any other organization, even if it operates in the same field. The motivation programme should be developed considering the opinions of those for whom it is intended, and only then a real effect could be achieved.

As mentioned above, employee motivation is a long-term process aimed at changing the composition of the main motives of human behaviour, thereby influencing employee values and interests and forming new priorities. It is possible to motivate employees for better performance through a management strategy, well-designed workplaces, coordination within the team and the formation of emotional loyalty to the company's brand [8].

The role of motivating employees was also confirmed by the results of interviews with the management of the international metalworking company operating in Latvia. The following main insights obtained by applying the qualitative research approach could be emphasized:

- 1) **Employees are the main and most valuable resource of the company.** “[..] in an organization, the greatest value is personnel. Employees are the most important resource,...

- 2) **Employee motivation and performance are interrelated.** *“The motivation of a mental employee depends on the results of the work, on the ability to achieve the goals set. If the work is ineffective, the desire to work will soon decrease and, therefore, the contribution to the success of the organization will decrease”.*
- 3) **The manager of the company should manage motivation by getting to know the employees.** *“One of the main responsibilities of any manager is to assess the extent to which an employee’s knowledge and skills contribute to productivity. Not all employees can perform their job responsibilities equally well. The manager needs to organize the work in such a way that s/he gets the best from each employee.”*
- 4) **each employee’s motivation component increases the effectiveness of the motivation system..** *”... If we look at the integrity of the team and can see the overall performance, the system is effective, but there is no such thing as an absolutely effective system. **The employee motivation component is very important and is one of the key factors in contributing to the success of any company.**”*

Managers emphasize that employees should be motivated to work effectively and efficiently by receiving well-defined rewards – both financial and non-financial.

After processing the data obtained from the employee survey on **job satisfaction and remuneration**, it was found that most of the employees were satisfied with their jobs (67.7%) and their remuneration (59.2%), and the employees who were very satisfied with their jobs (19.6%) and remuneration (17.5%) could also be added. The survey revealed that, nevertheless, 21.3% were dissatisfied with their remuneration and there might be several reasons for this, which requires additional research on the company to be conducted.

The research identified both material and non-material kinds of motivation in the company:

- Short-term training, which was free for employees, was paid for by the organization. It included employee adaptation, briefings and assigning basic job responsibilities, which was done together with the head of the department. Training in operating equipment was provided as well.
- Long-term and/or expensive training was provided to employees at the expense of the organization. In this case, contracts were concluded with them on the condition that they had to work in the company for a certain period.
- Financial assistance could be granted in the event of a wedding, birth of a child, a serious illness and/or funeral of a close relative.
- A mobile phone for work purposes was assigned, with the costs being paid by the company.
- A computer for work purposes was assigned.
- Equipment for employees working remotely (computers, monitors, computer accessories, chairs) was paid by the company.
- Social insurance.
- Lunch paid by the company.
- After completing a project, a bonus was awarded, depending on the results.

The survey revealed that the employees were most interested in the material kind of motivation, the majority (91 respondents) answered that extra remuneration was the best kind of motivation. Insurance was also important for many respondents (84) (Fig.1).

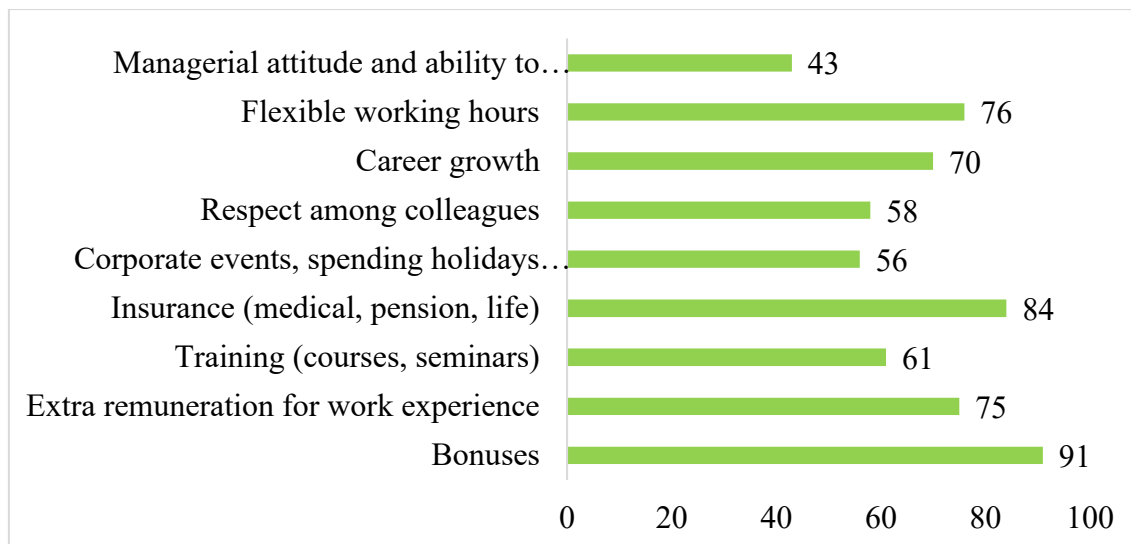


Fig.1. Motivation methods most highly rated by the employees (n=108)

Source: authors' construction based on the survey data

However, motivation through training and conversations with management was also rated highly. An analysis of this kind of motivation in the context of employee socialization revealed that the individual approach to this process was rated higher. The survey revealed that some employees were still dissatisfied with the current system and saw the shortcomings in their workplaces; therefore, managers should pay attention to this fact. It was found that there were no uniform motivation rules in place in the organization, but it observed some principles that helped to develop an effective method for this purpose. In the opinion of the authors, which is also often recommended by personnel management specialists, unexpected bonuses are much more effective than systematic bonuses. Employees get used to receiving constant bonuses and might not work as hard anymore. From the perspective of socio-psychological factors, praise always yields better results than punishment. The survey also found that the organization did not use punishments as a kind of motivation.

CONCLUSION

1. Theoretically, a connection could be identified between professional socialization and motivation because the socialization as a communication process involves personal development, learning and potential employee growth. Socialization activities encourage working together, and the company becomes more empathetic because employees are motivated to cooperate effectively and move toward specific goals with understanding, while managers are the drivers of this process.
2. The main strengths and opportunities of the motivation system of the metalworking company in Latvia were as follows: the management's understanding of the value of

human resources and their role in achieving the company's goals, with emphasis on the individuality of each employee.

3. Motivation can be material and non-material, yet employee motivation in an organization should be individual, and one of the options is to increase employee qualifications. Overall, however, to improve the socialization environment in the company, the image of the organization needs to be promoted with help from specialists, the management team needs to build up professional skills and specialists need to be hired for monitoring the motivation system.
4. The main limitations found in the motivation system of the company involved a lack of understanding of the motivation system and the difference between material and non-material kinds of motivation. A solution could be more detailed research into the motivation system and the involvement of consultants. However, there were also external limitations to material motivation – gross domestic product per capita in Latvia was the lowest among the Baltic States.
5. The motivation system should be oriented to the interests and needs of employees, and it should not contradict the goals of the organization. The interests and needs of employees manifest themselves in different ways due to differences in their life experience, age, gender, nationality, social status and many other things. Because of these factors, the ways the needs are met might also differ.
6. According to the survey, the kinds of material motivation are more significant and effective than the kinds of non-material motivation, although it cannot be claimed that they are insignificant because the employees noted them as important as well.
7. The ways to improve the use of intangible factors to increase employee loyalty and motivation, in the opinion of the authors, are as follows: maintaining a favourable psychological climate in the team; establishing a conflict management system; creating and developing the organizational culture; promoting a sense of justice among employees, creating an effective feedback system; introducing effective job evaluation systems for employees; showing sensitivity to employees' problems and building their sense of security.

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CURRENT EMPIRICAL RESEARCH ON THE TRADE PREFERENCES OF THE BULGARIAN CONSUMER

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ABSTRACT

The main point of departure in the present scientific and practical study is the assumption that consumer preferences change under the pressure of a number of influencing factors with different strengths and in different directions. The research carried out in the analyzed direction shows that for centuries the products intended for exchange were developed and produced mainly to order and for precisely defined users. In this way, manufacturers have taken into account the individual preferences and wishes of their users and satisfied them as fully as possible. The Industrial Revolution significantly changed this fact by ushering in mass production. This, in turn, enables enterprises to succeed in satisfying the growing commercial preferences of consumers.

In the foundation of the problems presented in this way, it can be emphasized that the main goal of the present study is connected with the comparative analysis of the author's views on the factors influencing consumer preferences and on the thus built pedestal to carry out an empirical study of the commercial preferences of the Bulgarian user.

Thus, the main goal determined by the need for the lawful clarification of the following tasks: to realize an analysis of the author's views regarding the theoretical framework laid down in the present study; to conduct a survey among 500 people; to process the received data; to assess the attitudes and track the opinions of the respondents regarding the discussed issues; to draw conclusions, conclusions and generalizations related to the current research interest.

The relevance of the present empirical study is connected with the emergence of a number of questions of a scientific and practical orientation. Examining the theoretical framework requires answering the following questions: to what extent consumer preferences are related to quality, environmental sustainability, ethics and healthiness. Within the framework of the survey, the answers to the questions related to the preferences of the consumers towards: dairy and local products, fruits and vegetables are sought. The set limitations allow for further deepening and expansion of the research interest that has arisen.

Keywords: empirical research, commercial preferences, Bulgarian consumer, survey

INTRODUCTION

The premise adopted as the fundamental starting point in this current scientific-practical study is that *consumer preferences* undergo changes under the influence of various factors exerting different strengths and in different directions. Research conducted in the

analyzed field reveals that over centuries, exchange-oriented products have been developed and produced primarily on demand and for precisely defined consumers. In this manner, manufacturers have tailored their products to the individual preferences and desires of their consumers, striving to satisfy them to the fullest extent possible. However, the advent of the Industrial Revolution significantly altered this reality by ushering in the era of mass production. This, in turn, enabled enterprises to meet the growing **commercial preferences of consumers**.

The foundation of the presented issue places emphasis on the *main objective of this study, which is to conduct a comparative analysis of the author's views regarding the factors influencing consumer preferences. Building upon this foundation, the study aims to empirically investigate the trade preferences of Bulgarian consumers.*

The relevance of this empirical study stems from the emergence of several scientifically and practically oriented questions, which have sparked the current research interest.

1. Comparative analysis of the author's views regarding the factors influencing consumer preferences.

The review of literature related to the researched issue reveals that **consumer preferences**, both in theory and practice, constitute a significant part of marketing theory. In this regard, it can be noted that the author's views regarding *changes in consumer preferences* coincide in terms of attributing them to a group of **factors**. Studying and analyzing these factors enables companies to plan, shape, optimize, and manage their assortment structure in a way that maximally aligns with the ever-changing *demands of consumers*.

As the next *factor influencing consumer preferences*, this study considers **"environmental sustainability."** According to expert opinions from a number of marketing specialists, *environmental sustainability* has emerged as one of the leading *factors influencing consumer preferences* since the beginning of the new millennium. In the theoretical and empirical work of **Nadia Miled** and **Ramzy Farhani**, it is emphasized that, at this stage, the application of more sustainable and rational methods of production, consumption, and existence should be considered of essential importance for human development (Miled & Farhani, 2012). The empirical research conducted by the cited research team demonstrates that a significant portion of the studied enterprises, which implement the *"green marketing"* strategy, successfully combine economic growth with environmental preservation.

A. Prakash's practical and applied reasoning emphasizes the axiom that modern marketing should adapt to forthcoming technological, political, and environmental changes (Prakash, 2002). For this reason, it needs to address two main tasks. *In the short term*, on the one hand, ecological and social issues are of vital importance to enterprises and the market. On the other hand, enterprises are compelled to respond to changing *consumer preferences*, new regulations, and the new social spirit of the time, which reflects the alarming growth concerning the social and environmental consequences of business activities. *In the long term*, the focus is on the pursuit of sustainable development, which involves fundamental changes in management paradigms that underlie marketing and other business functions.

Ecological sustainability, as a factor that influences consumer preferences, leads two co-authors, namely **Ivan Kontic** and **Jasmin Biljeskovic**, to the conclusion that if a company

turns to innovation by offering environmentally friendly products, it can discover new markets, expand its position in the market niche where it operates, and increase its profitability (Kontic & Biljeskovic, 2010). From this standpoint, the co-authors propose that ecological marketing should be directed towards the concept of the classic marketing mix, through the provision of "*green products*," "*green pricing*," "*green markets*," and "*green advertising*."

Following the established premise of this theoretical study, it is necessary to clarify the next *factor that influences consumer preferences*, namely "*ethics*." Within marketing theory, it is understood that this particular factor should be associated with the concept of *social-ethical marketing*. According to the "father of marketing," **P. Kotler**, *social-ethical marketing* should be perceived as a task of the enterprise aimed at identifying the needs, wants, and interests of target markets and ensuring desired satisfaction through more effective and efficient means compared to competitors, while simultaneously preserving or enhancing the well-being of consumers and society as a whole (Kotler, 1993). In this context, the aforementioned expert emphasizes that this concept requires balancing the following three factors: *the company's profitability, consumer interests, and societal interests*. By implementing this concept, companies can experience significant increases in sales and revenue.

As the final *factor influencing consumer preferences* and the subject of this study, "*healthiness*" can be specified. In his theoretical rationale, **Ruslan Milanovich** emphasizes that this factor should be associated with a healthy lifestyle and, as part of marketing theory, it is necessary to promote and popularize the norms and rules of life in every possible way (Milanovich, 2019). For this reason, the author provides a definition, stating that a *healthy lifestyle* should be perceived as a modern trend aimed at acquiring proper, healthy habits, including sufficient sleep, maintaining a daily routine, proper nutrition, physical activity, and abandoning habits that harm health. To support his thesis, Milanovich presents the premise that in order to be perceived as a unique relay of the new style, values, and norms, *marketing of a healthy lifestyle* should implement the following tasks:

Firstly, the use of various techniques to promote a healthy lifestyle until consumers embrace it as a way of life in action, rather than just in words.

Secondly, informative work aimed at target audiences regarding the essence of advertising information about a healthy lifestyle.

Thirdly, building public trust in information about a healthy lifestyle.

Fourthly, establishing channels of feedback with the public and engaging in dialogue to identify common ideas and interests.

MATERIALS AND METHODS

The principle statement of the present study requires an analysis of the commercial preferences of the Bulgarian consumer. This requires a survey to be conducted between February and April 2023 involving 500 respondents. In this regard, survey participants engage in direct questioning, interviewing and observation. The subsequent task of the current team is connected with conducting a comparative and structural analysis of the obtained results, and the data are processed using MS Excel and IBM SPSS software. 37.2% of men and 62.8% of women aged 18 to 70 are included in the survey. The results obtained show that 70.7% of the respondents are working, and the aggregated data show

that 71.8% of all participants have a monthly income of up to BGN 1,500 per family member, of which 30.4% have with incomes from 1,001 to 1,500 BGN, 22.9% have incomes from 711 to 1,000 BGN, and the incomes of 18.5% are up to 710 BGN. food products. Due to the imposed restrictions, part of the questions subject to the survey are included in the present study.

RESULTS

As part of the survey given to respondents, the question "Which dairy products would you give up?" is included. This allows survey participants to indicate more than one possible answer. The processed data obtained from the conducted survey are presented in Figure 1.

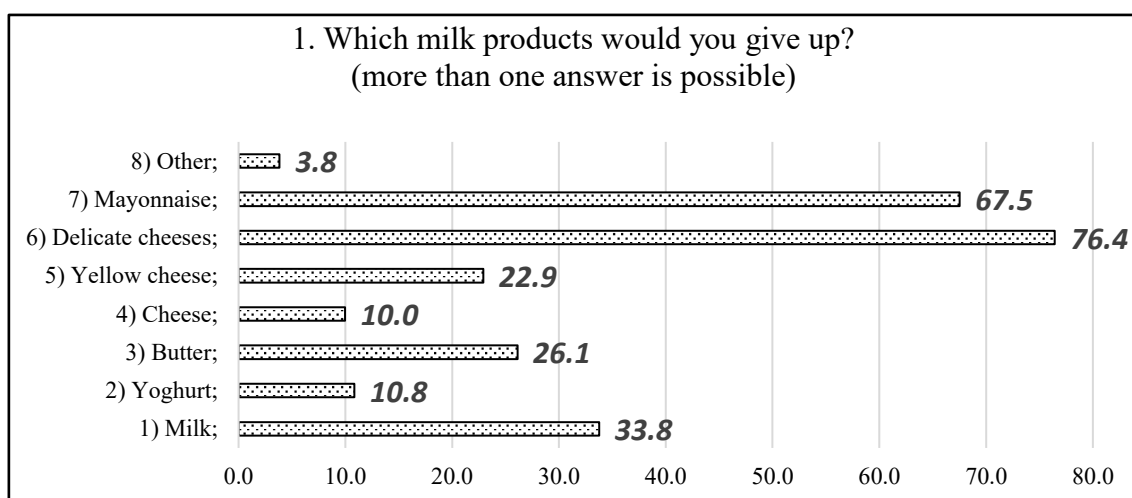


Figure 1. Which dairy products would you give up?

As seen from the data presented in Fig. 1., delicate cheeses and mayonnaise are the products with the highest percentage that the household can do without, with 76.4% and 67.5%, respectively. In the context of the issue under consideration, it is noticed that 44.6% of the respondents tend to give up the use of fresh and yogurt, with 33.8% and 10.8%, respectively. In the framework of the conducted interviews, it was established that as one of the reasons for the refusal to use dairy products, the respondents indicated the reduction in the use of lactose products. This explains the rejection of the use of cheese and yellow cheese, by 10 and 22.9%, respectively, and 26.1% of respondents indicate that they can give up the use of butter. Another part of the participants in the survey gave up the use of dairy products, due to their deteriorated quality - "The proposed products do not correspond to the taste, from the past, which each of us knows!".

There are several reasons why the respondents give up the consumption of dairy products: the deteriorated quality of the products offered on the market, limited budgets, striving for a healthy lifestyle, supporting local farms. It is necessary to point out that, despite the negative attitude of the participants in the survey, to the dairy products offered on the Bulgarian market, market monitoring is carried out within the European Union (ec.europa.eu, 2023). It tracks and analyzes past and current trends at the global and European level, in the following areas: production, supply and demand, production costs, market prospects.

The next question examines which local products the respondents deprive themselves of, if necessary. In this regard, respondents are given the opportunity to indicate more than one answer. Within Figure 2, the results of the conducted study are presented.

The largest share of consumers (66%) will give up the use of lamb meat. This fact is indicative of the inability of the Bulgarian consumer to pay the significantly increased price of lamb meat. The consumption of this type of meat products is traditional for the Bulgarian market. This fact supports our hypothesis that increased prices and devaluation of income are the main reasons for abandoning these products. In second place (59%) of the respondents will give up the consumption of sausages. Two years of crisis in the conditions of the Covid19 pandemic, followed by hostilities between Ukraine and Russia led to a significant increase in the prices of food products and energy carriers. Evidence can also be found from the National Statistical Institute. (NSI, 2023). In the next position - 52.2% of respondents indicate that they will give up beef. It is pertinent to mention here that the price of this product has also increased significantly in the last few years. most likely. Fish is the next commodity that becomes unavailable to the mass consumer. 26.3% of consumers will not be able to afford it. Pork and chicken are placed in the last positions with 22.5%, 20.8% respectively. The last two types of meat are the most frequently consumed in a Bulgarian family simply because they are the cheapest, and the Bulgarian consumer is poor. Evidence for this position can be found in the World Bank report (Bank, <https://www.worldbank.org/en/home>, 2023).

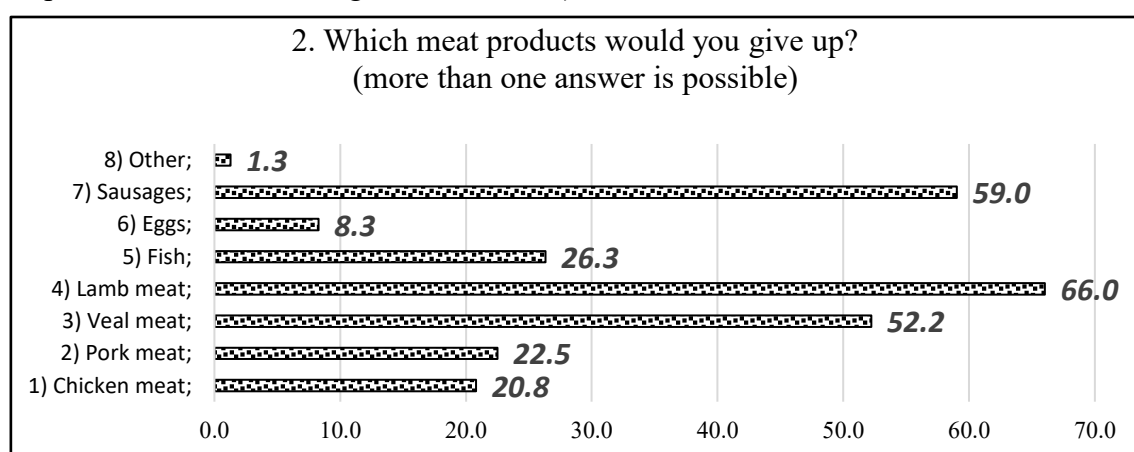


Figure 2. Which meat products would you give up?

The next question suggests the need to consider the question "Which fresh fruits would you be deprived of?". From a research perspective, respondents are given the opportunity to indicate more than one answer. The data presented in Fig. 3. are the result of the summary of the surveys received.

From Figure 3. it can be seen that 84.1% of the respondents will give up the consumption of exotic fruits. Exotic fruits are burdened with additional costs for transport, which is extremely dependent on rising energy prices. This again confirms our hypothesis that the poor Bulgarian consumer will not be able to buy them. In second place - 41.1% of the participants in the survey will give up the purchase of "Raspberries, blueberries, strawberries"; 27.2% - from "Grape"; 26.8% of the use of "Pears"; 25.5% - from "Citrus fruits"; 15.7% can deprive of "Bananas"; 13.6% - from "Apples". The ranking of the fruits by the respondents corresponds to the percentage increase in their prices.

Apples and bananas are the only fruits that most often fall into the promotional offers of large chain stores. Most likely, for this reason, they remain relatively accessible to the mass consumer.

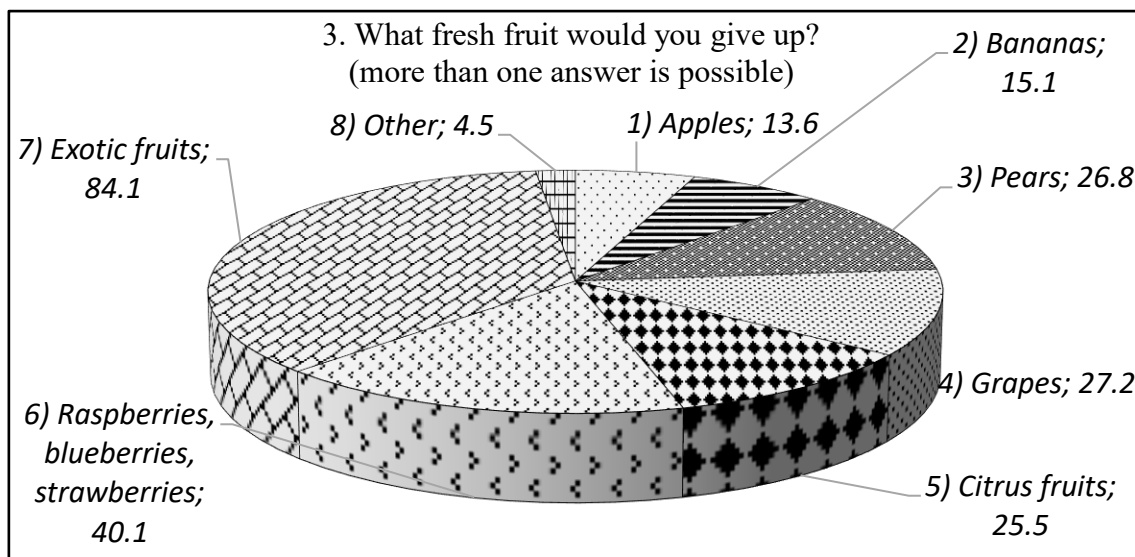


Figure 3. What fresh fruit would you give up?

The next question, included in the survey given to our respondents, aims to determine which fresh vegetables they would be deprived of. The structure of the question posed in this way provides the possibility to specify more than one answer. The obtained results are illustrated in Figure 4.

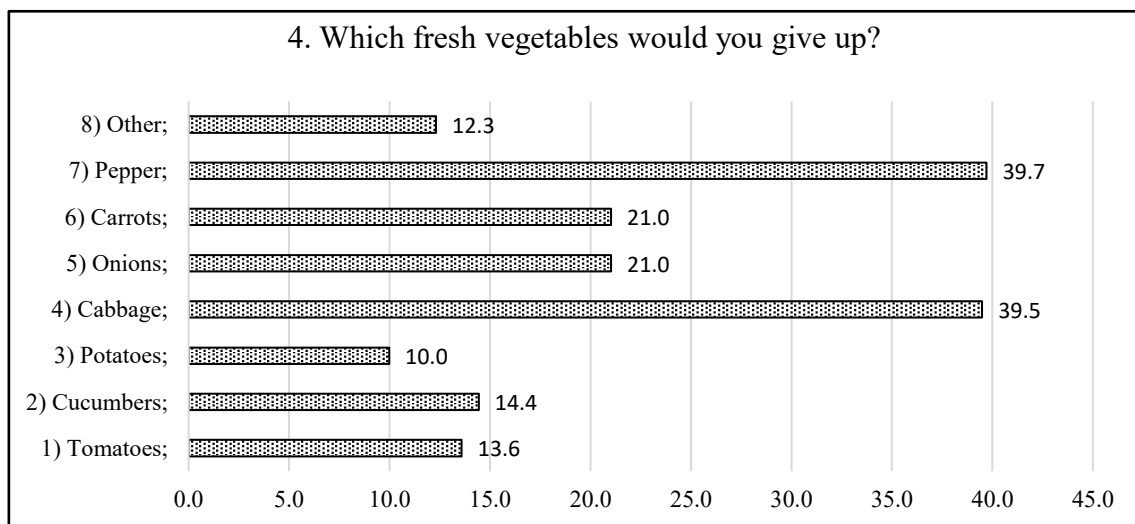


Fig. 4. Which fresh vegetables would you give up?

The desire of a part of the respondents for a healthier lifestyle directs them to the consumption of more fruits and vegetables. On the other hand, as a starting point in marking the answers, the respondents are based on their preferences and the seasonality of the presented vegetables. In this direction, it is possible to proceed to the presentation of summarized information of the received data, namely: the participants in the survey

can refuse the purchase of "Pepper", "Cabbage", "Onion", "Carrots", "Cucumbers", "Tomatoes", "Potatoes" in the following percentage ratio - 39.7%; 39.5%; 21%; 21%; 14.4%; 13.6%; 10%

DISCUSSION

In the foundation of the information thus provided, we cannot but agree with the statement of Zahariy Dechev, who points out that the scientific-theoretical and practical-applied synthesis of knowledge and experience pose new challenges to marketing (Dechev, 2022). In his principle statement, the specialist emphasizes that they are related to a critical study of the accumulated scientific knowledge, the obtained empirical results and the rethinking of the previous concepts and opinions about the marketing activity applied in practice.

Based on the theoretical and empirical analyzes thus presented, we are given the opportunity to draw the following conclusions regarding the empirical study of the commercial preferences of Bulgarian consumers.

First, the constructed theoretical framework of the present study shows that the factors influencing the commercial preferences of the Bulgarian consumer can be summarized as product quality, environmental sustainability, ethics and healthiness.

Second, the conducted empirical study leads us to the conclusion that the driving forces, when choosing products, by the respondents, can be synthesized in the following way - the quality of the products offered on the Bulgarian market, limited budgets, striving for a healthy lifestyle, supporting local farms. It is the forces presented in this way that underlie the respondents' choices when making their purchases.

CONCLUSION

The conducted theoretical-empirical research provides the current research team with the opportunity to generate the following conclusion:

The commercial preferences of the Bulgarian consumer are determined by a series of factors, which we can rank as follows:

1. The Covid 19 pandemic, followed by an unstable international political situation, led to the mass impoverishment of the average Bulgarian consumer. It became impossible for him to buy "luxury" goods.
2. The Covid 19 pandemic, followed by an unstable international and domestic political situation, forces the Bulgarian consumer to limit their spending.
3. The Bulgarian consumer fears for his future. For the past 30 years since the transition to democracy, it has experienced several rather critical economic crises. They have taught him to be sensible and careful about how he spends his money.
4. The Bulgarian consumer is set to refrain from consumption. This dependence is especially strongly expressed in relation to more expensive and luxurious, "gourmet" goods.
5. Consumers like to consume under the influence of their emotions. Ivanova spoke about a particularly successful tool that helps stimulate the commercial preferences of consumers. According to her, consumers are significantly motivated by advertisements

using classic literary works, it is enough: "to assess the potential of the form, which can be filled with the relevant content" (ИВАНОВА, 2017)

These dependencies are also relevant for all foreign users who are representatives of the most vulnerable social groups. Therefore, as the Bulgarian society is predominantly low-income, there is a shift of industries towards the production and supply of low-quality and cheap goods. The discount chain store sector is growing at a very good pace. This phenomenon is observed not only in the food sector, but also in the textile, home goods, toys and consumer goods sectors.

It is a marketing strategy by which poor consumers can also feel satisfied with their consumption and not feel isolated from consumer consumption.

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PSYCHO-SOCIAL ASPECTS OF PRICE IN THE BULGARIAN CONTEXT

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ABSTRACT

In modern commerce, the psycho-social aspects of price have a significant impact on the buyers. The buyer's connection to the price of a product signifies specific substantive characteristics, which inherently contribute to the application of certain factors in marketing for the exploration and examination of the issue at hand.

The present study focuses on specific determinants that influence the determination of the final price by the manufacturer, the trade agent (intermediary), and the buyer themselves. Within the scope of the discussion, **the primary objective of the research work** is associated with highlighting certain theoretical and empirical aspects of the psycho-social influence on the buyer regarding the price of the product, which is based on the dynamics of trade in the Bulgarian context influenced by a range of factors.

In its practical orientation, the present study aims to find answers to several marketing questions addressed to the Bulgarian buyer: What factors influence their choice of food? How often do they shop for groceries? Where do they purchase their foodstuffs? In which food groups have prices increased the most? How do our buyers judge the prices of food products?

The questions themselves encompass a variety of combinations of answers and dependencies, which presuppose the clarification of the **following tasks**: *a theoretical justification of the problem regarding the psycho-social aspects of price in relation to the buyer based on influencing factors; conducting a survey among 500 Bulgarian buyers of specific food products; processing the results and conducting an empirical analysis to trace the influence of price and the attitude it shapes in the buyer; drawing conclusions, providing theoretical generalization, and reaching a conclusion.*

The marketing research work is based on the **following hypothesis**: *the selection of a suitable set of factors to determine the influence of prices on the products offered by the manufacturer and the trade agent (intermediary) contributes to the justification and decision-making process that shapes future economic benefits for the enterprise.*

The research hypothesis may lead us to a "feedback loop" and direct us towards answering the question: *"What is the cause of the Bulgarian buyer's disagreement with the current prices of food products offered in our market?"*

In the marketing interaction of "seller-intermediary-buyer," the product's price emerges as an essential characteristic. To a large extent, it determines, channels, and optimizes these trade interactions. The marketing tracking of the specificity of the psycho-social aspects of price highlights their impact on the buyer in the specific Bulgarian context, thus stimulating the current research interest.

Keywords: price, buyer, marketing deviation, psycho-social aspects, factors

INTRODUCTION

1. Theoretical justification of the problem regarding the psycho-social aspects of price on the buyer

The perspective on the rational-pragmatic actions of individuals as buyers necessitates an examination of the general psycho-social characteristics of human behavior. In a broad sense, as emphasized by **M. Ivanov**, behavior can be defined as the external manifestation of the buyer's life activity, which is directed towards adapting to the constantly changing conditions of life (Ivanov & Ivanov, 2005). As emphasized by the cited researcher, human behavior is an observable expression of ongoing mental phenomena aimed at the buyer's adaptation to the surrounding world. The life activity of an individual as a buyer of products is influenced not only by their biological need for food and financial resources but also by certain psycho-social factors that influence the purchasing process. Within his study, **M. Ivanov** concludes that the behavior of buyers can be defined as an *activity and action* directly aimed at acquiring and subsequently using products to satisfy their respective consumer needs.

According to **G. Lichev**, typical consumer behavior is based on routine or simple decisions, also known as *habit* or *reflex decisions* (Licheva & Lichev, 2019). These are the decisions most commonly associated with products for daily consumption, characterized by relatively low and acceptable prices, intensive and mass purchasing, easy accessibility, and familiarity. This observation leads the mentioned author to the conclusion that their share in the consumer market is the highest. In this regard, Lichev points out that the decision for choice and purchase is largely shaped by the everyday habit of shopping for food products, which is influenced by numerous repetitions of purchases. On the other hand, the cited economist draws attention to the familiarity and loyalty of the buyer to the commercial brand, stating that consumer behavior, in this case, can be perceived as "inertia," that is, automated, and that changes in price do not have a psychological impact on frequently consumed products. The active search for information on product prices directs attention to certain psycho-social influences that are personally significant to individual buyers. In his justification, **G. Lichev** emphasizes the position that personal satisfaction with the price of the product contributes to the satisfaction derived from the choice, the decision made, and the completed purchase, which can lead to subsequent purchases.

In modern trade, the marketing interaction "*producer-intermediary-seller-buyer*" as individual participants in the movement of a product from the producer to the consumer is realized through the interdependence and functioning of commercial relationships, in accordance with the market dynamics of demand, supply, and purchase of a specific product. In this regard, **D. Doganov's** theoretical development focuses on the thesis that the *market behavior* of a business, as a combination of actions and resources, predetermines activities related to product realization in the market, thereby shaping the product's value, i.e., the price that must be paid by the buyer (Doganov, 2000). Based on this information, the cited expert concludes that price often holds significant, and sometimes decisive, importance for the successful implementation of a product. As confirmation of his thesis, **Doganov** emphasizes that at the core of a business's market behavior lies its market-oriented thinking concerning the practical implementation of the product. For this reason, the author in question has reached the following conclusion - the

establishment, retention, and expansion of a business's position in the market are connected to its policies for attracting and retaining buyers of the offered product.

Undoubtedly, for a buyer of a particular product, *price plays a decisive role in making a purchase*. From a psycho-social perspective, the product supply is not only associated with consumer demand but also with the price of the product. The formation of a positive attitude towards the business by the buyer is a subsequent act that occurs after the purchase and consumption of the product.

The research team consisting of **K. Licheva** and **G. Lichev** reach the conclusion that exploring various psycho-social dependencies leads to the emergence of specific patterns of consumer behavior (Licheva & Lichev, 2019). On the other hand, **D. Panayotov** presents the following definition for consumer behavior models: "They are formed based on a variety of attitudes, motives, and external influences, arising from the 'collision' of subjective sensations, socio-psychological mechanisms of imitation, and the contradictions between personal desires, real financial possibilities, and objective circumstances" (Panayotov, 2006). According to the theoretical justification provided by the aforementioned specialist, the collision between the desire to purchase a product and the available financial resources can be seen as a primary impulse, representing a combination of the most significant objective indicators and dependencies for internal stimulation, direction, and purchasing decisions, which are inevitably regulated by the value of the product. This psychological model of consumer behavior, which **Panayotov** refers to as the "*price shock*" or "*price as an initial impression*" effect, is identified by the author as a clash in the buyer's consciousness, where the price of the product appears high or low, and can be decisive in the decision-making process. Turning attention to this model of human behavior also holds marketing significance in order to "put oneself in the shoes" or understand the buyer's personal way of thinking.

RESULTS

2. An empirical study on the psycho-social aspects of price on Bulgarian consumers

Following the imposed principle of the present study, it is necessary to clarify questions from psycho-social aspects influencing the Bulgarian buyer in their choice of food products. This implies the need, within the conducted survey, to process the data of 500 respondents participating in a direct survey, interviewing and observation. The study is conducted in the period February-April 2023. The subsequent task of the current team of specialists is connected with conducting a comparative and structural analysis of the obtained results, and the obtained data are processed by means of MS Excel and IBM SPSS software products. 37.2% of men and 62.8% of women who are in a different age range, namely: from 18 to 70 years, are included in the scope of the conducted survey. The results obtained show that 70.7% of the respondents are working, and the aggregated data show that 71.8% of all participants have a monthly income of up to BGN 1,500 per family member, of which 30.4% have with incomes from 1,001 to 1,500 BGN, 22.9% have incomes from 711 to 1,000 BGN, and the incomes of 18.5% are up to 710 BGN. food products. Due to the imposed restrictions, part of the questions subject to the survey are included in the present study.

Within the boundaries of the conducted survey, it is established that to the question "Which factors influence your choice of food products?", the surveyed buyers are given

the opportunity to indicate more than one of the presented answers. The results of the analysis show that two of the demonstrated factors are used with the highest percentage, namely: "Product quality" and "Nutritional composition", and each of the indicated answers is used with the same percentage - 63.3% (Figure 1.).

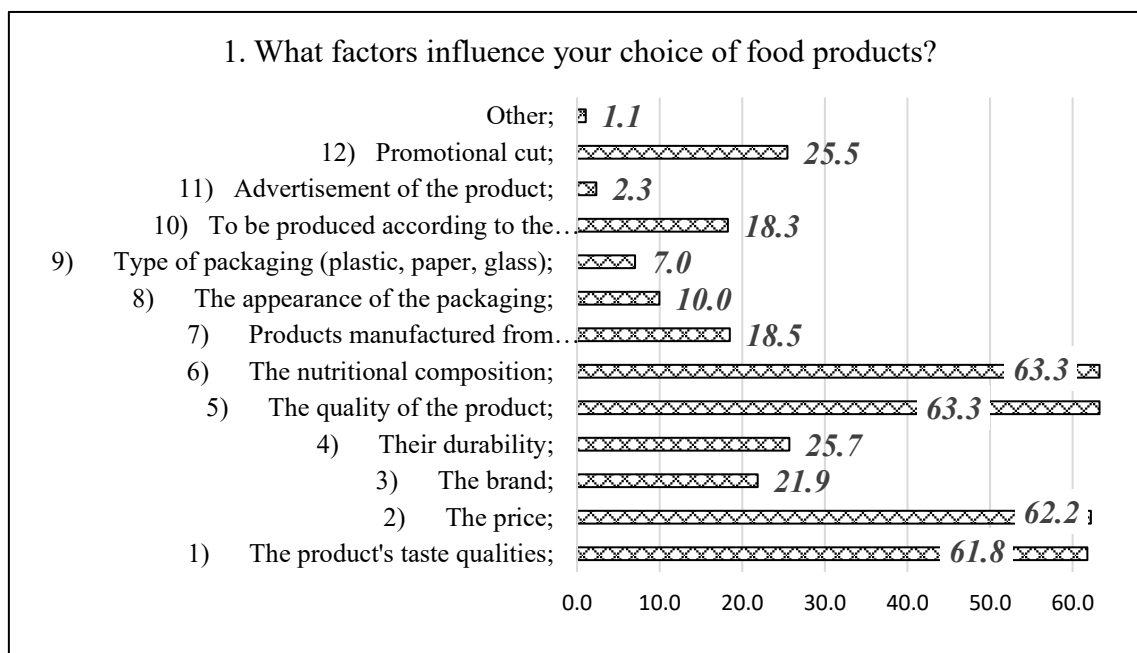


Figure 1. What factors influence your food choices?

The next factors that are used by more than 60% of buyers are "Price" and "Taste qualities of the product" with 62.2% and 61.8%, respectively. The obtained data can be stated as a surprise, because the current team believes that in connection with the current situation in Bulgaria, related to the continuous rise in the prices of food products and energy carriers, the "Price" factor can be perceived as the leading one in the choice of food products by the studied buyers. The higher percentage of the factors "Product quality" and "Nutritional composition" can be perceived as the respondents' desire for a healthy lifestyle. Analysis of the obtained results show that among the factors included in the present question there are those that have relatively little importance for buyers. For this reason, they enjoy a percentage ratio of up to 10%.

This group includes: "The appearance of the packaging" with 10%, "Type of packaging (plastic, paper, glass)" with 7% and "Advertising the product" with 2.3%. Within the conducted interviews, it becomes clear that the mentioned factors are decisive in the cases in which they proceed to purchase a gift for a loved one. In these moments, as a driving force for them, the respondents perceive the "first impression".

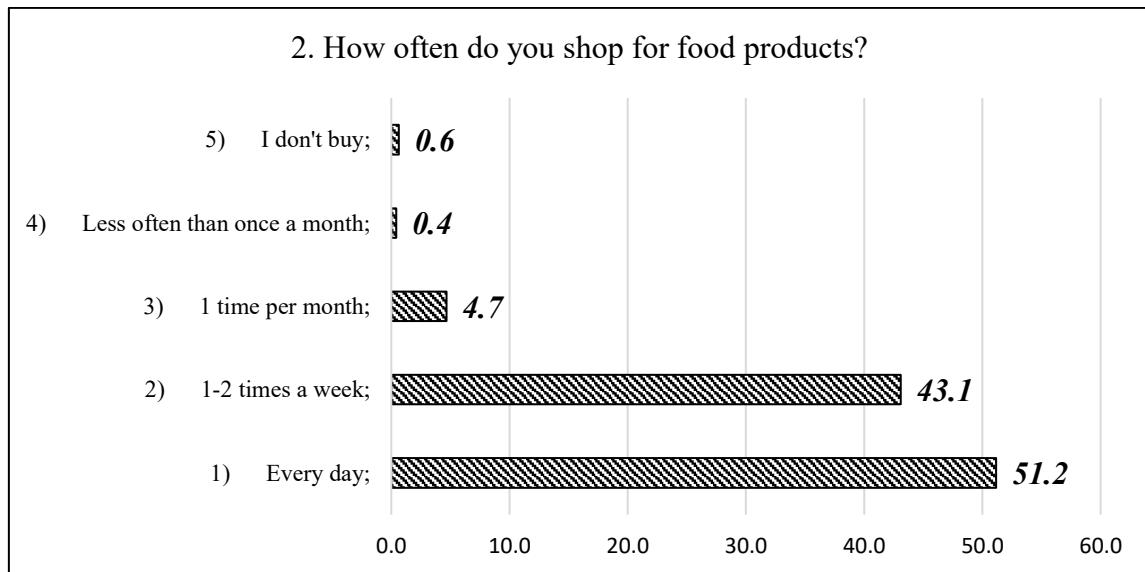


Figure 2. How often do you shop for food products?

In Figure 2, consumers are invited to answer the question: How often do you shop for groceries? The trends in the last 30 years have been in the direction of creating consumer habits similar to Western societies. The modern worker is very busy with family and work affairs and is constantly pressed for time. This fact forces the modern consumer to shop less often and in larger quantities, over a longer period of time. This phenomenon is not characteristic of the urban pensioner. Elderly people combine their daily walk with shopping and this protocol is repeated every day.

They buy small quantities every day and whenever possible at a bargain price. These reflections are supported by evidence from Figure 2. It is noteworthy that 51.2% shop every day, but 43.1% of respondents stop by the store only 1-2 times a week. This is proof that the Bulgarian consumer has changed and is getting very close to the behavior of the Western consumer. This dependence is also confirmed by the data of the correlation analysis. The population of retirement age prefers to shop every day, while working people head for one twice a week or even less often. Within the framework of the present question, it can be noted that a third group of buyers is formed, who shop "1 time a month", "Do not buy" and shop "Rarely than once a month", respectively with 4.7%, 0.6% and 0.4%. According to the survey participants, the reason for this is that they still live with their parents and do not have to go to the store every day.

"Where do you buy food products from?" is the next question that is considered in this part of the survey and gives us an answer to the question which stores are the most preferred by the respondents and why. In this regard, it is necessary to present the obtained data by means of Figure 3.

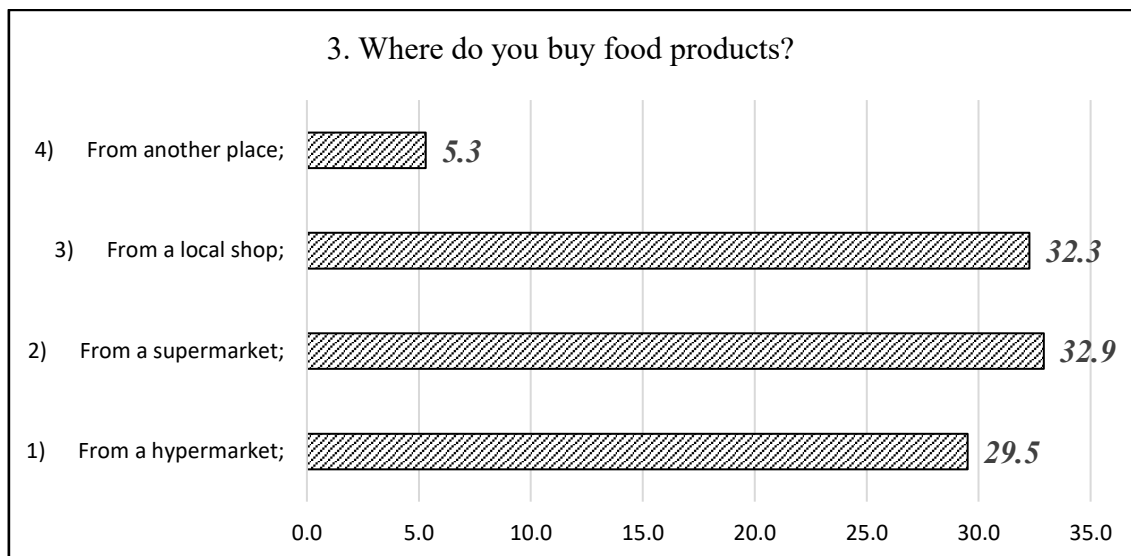


Figure 2. Where do you buy food products?

In the theoretical-empirical study of S. Petrova, it stands out that large supermarkets and hypermarkets should present their assortment in such a way that all arising needs are satisfied (Petrova, DETERMINANTS OF CHOICE OF ASSORTMENT SIZE AT A POINT OF SALE, 2019) In this regard, we cannot fail to note that a wide variety of items can be found in these outlets, starting from food products, pet food, baby accessories, laundry and cleaning products and ending with various household needs. In addition, the long experience of this type of commercial establishments in the field of trade gives them the opportunity to attract the attention of buyers through weekly promotions with various discounts. This is advantageous for buyers because conditions are created to buy all the necessary products from one place, and this, in turn, saves time and effort. On the other hand, the marketing policy of retail chains also has a significant impact on attracting the attention of buyers, and more precisely: daily advertisements on television or radio, weekly brochures conveniently placed in each entrance of the blocks are a small part of where the buyer can conveniently be informed about current promotions. And all this turns out to be essential when choosing a place and time for making purchases. At any moment, however, this act can also take place in the neighborhood store. As part of their research, the author's team came to the conclusion that large stores are preferred over small ones. This leads us to the conclusion that supermarkets and hypermarkets "eat" neighborhood shops.

The results of Figure 3 show that the largest share of respondents (32.9%) shop at a supermarket. In second place with 32.3% of respondents indicate that they shop at the neighborhood store and in third place with 29.5% are consumers who shop at hypermarkets. These results should be interpreted with particular caution. At the moment, the urban consumer is surrounded by supermarket-type stores, which are located very close to his home. These stores are competing to attract the customer with promotions and bargain prices.

The neighborhood, family stores that existed in the past, offering no more than 500 basic necessities, have long since ceased to exist. They were replaced by modern, well-equipped and stocked with more than 10,000 products supermarkets, which are usually part of chain stores. It is worth mentioning that at the moment in all major cities of

Bulgaria and in each neighborhood there is a Lidl, Kaufland, Bila, CBA and T-market supermarket or hypermarket. Young consumers are likely to recognize popular chain stores as a neighborhood store. These considerations are rather proof that the consumer behavior of the Bulgarian consumer has changed significantly and he feels comfortable in the new conditions of market attention.

"Annual inflation for December 2022 compared to December 2021 is 16.9%" (HCH, 2023) [9] In the same direction are the data of the World Bank Report: "... the population of Bulgaria continues to emigrate to the richer countries of the EU and OECD, poverty remains one of the highest in the EU, and income inequality is the worst in the EU." (Bank, 2023)

Within the framework of the survey provided to the participants, the question "Which food groups have the prices increased the most?" is also included. With this question, we examine the opinion of the respondents regarding the changes that have occurred in the prices of the offered products. The data obtained through the conducted survey can be illustrated by Figure4.

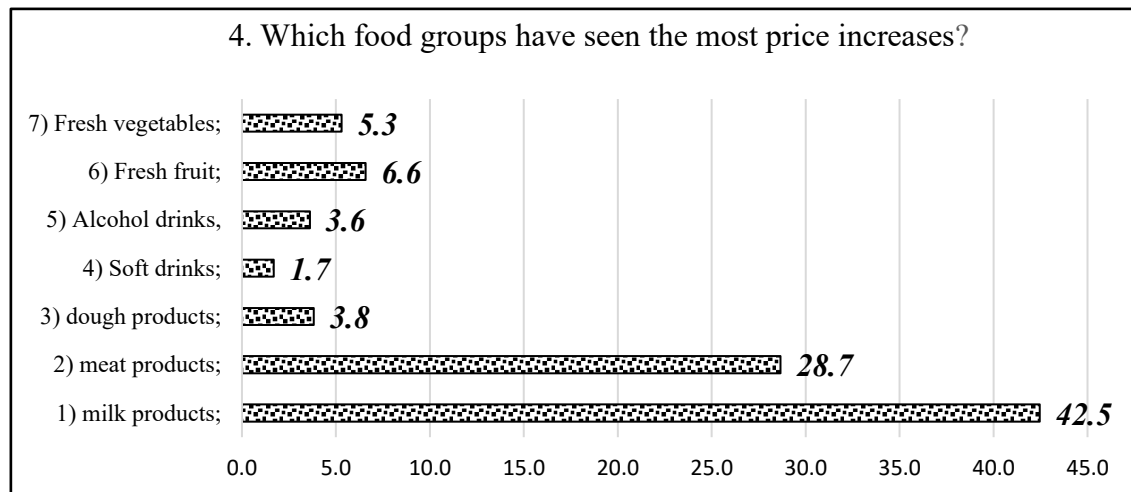


Figure 4. Which food groups have seen the most price increases?

Almost half of the respondents (42.5%) indicated that a significant increase in prices was observed for dairy products. In second place (28.7%) they indicated local products. The Bulgarian consumer is a victim of one of the highest inflation rates in the EU. In the same direction are the data of the World Bank Report: "... the population of Bulgaria continues to emigrate to the richer countries of the EU and OECD, poverty remains one of the highest in the EU, and income inequality is the worst in the EU." (Bank, 2023)

According to the data obtained, fruits and vegetables also reported an increase in their price, respectively by 6.6% and 5.3%, which can be considered as surprising, according to the period of the survey. Referring to the opinion of the respondents, we can note that this is due to the consumption of seasonal fruits and vegetables, which are at a lower price. According to the participants of the current study, the products that are the least sought after in the market, namely: non-alcoholic, alcoholic and pasta products, have increased their price the least, which can be indicated as a determinant of the following percentage ratios - 1.7%, 3.6% and 3.8%. In this regard, we cannot but agree with S.

Petrova, who points out that price decisions have an impact on the volume of sales (Petrova, Determinants of choice of assortment size at a point of sale, 2019).

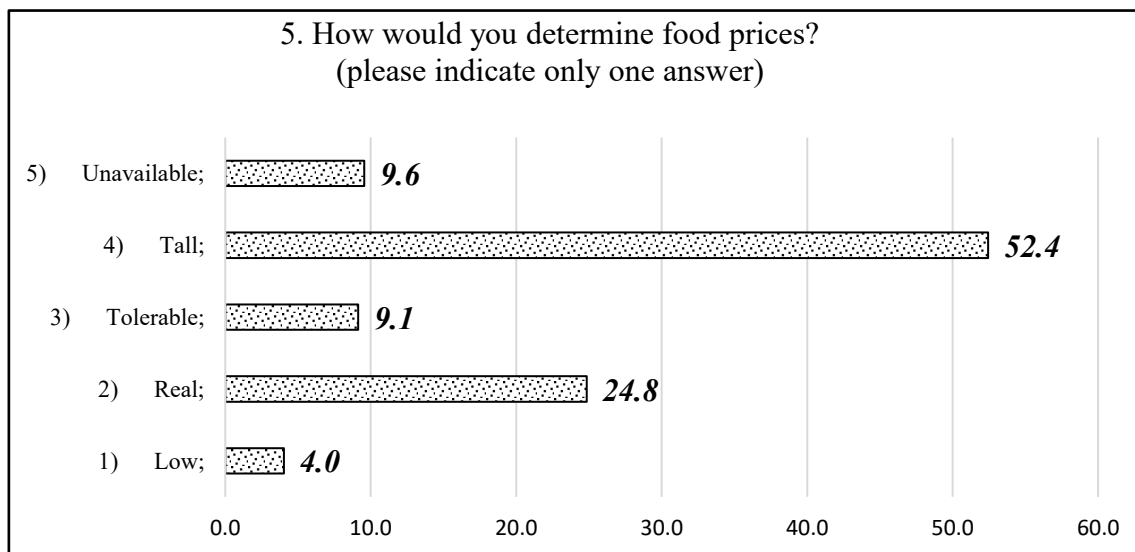


Figure 4. How would you determine food prices?

The conducted studies show that the food products on the Bulgarian market have much higher prices than the products offered in other European countries. According to the current research team, this is due to the low incomes and high inflation in Bulgaria, compared to other countries, part of the European family. It can be noted that the COVID pandemic, the restructuring of supply channels, in many of the industries, the war in Ukraine, the energy crises, the new green ambitions, are growing into crises and unlocking, including complementing and complicating the inflationary situation. It is for these reasons that slightly more than half of the respondents, namely 52.4%, state that the prices of food products offered on the Bulgarian market are high. As the next reason predetermining the price of food products, the respondents indicated - import from abroad. A small part of the buyers participated in the survey, namely: a total of 13.1% think that the prices are acceptable. This percentage includes 4% of respondents who state that the prices are low, and 9.1% consider the prices to be affordable. The interviews conducted confirmed the present research team's suspicions that this segment of buyers receives higher incomes than the rest, which predetermines the responses they indicated. This group of participants can also include those 24.8% who indicated that the prices of the food products offered on the Bulgarian market are "Normal". The presence of 9.6% of Bulgarian buyers who note that food products are unaffordable can be noted as extremely worrying. This confirms the team's thesis about the low income of Bulgarian buyers, which has a significant impact on their purchasing power.

CONCLUSION

Based on the thus conducted theoretical and empirical study of the psycho-social aspects of the price in the Bulgarian reality, the following conclusions can be drawn: **First**, satisfaction with the price of the product, on a personal level, also provides satisfaction to the buyer, from the choice, the decision made and the purchase and sale made, and this, in turn, can lead to a subsequent purchase; **Second**, the main factors that influence the choice of food products of the surveyed buyers are "Product quality" and "Nutritional

composition". The "Price" factor is positioned in third place, which is perceived as a surprise by the research team. The results show the presence of a significant proportion of respondents who make their purchases at the neighborhood store, allowing them to visit daily. However, the largest share of visited commercial establishments remains, which can be defined as "everything under one roof", namely: supermarkets and hypermarkets. The majority of respondents noted that the price of dairy and local products had risen by 42.5% and 28.7% respectively, which they believed was due to increased demand. The conducted interviews with the respondents lead to the conclusion that the prices of the products offered on the Bulgarian market have risen, influenced by the inflationary processes that have occurred, and the buyers' incomes are low, which makes it difficult for them to purchase.

The following conclusion can be made on the basis of the conclusions drawn in this way: the search for the answer to the question "What is the reason for the disagreement of the Bulgarian buyer with the current prices of food products offered in our country?" leads the current research team to the conclusion that low incomes and reduced purchasing power of the Bulgarian buyer, influenced by various - direct or indirect - circumstances, are the basis of disagreement with the current prices of food products offered on the Bulgarian market.

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SELECTIVE ANALYSIS OF CONSUMER ATTITUDES TOWARDS CHANGES IN THE PRICES OF ORGANIC PRODUCTS OFFERED ON THE BULGARIAN MARKET

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ABSTRACT

With the growing popularity of sustainable products and the expected increase in organic farming and supply of organic food products as part of the goals of The European Green Deal, it's important to evaluate the popularity and demand for such products in Bulgaria. Understanding the consumer perspective on the affordability of organic products is important, as it directly influences purchasing intentions and can help predict the growth of the organic market.

This study investigates consumer attitudes and perceptions regarding the pricing of organic products in the Bulgarian market via statistical analysis of a survey conducted on a targeted sample of Bulgarian consumers of various demographic backgrounds.

The survey is divided into three distinct sections. The first section focuses on gathering demographic data from the participants. The second section delves into their present purchasing habits regarding organic products. Finally, the third section investigates participants' attitudes regarding the consumption and pricing of organic products.

This research contributes to the existing literature by providing empirical evidence and insights into the attitudes of Bulgarian consumers toward price changes in the organic product market, which can contribute to the broader understanding of consumer behaviour and the future development of the sustainable food market in Bulgaria.

The study's findings hold significant practical implications for stakeholders within the organic food industry, including organic producers, retailers, policymakers, and others. Gaining insights into customers' perspectives can prove useful in addressing challenges associated with pricing and affordability in the organic food market.

Keywords: organic products, consumer attitudes, price changes, Bulgarian market, price perception

INTRODUCTION

In recent years, sustainability has gained a lot of traction as a marketing research topic. Consumers are becoming increasingly aware of the environmental impact of their choices and actions, creating demand for products with a lower environmental impact. Organic, or bio, products are produced under strict certification and guidelines, ensuring that good sustainability practices are followed during the process, making them a good choice for sustainability-minded consumers.

The real or perceived higher price of organic products, however, is a significant challenge for both businesses and customers alike. Understanding the effects of price fluctuation on the consumer's perception of organic food items is important in formulating proper pricing, positioning, and marketing strategies.

The aim of this study is to investigate consumer attitudes and perceptions regarding the pricing of organic products in the Bulgarian market.

According to data, provided by the European Parliamentary Research Service (EPRS), organic consumption and production are growing in the EU, with a 79.8% increase in sales, and 33.7% in production between 2012 and 2018. [10] In order to accomplish the environmental and sustainability goals of The European Green Deal, the European Commission has developed an action plan involving a significant increase in organic farming, and among its main objectives is increasing demand for organic products. [8] Therefore, understanding consumer perception and the topic of this paper is of current relevance.

IFOAM – Organics International defines organic agriculture as follows: “Organic Agriculture is a production system that sustains the health of soils, ecosystems, and people. It relies on ecological processes, biodiversity, and cycles adapted to local conditions, rather than the use of inputs with adverse effects. Organic Agriculture combines tradition, innovation, and science to benefit the shared environment and promote fair relationships and good quality of life for all involved.” [9]

Organic farming as a practice emphasizes the use of natural and environmentally-friendly methods for raising crops and livestock and discourages the use of synthetic fertilizers, pesticides, and GMOs, with a focus on creating and maintaining a sustainable system.

In the context of this study, organic food is produced in accordance with the methods and principles of organic agriculture and farming, as defined above.

In recent years' organic food has been a decently popular marketing and academic research topic and has been the subject of many studies in various countries, and several factors have been identified that affect the perception of organic food and the decision to purchase it, including:

Health and Safety: The main contributing factor towards consumers' desire to purchase organic products has been proven by several studies to be the image of organic products as healthier [5] and safer than conventional food due to their reduced exposure to potentially harmful chemicals such as antibiotics and pesticides [3], GMOs [6], as well as strict quality standards[10] for their production, ensuring that customers are assured of their trustworthiness. Half of the respondents of a study conducted in Croatia cited organic food as being healthier as the reason they would purchase it, with 2/5ths of the

respondents overall believing that there is a difference between the healthy qualities of organic and regular food. [4] Similarly, in a Spanish study, 40% of respondents said they chose organic food because it was healthier. [1] The same views were expressed by 48% of respondents in a US study. [3]

Personal values and Ethics: Consumers are at least partially motivated to support sustainable, environmentally friendly practices and products such as organic food by their personal convictions or beliefs, including a general interest in ecological sustainability, as 15.4% of the Spanish and 15% of the US study respondents indicated [1], reduced consumption, and ethical considerations related to human and animal welfare, and desire to support and consume local production.[6] It should be noted that several studies have also identified personal beliefs as a reason NOT to purchase organic products as well, due to lack of trust. [7] [4]

Sensory qualities: Organic foods are often thought to possess superior quality and better taste, as indicated by 17% of the Croatian[4] and 19.5% of the Spanish [1] study respondents. Consumers often perceive organic food items as being fresher, more flavourful, and free from artificial additives. This can influence purchasing intentions, particularly for consumers who prioritize taste and visually appealing food. Some research suggests that labelling a product as “organic” improves its perceived taste due to health associations.[5]

Availability and Access: Studies suggest that if organic options are readily available, conveniently located, and affordable, consumers are more likely to choose them. Access to accurate and complete information regarding the qualities of organic products also plays a contributing role in purchasing decisions. [2] [3]

Price Perception: Organic manufacturing typically costs more due to its smaller, slower production scale, time-consuming and complicated procedures, high certification standards, limited availability coupled with growing demand, with much shorter than conventional deadlines for realization [6]. These expenses are naturally passed on to the customer.

Consumers' willingness to pay a premium can vary. Price sensitivity may explain the inconsistencies between attitudes [7] Some people may view the higher prices as a barrier to purchase, particularly if they have budget concerns, with 43% of respondents in the Croatian study choosing high prices as the reason they do not buy them [4], and research suggests that pricing does indeed impede demand, as consumers are willing to switch to lower-cost products. [3]

On the other hand, customers who prioritize health, sustainability, ethics, lifestyle, or sensory factors may be willing to pay a premium for the perceived benefits. Consumer education level and access to information regarding farming practices and certification may also play a role in their willingness to accept the higher price point.

MATERIALS AND METHODS

In order to examine consumer attitudes and perceptions towards the pricing of organic products in the Bulgarian market the research team chose to conduct a survey among a sample of 459 Bulgarian consumers. Participants were selected using a combination of convenience and snowball sampling methods. The survey was separated into 3 distinct sections and contained Likert scale, multiple-choice, and open-ended questions.

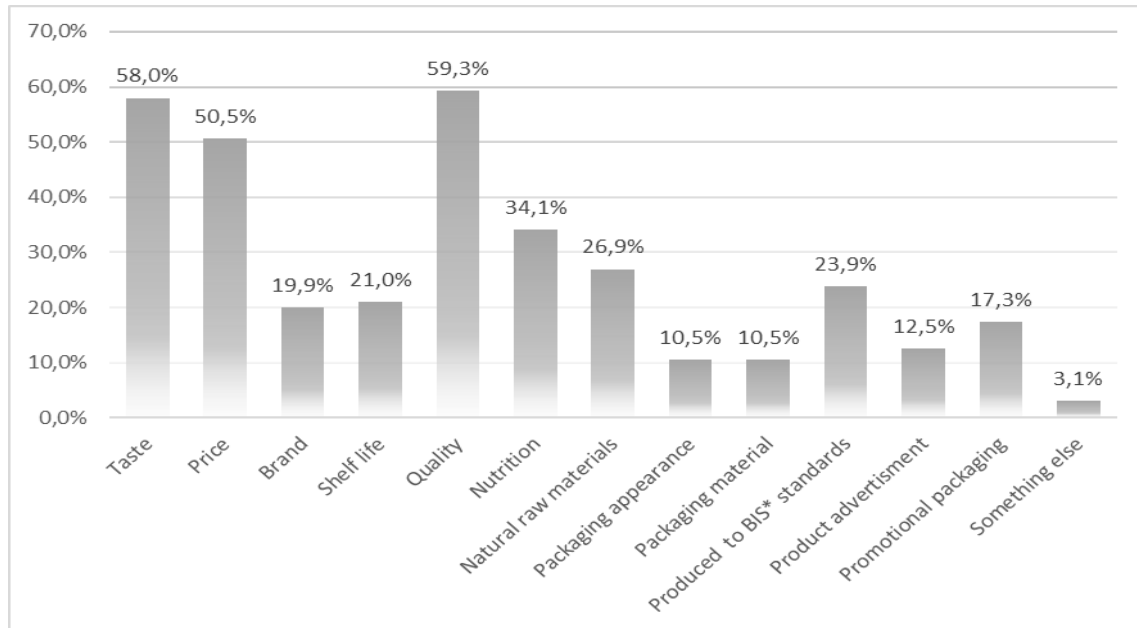
The first section, containing 7 questions is dedicated to collecting general demographic information about the participants, the second section, comprising 7 questions, is focused on the purchasing preferences and intentions of Bulgarian consumers when it comes to organic foods, and the third section, containing 9 questions examines the organic food purchasing habits and perceptions of Bulgarian consumers.

The collected data were analyzed using IBM SPSS, a statistical analysis software.

RESULTS

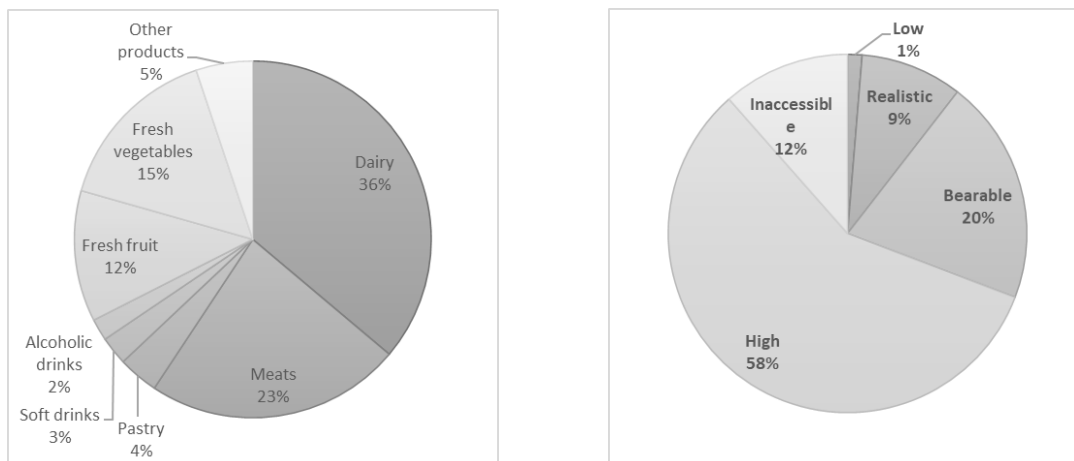
Table 1: Socio-demographic information

Gender		Occupation	
Male	46.8%	Student	5.4%
Female	53.2%	University student	21.5%
Age		Employed	60.6%
Up to 18 y.o.	6.5%	Unemployed	3.1%
19-30 y.o.	39%	Retired	9.4%
31-50 y.o.	34%	Monthly Income (in lev)	
51 – 70 y.o.	17.2%	Up to 780	14.4%
Above 70 y. o.	3.3%	781-1100	34.9%
Education		1101-1600	26.2%
Primary	2.8%	1601-2600	17.2%
Secondary	35.1%	Above 2601	7%
Special secondary	14.4%	Family unit size	
College	7.6%	Single	10.9%
University	40.1%	2	25.1%
		3	33.8%
		4	23.7%
		5	4.6%
		5+	2%

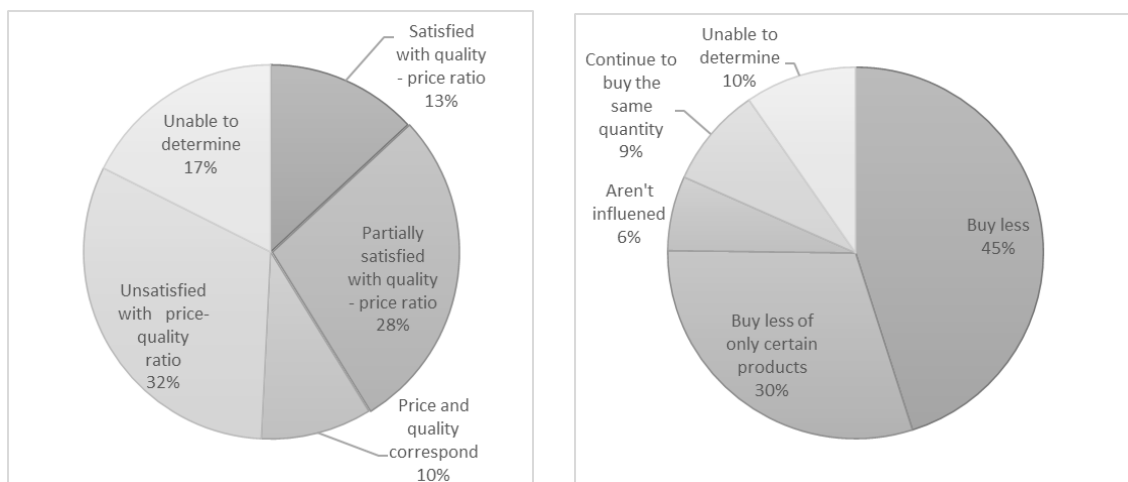


*Bulgarian Institute for Standardization

Figure 1: Factors influencing the choice of organic food



Figures 2&3: Largest recent price increases; Opinion on prices of organic food



Figures 4&5: Price-quality ratio satisfaction; Changes in the quantity of purchased organic food

DISCUSSION

The results of the examined section of the survey are consistent with the literature studies reviewed in this paper, with perceived quality, taste, and price emerging as the three most important factors affecting the purchase of organic products for over half of the respondents.

Over half of the surveyed Bulgarian consumers perceive organic products as highly-priced, with an additional 12% finding them prohibitively so, and only 10% overall being satisfied with the current pricing. This is also in line with previous studies and the authors' predictions.

Additionally, over 50% have indicated that they noticed an increase in the price of essential organic products, such as dairy and meats.

The opinions on whether the quality and price of organic goods match were divided, with 41% being at least somewhat happy with the price and 32% believing that the price is too high and does not correspond with the quality. The results of this question indicate that while most Bulgarian consumers view organic food as at least somewhat expensive, half believe that the price is acceptable or justified. This is not a surprise in the context of this study given that "Quality" and "Taste" were scored higher than "Price" as factors affecting buying in this survey.

Organic food does not appear to be a priority for Bulgarian customers, as over 75% of those questioned have reduced the amount they spent on organic foods in light of the recent inflation-induced overall price increases, and only 9% indicated they have continued to spend the same amount on organic food.

IBM SPSS analysis resulted in the following: There is no statistically significant connection between gender and the perception of the price-quality ratio, but gender does significantly impact price perception and post-inflation shopping habits. 63.7% of men perceive the prices as high or inaccessible, meanwhile, that number rises to 73.7% for women, 78.7% of women have indicated that they reduced their spending on organic food, with 71.1% for men.

Age also has a statistically significant bearing on price perception, perception of the price-quality ratio, and purchasing habits. Older age groups reduced their organic food spending considerably more than younger ones (57% for 51-70 y.o, as opposed to approx. 40% for the younger respondents). They also feel overall worse about the quality-price ratio, over half of 30 y.o. or younger respondents feel at least partially positive, but that number decreases with age, acceptance of the higher prices of organic food also shows a decrease in older respondents.

Education has a statistically significant bearing on the view of the price-quality ratio, but not on price perception and purchasing habits. There are deferring opinions in both people with secondary/high-school education and college/university graduates, with approximately two-fifths of both groups feeling that the premium price is satisfactory to some extent, however, people with university degrees tend to be more skeptical, expressing only partial satisfaction and also gave the most negative responses.

Occupation and Income both have a statistically significant effect on the frequency of purchase, perception of the price-quality ratio, and general price perception. The lowest and highest income brackets showed the least satisfaction with the quality-price ratio

(25-30%), with the highest earners showing the most dissatisfaction. University students and workers/employed had the highest levels of satisfaction (46.4% and 42.8%, respectively), whereas nearly half of retirees are dissatisfied. This is consistent with the study's age-related findings.

Despite reporting higher dissatisfaction, pensioners are the group that has decreased their spending on organic food as a response to inflation the least – 67.5%, as opposed to the reported 75.5% and 82.5% for employed individuals and college students respectively. All income ranges have reduced their spending considerably, with the two highest earning groups reporting a lower percentage decrease, around 62-65%, and the lowest earners – over 80%.

At least 55% of respondents across all income levels consider organic food costs to be high, with one-third of those in the lowest income bracket calling them inaccessible, and just 15.6% (the highest of all answer categories) believing present prices are affordable or realistic.

As predicted, regardless of job position, more than half of respondents decided to classify costs as high, inaccessible to 23% of retirees, and manageable, reasonable, or inexpensive to just 13% of adults.

Surprisingly, the size of the household was found to have no bearing on the 3 examined questions.

CONCLUSION

The study's purpose of studying customer attitudes and opinions regarding the price of organic products in the Bulgarian market was accomplished.

The findings indicate that consumers in the Bulgarian market are overall capable of recognizing the benefits of organic foods and farming, citing taste and quality as the most important factors informing their choice of organic products. They are, however, challenged by socioeconomic factors and concerned with affordability, choosing to reduce their spending on organic products in the face of challenges, thus making price the main barrier to the development of the organic market in Bulgaria.

Stakeholders within the organic food industry should take into account the concerns of Bulgarian consumers and work towards creating pricing strategies that maximize consumer affordability without sacrificing profit and meet the specific needs and demands of different market segments.

Furthermore, increasing transparency and educating customers on the advantages of organic agriculture and the reasons behind the higher pricing can help improve consumer perception and increase demand for organic products.

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THEORETICAL AND EMPIRICAL ETYMOLOGY OF THE INFLUENCE OF THE PRICES OF THE ASSORTMENT ON THE BULGARIAN CONSUMER

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ABSTRACT

The review of the economic literature shows the existence of many theoretical-empirical frameworks related to the origin and influence of the prices of the assortment composition on the consumer. This gives us reason to believe that their appearance can be traced back to ancient civilizations, when production was carried out in the family and the surplus was exchanged. In the framework of its development, as theory and practice, the price of the assortment composition goes through many evolutionary changes.

In the context of the problems presented in this way, it can be emphasized that the main goal of the present work is related to the generalization of the theoretical views related to the concept of "price of the assortment composition" and, on the foundation thus built, to carry out an empirical study of the influence they have on the Bulgarian consumer.

The main goal thus launched predetermines the need for the successive clarification of the following tasks: to carry out a theoretical review of the economic literature examining the concept of "price of the assortment composition"; to conduct a survey among 500 people; to process the received data; to assess the attitudes and track the opinions of the respondents regarding the discussed issues; to draw conclusions, conclusions and generalizations related to the current research interest.

The foundation of the present theoretical-empirical study is based on the following hypotheses: the global changes that have appeared in recent years, such as: the COVID pandemic, the restructuring of supply channels, in many industries, the war in Ukraine, energy crises, new green ambitions, are growing in crises and unlock, including complement and complicate the inflationary situation that has emerged; food price inflation shows high levels in almost all low- and middle-income countries; the inflationary changes that have occurred have a negative impact on the Bulgarian consumer.

The emergence of a number of questions related to the issues presented in this way provides an opportunity for the formation of a theoretical-empirical framework related to the opinion, impression and attitudes of the Bulgarian consumer towards the food products offered on the Bulgarian market. The pursuit of answers to the formulated questions gives rise to current research interest.

Keywords: consumer, price, inflation, assortment composition

INTRODUCTION

A review of the economic literature reveals the presence of numerous theoretical and empirical frameworks related to the origin and impact of *assortment prices* on the consumer. This leads us to believe that their emergence can be traced back to ancient civilizations when production took place within the family and surplus was exchanged. Throughout its development as a theory and practice, *the price of assortment* has undergone numerous evolutionary changes.

In the context of the presented issues, it can be emphasized that *the main objective of this study* is to summarize the theoretical views associated with the concept of "price of assortment" and, based on this foundation, to conduct an empirical investigation into the influence they exert on the Bulgarian consumer.

The research thesis of the present study can be formulated as follows: *the various inflationary processes that influence the price of assortment is a significant factor affecting the purchasing power of the Bulgarian consumer.*

The emergence of a series of questions related to the presented issues provides an opportunity to establish a theoretical and empirical framework related to the opinions, impressions, and attitudes of the Bulgarian consumer toward food products available in the Bulgarian market. The endeavor to provide answers to the formulated questions gives rise to the current research interest.

1. Summary of theoretical views related to the concept of "price of assortment":

Within marketing theory, it is recognized that the *price of assortment* has been considered an essential part of the trading process since ancient civilizations. Production was carried out within families during that time, and surplus goods were exchanged. From a historical perspective, this process was based on equality in the exchange of goods. All of this marks the emergence of the *price of assortment*, which, initially, was determined through negotiation between the seller and the consumer. According to experts, the seller seeks to obtain a higher price than what they hope to receive, while the consumer aims for a lower price than what they are willing to pay. Through such negotiations, the two parties reach a mutually acceptable price.

During its development as a theory and practice, the *price of assortment* has evolved in various directions. One of these directions is the emergence of the concept of "*uniform price for the consumer*." This new idea gained popularity in the late 19th century with the rise of large retail enterprises. Examining the historical development of price, it can be observed that it has always been perceived as a fundamental factor determining consumer choice. According to **P. Kotler**, this notion can be somewhat applicable in poor countries among consumers who do not own properties and adhere to an assortment of mass-market products (Kotler, 1993).

A review of specialized literature reveals the presence of another group of experts who assert that *the price of assortment* is a crucial factor in achieving market success for a business. Within this perspective, marketers argue that the price of assortment should be linked to its value. To support this thesis, it is necessary to present some theoretical views from the examined group of specialists. According to **Y. Vladimirova**, *the price of assortment represents the monetary expression of its value, as presented by the enterprise and evaluated by the consumer* (Vladimirova, 2010). From **D. Gilbert's** perspective, *the*

price of assortment can be defined as the monetary value attributed by the seller to any purchase, sale, or offering of products or services, and the transaction with the consumer conducting the operational purchase and willing to pay for the benefits and advantages provided by the product and the service in the distribution channel (Gilbert, 2014).

Within the conducted theoretical investigation, a third group of analysts addressing the discussed issue highlights that the *price of assortment* plays the role of a focal point where the interests of *producers, distributors, and consumers* converge. This group includes the research team led by **D. Doganov**, who provides the following clarifications:

For individual producers, the *price of assortment* serves as a carrier of important information for directing the economic activity of the enterprise. Based on the expected prices, they allocate the resources at their disposal to achieve the best possible results from their operations.

The aforementioned team of specialists states that for **the distributor**, the *price of assortment* is of interest due to two reasons: *firstly*, the volume of their turnover depends on the price level (as it represents one of the most influential factors affecting demand); *secondly*, the difference between the price at which they acquire the assortment and the price at which they sell it to the consumer determines their income.

Regarding the **consumer**, **Doganov's** expert team points out that the price represents a monetary amount that the consumer pays from their income to satisfy a specific need (Doganov, Mladenov, & Panova, 2007).

In the theoretical reflections of **V. Galabova**, a scenario emerges in which the *price of assortment* in enterprise marketing can be perceived as a highly significant variable due to the following reasons:

Firstly, the price of assortment influences consumer demand by orienting and attracting them toward a specific enterprise.

Secondly, through the magnitude of the trade markup, the *price of assortment* affects the income and profitability of the enterprise.

Thirdly, the selling prices of products from different product lines that form the *assortment* impact the overall image of the enterprise among consumers. Higher *prices of assortment* can be perceived as indicative of high-quality products and services offered by the enterprise, while lower prices create a sense of savings.

Fourthly, the pricing policy is a part of the overall marketing policy of the enterprise. This implies the need for the *prices of assortment* to be synchronized with the desired image and market positioning, assortment policy, communication messages, store environment, etc.

Fifthly, the price levels of products and additional services sold by the enterprise are a factor in forming a leading competitive advantage for the enterprise. The pricing policy should facilitate the achievement of desired levels of profitability and the maintenance of competitive advantage (Galabova, 2017).

In seeking an answer to the question, "*How do prices of product assortments influence consumers?*" it is imperative to turn to the assistance of renowned experts in the field of marketing, namely **W. Pride** and **O. Ferrell**. In their study, "*Marketing: Concepts and Strategies*," they present the proposition that for consumers, the *price of the product*

assortment represents the value of the exchange (Pride & Ferrell, 1996). As a focal point in their analysis, marketing specialists emphasize that consumers exchange something valuable to attain satisfaction or benefit. On the other hand, **Pride** and **Ferrell** indicate that a consumer's purchasing power is contingent upon their income, credit, and wealth. To substantiate their thesis, the experts highlight that if a consumer possesses limited resources, it necessitates the need for them to allocate their purchasing power to acquire the desired product. In this context, it becomes crucial for the consumer to determine whether the utility derived from the exchange is worth the sacrifice of their purchasing power.

In conclusion of the present theoretical section, it is impossible not to agree with the statement made by the expert team led by **D. Doganov**, that price can be identified as the most dynamic element of the market mechanism (Doganov, Mladenov, & Panova, 2007). In this regard, its determination cannot be considered a one-time act. To solidify their fundamental proposition, the cited team highlights that if the marketing environment undergoes changes, it naturally leads to alterations in both the phases of the product assortment's life cycle offered by the company and the consumer's needs and preferences. From this perspective, guided by **Doganov**, the experts clarify that if the price does not align with such changes, it may become disconnected from market reality and hinder the development of the enterprise. Based on these circumstances, the research team concludes that a company must maintain a constant readiness to adjust the prices of the product assortment according to the specific conditions in which the realization process takes place.

Summarizing a small portion of the theoretical perspectives related to the concept of **"price of the product assortment,"** we arrive at the following definition: *the price of the product assortment represents an important element of the company's marketing policy, aiming, on one hand, to satisfy the emerging needs and preferences of the consumer resulting from the use of the acquired product, and on the other hand, to facilitate the achievement of desired levels of profitability and the maintenance of competitive advantage for the enterprise.*

MATERIALS AND METODS

2. An empirical study of the attitudes of the Bulgarian consumer regarding the European green car initiative

The period of the last few years - 2019 to 2023. was marked by extremely turbulent events that changed the world like no other circumstance in the evolutionary history of mankind so far. The Covid-19 pandemic and the subsequent Russia-Ukraine war have created unprecedented challenges for the international economy and national governments. The Bulgarian state did not remain untouched by these events. In two and a half years, the Bulgarian consumer appeared in 5 consecutive parliamentary elections. The lack of a stable government put the country at an extreme disadvantage. Bulgarian citizens remained unprepared and unprotected from the harsh economic conditions that occurred during the period under review. Bulgarian employers are also not prepared for another economic and political crisis. It is evident from the annual report of the Bulgarian Academy of Science that: "in 2021 - 83.8% of the surveyed employers do not plan to hire new employees." (Златинов, Христова-Балканска, Йоцов, & и авторов колектив, 2022). This finding shows that the national economy is not planning for growth in the

coming year. In the same direction are the data of the World Bank Report: "... the population of Bulgaria continues to emigrate to the richer countries of the EU and OECD, poverty remains one of the highest in the EU, and income inequality is the worst in the EU." (Bank, 2023)

We conducted a survey using a survey card. 500 people participated in the study. They range in age from 18 to over 70, inclusive. Of them, 37.2% were men and 62.8% were women. 52.4% of the respondents are between the ages of 31 and 50. It is noteworthy that almost half - 47.8% of the respondents have a higher education. It is important to note that the majority of respondents (70.7%) are working people. The survey includes respondents of various incomes. The largest share of people have monthly incomes in the range of BGN 1,001 to 1,500. Another important profile of the respondents is their marital status. The data show that the largest share of users live in a two-person household (30.1%). In second place with (27%) are families consisting of three members and only one percent less (26.1%) are households with 4 members. The survey given to respondents contains questions about their consumer habits. This brings to the fore the need for direct surveying, interviewing and monitoring of respondents, followed by comparative and structural analysis. The obtained results were processed with MS Excel and IBM SPSS software products.

Some of the survey questions and answers are presented below for the purpose of this paper.

Within the scope of the conducted survey, it was established that to the question "Which essential goods do you buy regularly?" (Figure 1) 100% of the respondents indicated that they buy yogurt. In second place (70.1%) of the respondents buy bread, and cheese is in third place with 68.8%. In fourth place, 60.9% of respondents buy meat. In fifth position (53.3%), consumers buy oil, followed by cheese (52%). Fresh milk is placed in the last position of dairy products with 47.1%. Lastly, the respondents (23.8%) buy beans.

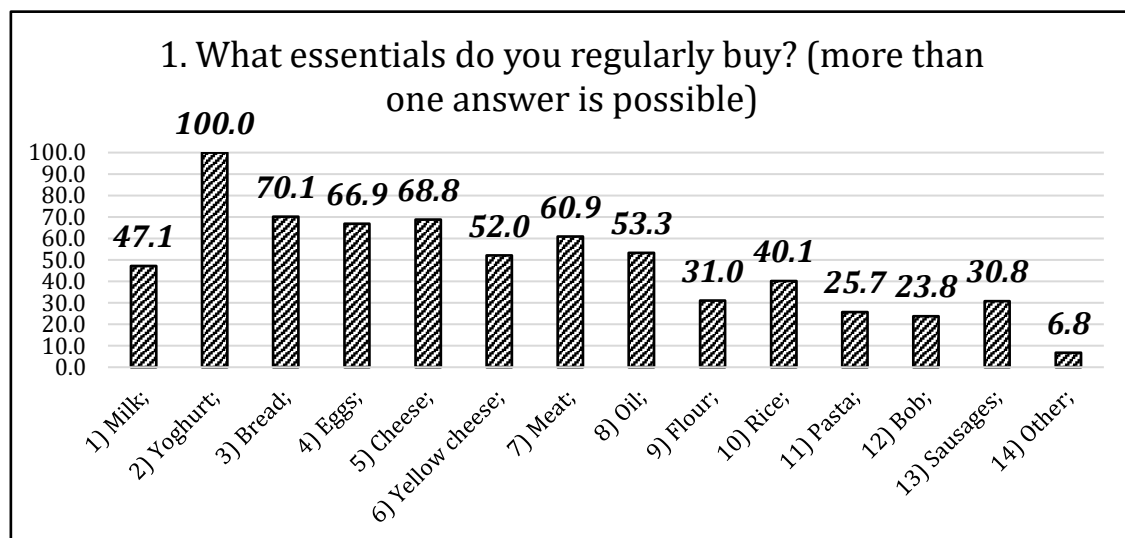


Figure 1. What essentials do you regularly buy?

Figure 2 shows the answers to the question: Which pasta products would you give up? The political crisis, the Covid 19 pandemic and the subsequent Russia-Ukraine war are the leading events that led to an increase in both food and energy inflation. "Annual inflation for December 2022 compared to December 2021 is 16.9%" (HCI, 2023)[9] The most affected by the described circumstances are the most vulnerable sections of the population. "The poor have fewer financial assets to absorb shocks. In 2019 over 80 percent of poor households report that they are unable to meet financial contingencies, compared to less than a third of non-poor households." (Bank, 2023) The vulnerability of these households to shocks limits their ability to accumulate reserve assets. The ensuing two years have deepened these processes and certainly compromised their potential for future gains. Related to these considerations are the data in Figure 2. Bread and pasta are staples consumed primarily by people with low incomes. The increased consumption of pasta products is most characteristic of periods of impoverishment of the population and a corresponding decrease in income or their devaluation. The largest share of respondents (67.3%) indicated that they would refrain from buying pasta products. In second place with 60.5% are sweet products. The third position with 38.4% is pasta. Flour is placed fourth with 29.3%. And in the last position, 20.2% of the respondents put bread. The impact of inflationary changes can be confirmed as a result of the analyzed responses. In the theoretical part of this study, evidence was repeatedly translated in favor of the thesis that the price of the assortment composition affects consumer demand.

In the conditions of shock price increase and lagging measures on the part of the government, abstinence from consumption is observed quite expectedly. This effect leads to the reduction of the work of entire sectors, such as the production of pasta products and the confectionery industry, from which consumers give up in the first place. This type of product is loaded with a much higher share of added value than bread or flour, and obviously, under conditions of sensitive impoverishment, consumers will shift to cheaper goods.

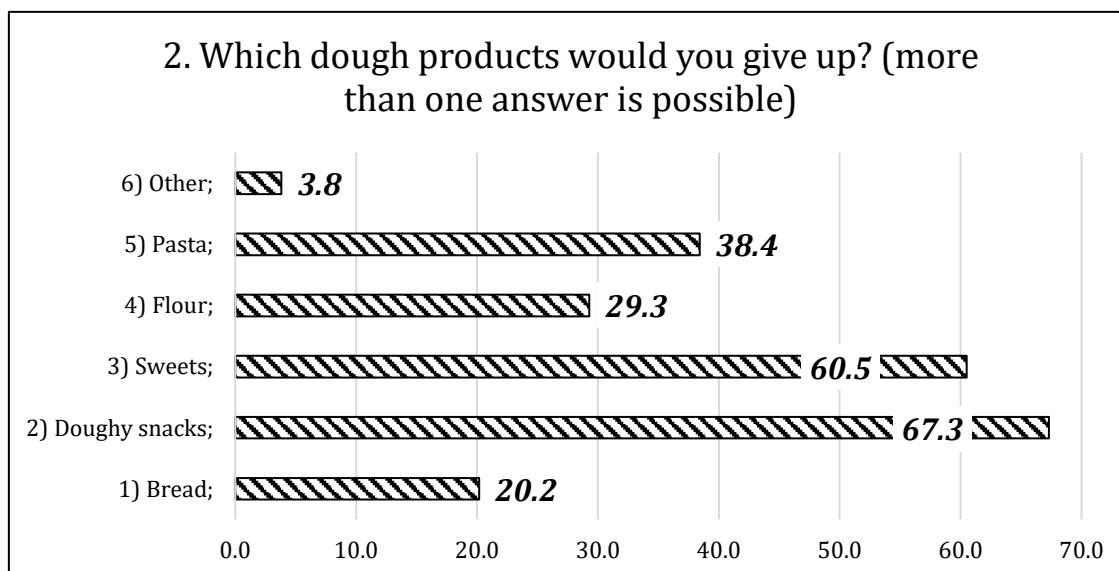


Figure 2. Which dough products would you give up?

In figure 3 we presented the results of question B5. Respondents were asked what drinks they would give up. The largest share of respondents (72.2%) indicated that they would refrain from buying carbonated drinks. Carbonated water is in second place with 56.9%.

The third position with 52.2% is natural juices. Fresh juices are placed in fourth place with 45.9%. And in the last position, 12.5% of the respondents put mineral water.

It is notable that consumers respond to the question in Figure 3 with this logic, as in Figure 2. When consumers are squeezed by gradually rising inflation, energy prices and uncertainty, along with political crisis and a lack of reasonable income updating, they start to refrain from consumption. This effect is also observed in the question of beverage consumption.

Carbonated drinks are expensive and unhealthy, ie. are immediately crossed off the shopping list. They are followed by carbonated water and natural juices. Soda is twice as expensive as mineral water (again, a mindless burden on the budget), and natural juices have long been positioned in the minds of consumers as controversial in terms of health. It is not by chance that fresh is only in the penultimate place, not because it is expensive, but because it has been proven to be very healthy and "worth the money". Undoubtedly the most vital drink for human life is water. This is also proven by figure 3. Regardless of inflation and price increases, consumers will have the hardest time giving up water consumption.

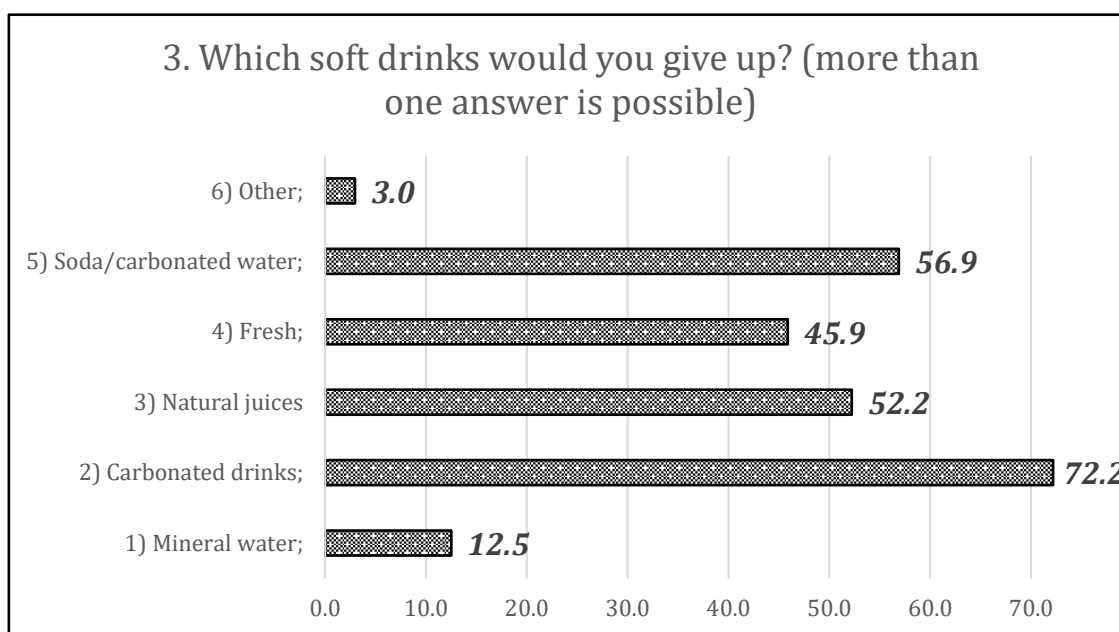


Figure 3. Which dough products would you give up?

Figure 4 presents the answers to the question: Which alcoholic beverages would you give up? Respondents were asked what drinks they would give up. The largest share of respondents (80%) indicated that they would refrain from buying liquor. In second place with 60.7% are highly alcoholic beverages. Beer is in the third position with 49%. In the last position, 36.1% of the respondents put wine. The consumption of alcoholic products occupies a proper place in the daily life of the Bulgarian consumer. According to the health report of the World Health Organization for 2021. Bulgaria occupies the honorable eighth place in terms of alcohol consumption. The report covers 53 WHO member states. The data shows that the average consumer systematically spends funds to satisfy his

alcohol consumption. This indicator occupies an important share of the budget of the Bulgarian household. This circumstance argues for the study of the consumer behavior of the respondents in the presented research.

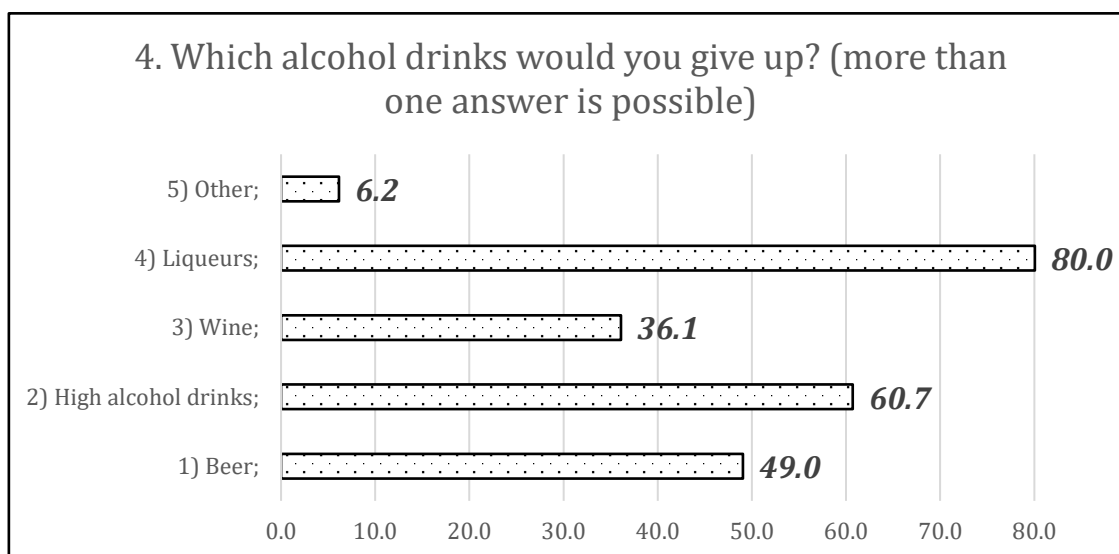


Figure 4. Which alcohol drinks would you give up?

DISCUSSION

In summary of the presented data, it can be concluded that the described hypothesis is confirmed. Inflationary processes affect the influence of the price of the assortment composition and are a significant factor on the purchasing power of the Bulgarian consumer. We have provided evidence that inflation is at its highest levels since 1997. this way. The devaluation of the income of the Bulgarian population leads to a decrease in purchasing power. The main impact of abstinence is the reduced consumption and purchase of primarily basic foodstuffs. This dependence is characteristic of low-income consumers, who are the most vulnerable part of the population. The problem of Bulgarian society is that it is the poorest in the European Union. The research data indicate that only 7.9% of the respondents receive incomes above 1250 euros per month. More than 90% of respondents have difficulty covering their monthly expenses.

CONCLUSION

The effect of this fact has other consequences. The food industry strives to fully satisfy the needs of its customers, even those that they have not yet realized. For this purpose, the assortment composition of manufacturers is widely deployed and strives to satisfy every taste. In richer Western societies, this phenomenon can be observed in every hypermarket. On the Bulgarian market, there is considerable variety. It is perfectly fine for the poor consumer to concentrate only on basic products (for which he can afford) and for secondary, "luxury" goods to be out of his reach. This forces manufacturers to reduce the assortment. Bulgarian producers operating only on the domestic market are the most affected. Examples of this are local companies working in the field of confectionery and pasta production. The mass effect of such economic dependencies leads to numerous

bankruptcies, increased unemployment and further impoverishment of the population. Expectations are for a reduction in economic growth and stagnation in the economy.

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**SECTION ANTHROPOLOGY, ETHNOLOGY, AND
HUMAN ADAPTATION**

A TWOFOLD REPRESENTATION OF ISOLATION IN THE WORKS OF IT DESIGN STUDENTS

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ABSTRACT

In this paper, we analyse graphic and multimedia works that the IT design students of the Zagreb University of Applied Sciences (TVZ) created during the semester as part of a communication strategy aimed at the general public. The students used tools and knowledge in graphic design and, taking into account all the settings for creating a quality design solution, presented their visual solutions under the mentorship of their professors. These works were exhibited during June and July 2024 at the Nikola Tesla Technical Museum in Zagreb in the „Isolation - Creative Studying" exhibition. The task is part of the Croatian Science Foundation and the Slovenian Research and Innovation Agency project „Isolated people and communities in Slovenia and Croatia (ISOLATION)“. The presented works depict isolation in two ways. On the one hand, isolation is interpreted as social disconnection and personal melancholy; on the other hand, it is experienced as a motivating and creative challenge. Revitalising isolation emphasises values crucial to the contemporary understanding of a successful and fulfilling life. The communication segment of the student work is achieved through the aesthetic values of their interpretations.

Keywords: graphic design, isolation, communication strategy, visual solution

INTRODUCTION

Design is central to contemporary society, encompassing diverse specialisations from industrial design to strategic innovation, contemporary technology, and communication. Design is often viewed as a universal human ability, enabling the transition from abstract ideas to concrete realisation (Gunn, 2013). Designing involves not only the creation of ideas but also detailed planning and establishing form and functionality before an idea is implemented and communicated (Gunn, 2013) [5]. Reflecting on the relationship between design and anthropology, Keith M. Murphy in *Design and Anthropology* (2016) [9] emphasises that design is often marginalised in anthropological research despite its presence in complex social and technical processes. While design does appear in anthropology, it is frequently within the context of scientific and technological research and achievements (Masco 2006:24–25) [7] or within the policies and communication strategies of advertising for mass-produced goods (Miller, 1987, p. 9) [8]. Murphy argues that design is rarely analysed as a central theme in ethnographic studies. According to Murphy (2016) [9], anthropologists generally view it as a byproduct of technical and

scientific developments rather than an independent research subject. The gradual development of "design anthropology" (Clarke, 2010; Gunn et al., 2013; Gunn & Donovan, 2012a) [2,3,4], stems from the shared inherent interests of creative groups of scholars in the fields of design and anthropology regarding material culture, human behaviour, and social values, which provides a rich source for the intersection of the two disciplines (Murphy 2016). As Murphy claimed, citing Rabinow and Marcus (2008) [12], design is increasingly seen as a means of enriching ethnographic methods in researching contemporary social phenomena.

Closely examining the research focus of both fields of creative thinking and representation of insights and achievements, Murphy proposes and argues for a recent shift toward design in anthropology through three approaches: (1) anthropology of design, where design becomes the subject of ethnographic research; (2) anthropology for design, which involves the application of anthropological methods and concepts in the design process; and (3) design for anthropology, where anthropologists borrow approaches and methods from design to enhance their research tools. In this regard, citing Appadurai (2013, p. 254) [1], Murphy states that design is "a fundamental human capacity and the foundation of social organisation," which is why anthropologists today are increasingly interested in exploring its sociocultural and political significance (Krause-Jensen, 2010 [6]; Murphy, 2015 [9]; Schüll 2012 [13] through Murphy 2016) [9] .

CREATIVE EDUCATION AT THE ZAGREB UNIVERSITY OF APPLIED SCIENCES

Inspired by the concept of integrating design and anthropology and the importance of design in communicating research through dissemination activities, an innovative academic program was developed at the Zagreb University of Applied Sciences in Croatia. This program is designed for young researchers and students in IT design. The primary goal is to promote an interdisciplinary approach in the educational process, allowing students to acquire skills in IT Design by utilising diverse learning techniques that include technical sciences, computer science, communication sciences, social sciences, humanities, and art history. The program concept was created by Prof. Dr. Jana Žiljak Gršić, Dean and longtime leader of the Informatics program, and Dr. Lana Peternel, an anthropologist and researcher experienced in interdisciplinary projects combining natural and social sciences. The program primarily combines digital design and anthropology, offering IT students the opportunity to engage with complex social issues through computer science, art, and methodologies from social and humanities disciplines, encouraging reflection and communication on contemporary social issues and their consequences.

The Curriculum: Through three courses (Introduction to Graphic Design, Introduction to Digital Design, and Digital Anthropology) as well as thematically focused theoretical and practical classes, students at the Zagreb University of Applied Sciences systematically acquire foundational knowledge in technology, computer programming, research methods, and theories in the social and human sciences. They also learn design concepts through examples investigated in scientific research projects involving professors and scientists. Specifically, the IT Design program includes subjects related to design and multimedia. These subjects cover graphic design, web design, and multimedia, enabling students to gain knowledge in visual communication and designing content for print and

digital media. Additionally, students work on projects that involve conceiving and creating websites with modern tools and gaining experience in digital photography, video production, and computer editing.

The idea of creative interdisciplinary study is encouraged by integrating anthropology with interdisciplinary approaches within the IT program, connecting design and social sciences through various projects and collaborations within the study program. This integration familiarises students with concepts explored in Croatian Science Foundation research projects, helping them acquire skills to present knowledge and insights gained from diverse fields. The core objective is to enable students to respond artistically and technically to challenging and socially relevant topics by developing their knowledge and applying the skills they acquire during their studies. The creation process begins with instruction that focuses primarily on presenting research insights from the project, then continues by developing critical thinking, encouraging students to explore social values and community significance under the mentorship of anthropologist lecturers while learning from design lecturers how design can serve as a tool for communicating social issues and strategising to change harmful public values and attitudes.

Furthermore, this academic program includes several educational stages through practical application. In design classes, practical sessions, and digital anthropology courses, each stage is closely monitored, beginning with the conceptualisation of ideas and then progressing to design development. Students are encouraged to collaborate and apply knowledge from the various fields and disciplines they have studied, leading to unique outcomes such as films, exhibitions, posters, calendars, scripts, and more. All these are the results of a creative response to explored social themes presented in a specially designed visual format.

INTEGRATING RESEARCH AND EDUCATION

Research: The connection between research and the academic program in the last two years is based on a project funded by the Croatian Science Foundation and the Slovenian Research and Innovation Agency, numbered IPS-2022-02-3741 and J6-4610, Isolated People and Communities in Slovenia and Croatia (ISOLATION). This bilateral anthropological research project includes ethnographic research phases in selected locations in Croatia and Slovenia. Each phase is designed to enable researchers from Slovenia and Croatia to jointly conduct field ethnographic research, collecting data and documenting all dimensions of the concept of isolation. Isolation thus becomes a key analytical concept used to understand a broader spectrum of societal issues, the challenges of smaller communities, and the daily lives of individuals. In addition to geographic aspects, the research focuses on sociocultural and psychological dimensions, examining how isolation affects identity, culture, social relations, and values.

Using anthropological theoretical and methodological approaches, we approach isolation in everyday life as both a universal and individual experience. In existing anthropological literature, isolation is portrayed as a complex, contextually conditioned concept that remains insufficiently theorised and requires further exploration, especially in light of today's many cultural and social challenges. With this goal in mind, we decided to examine and understand isolation through diverse examples in Croatia and Slovenia using detailed ethnographic descriptions. The intention is to comprehend isolation as a multidimensional phenomenon without temporal or spatial constraints.

The research illustrates that isolation is a central metaphor for a society in crisis—a phenomenon that increasingly becomes pervasive, regardless of differing life contexts. Whether a person lives alone in the most remote mountain area, faced with the disappearance of community and the emptiness left by population departure, or lives in a semi-urban environment between a bustling city and the pressures of daily life, the experience of isolation remains palpable. This phenomenon often carries complex emotional resonances—from sadness and nostalgia for past times to a longing for respite or withdrawal from the fast pace of contemporary life (Peternel & Podjed, 2024) [10].

Isolation is now an increasingly widespread aspect of everyday life, shaped by the actions and influences of politics, economics, mass culture, and social, technological, and climate changes. In other words, isolation emerges long before individuals experience it as an individual and collective phenomenon. Isolation reflects the confrontation with memories, material and spiritual heritage, contemporary challenges, intercultural and intergenerational differences, and global social inequality. Although there is an awareness of isolation, we are still only halfway to understanding its consequences as a long-term, omnipresent process.

Education in IT Design: In social sciences, humanities, and the arts, isolation is a subject of fascination because its understanding and interpretation require imagination. In this sense, researchers on this project connect their roles with students. Anthropologist-researchers, designer-lecturers, and IT students jointly experience, describe, and ultimately transform contemporary isolation into a visual design solution, representing it as a "forgotten repository" of different remote and abandoned spaces and hidden individual and collective experiences. Imagining today's forms of isolation, subjective experiences, and practices of invisible subjects surface most prominently from their perspectives. In this respect, isolation, as seen by IT Design students, speaks of aesthetic experiences and values, conveying thoughts and reflections on different cultural content.

For these reasons, isolation, as an artistic and research-analytical concept, contains numerous layers of meaning, becoming a dominant category in our artistic-scientific-educational reflection, worthy of multiple interpretations, interdisciplinary research, and artistic expression. This approach surpasses traditional research methods by adding an artistic dimension to express and interpret the social experiences of isolation. Documented research processes, including photos, video, and audio recordings, are presented in class as educational material, directing students' attention to seek positive solutions and responses in isolation. The research has demonstrated the ambivalent nature of isolation—sometimes a necessary shelter and unwanted loneliness, a space for introspection, a challenge for maintaining social connections, and ultimately, an inspiration for designing student projects.

COMMUNICATING KNOWLEDGE: EXHIBITION "CREATIVE STUDYING - ISOLATION"

Connecting diverse perspectives and artistic representations of isolation, we realise that isolation, as a social concept, possesses tremendous potential for in-depth research and educational possibilities. This concept goes beyond simple definitions of distance and spatial separation, delving into the complex social, psychological, and cultural phenomena that shape modern life. As we understand in this program and as represented by students in the *Creative Studying* exhibition, isolation does not merely symbolise the physical separation of individuals and communities. However, it reflects the growing

sense of social fragmentation, alienation, and loss of connection among people in contemporary society.



Figure 1. Announcement of the student exhibition on *Creative Studying*

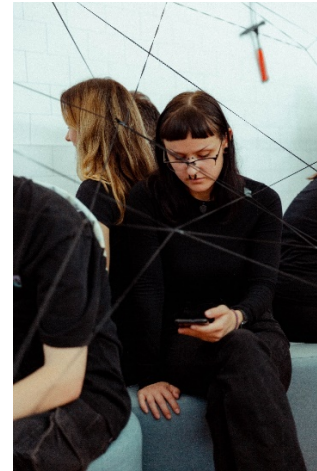


Figure 2. Network(ing) in real life

Development in Design: Students begin by selecting a theme, which they elaborate on in 250 words, before starting their poster design in practical classes. After selection and mentoring guidance, students refine their themes through several stages. The entire process lasts one semester, from concept development to final realisation. After a panel's evaluation, the best final works are selected for the exhibition. This year, the *Creative Studying - ISOLATION* exhibition was held at the Nikola Tesla Technical Museum in Zagreb in June. The exhibition thus becomes the final communication platform of the entire research and educational process, fostering dialogue and mutual integration of technical sciences, design, and anthropology, inspiring students to reflect on values of community, empathy, and interpersonal relationships. Each poster offers a unique perspective on isolation, relying on visual representations encouraging viewers to consider social values and the importance of community well-being. In this way, the exhibition transcends its usual function of showcasing quality design, becoming a means of reflection on contemporary social issues. It emphasises the importance of a humanistic approach in technical and engineering education. It creates a space for dialogue on topics that shape young professionals' daily lives and social identities.



Figure 3. Student authors of the exhibition together with the visitors discussing their work

Through this academic program, we have understood that isolation also affects students' daily lives in specific circumstances. While isolation is often associated with remote rural areas and abandoned spaces, students are taught that the feeling of isolation is present in urban settings as well, where the fast pace of life and high levels of digitalisation often create a sense of alienation and emotional distance, even among those who live physically close to each other. Through interdisciplinary methods and artistic representations, students are exposed to various dimensions of this phenomenon, including less obvious ones - how, for example, people in cities may feel as isolated as those in remote villages, facing challenges such as job insecurity, homelessness, intergenerational differences, misunderstandings, social inequalities, and the pressures of daily obligations.

Particular attention is given by students to the destructive and transformative potential of isolation - while some individuals experience isolation as a harmful and undesirable aspect of life, others see it as an opportunity for introspection, personal growth, and creative expression. This way, the program aims to contribute to a broader understanding of this concept and open the space for new interpretations beyond the dissemination of anthropological results, fostering public dialogue on how isolation shapes the modern world.

To interpret and present their concept of isolation in the modern world, students were encouraged to explore a variety of contemporary technologies. In particular, the Social Networks course, led by Dr. Lidija Tepeš Golubić at the Zagreb University of Applied Sciences, equips students with a foundational understanding of the informational dynamics and significance of social roles, as well as the powerful influence of social networks, fostering greater self-awareness and analytical skills. Within this project, social networks represented a dual role: on one hand, they contributed to the experience of isolation; on the other, they served as tools for investigating and visually interpreting isolation. In this way, a complete cycle emerged: modern media and the information networks available to students are partially responsible for feelings of isolation, yet those same networks provide a means to explore and address it, allowing students to critically engage with both the causes and solutions to social isolation in the digital age (Tepeš Golubić et al 2023) [15].

By inspiring social dialogue on how isolation shapes our lives and perceptions of community, the academic program also aims to foster a deeper understanding of interpersonal relationships, empathy, and compassion among students. With an emphasis on interdisciplinarity and knowledge exchange, this approach creates space for broader social reflection on how we can collectively respond to the challenges of contemporary society, which is increasingly confronted with issues of loneliness and fragmentation. Through the presentation and interpretation of artistic representations of isolation, we create a platform that encourages viewers to think about the role of design in the social community, prompting both students and the public to actively participate in shaping a more inclusive and compassionate society. The student activities and the final presentation thus upgraded similar previous pedagogical and research collaborations, for example in a project connected to sustainability (see e.g. Pivec & Hsu 2020) [11].

CONCLUSION

Initially, students explored perspectives on the social, economic, geographic, cultural, and psychological aspects of isolation, adding depth and layers to the communication of their

artistic solutions. During this process, students were introduced to different research methods, including interdisciplinary aspects such as anthropological methods, information technologies, designing and visually presenting their results. The main goal, investigating various aspects of daily life and interpersonal relationships in isolated communities, is approached from different angles as a part of this project. They analysed how modern technology and social changes affect the sense of belonging and social integration. Through creative tasks, they developed their interpretations of the challenges and opportunities faced by people in isolation, incorporating these into the communication process by expressing their views on the importance of social solidarity and support.

This ongoing project proves different kinds of isolation: social, cultural, spatial, digital, deliberate, virtual and other. It also shows how different methods and approaches help us understand and later deal with the serious question of isolation in contemporary society. The main goal is to understand the issue of isolation in order to influence, change and improve the future design of solutions.

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SECTION PSYCHOLOGY AND PSYCHIATRY

BETWEEN CREATIVITY AND MADNESS: SOME PSYCHOLOGICAL REFLECTIONS ON SISSI, LUDWIG II AND RUDOLF OF HABSBURG

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ABSTRACT

The aim of this study is to conduct a psychological analysis of three of the most controversial and interesting historical figures of the second half of the Nineteenth century, forerunners of their time, linked not only by their parental point of view, but by the same ideals aimed at the pursuit of dreams, tenderness and the impossible freedom they never managed to find in life: Empress Elisabeth of Austria, King Ludwig II of Bavaria and Crown Prince Rudolf of Habsburg. The work aims to relate these three personalities for their depth of soul and 'extravagance'. Misunderstood because of their revolutionary ideals, they were completely alienated from the society of their time. The study intends to conduct a psychological analysis of these three characters, who certainly went beyond the ordinary, oscillating in a condition somewhere between creativity and madness. The aim of this work is to show how in some cases the concept of madness can have a negative function, translating into self-aggressive energy in certain subjects, as in the case of Rudolf and in certain aspects of Elisabeth, who were unable to be fully creative, bringing their psychic discomfort into the pathological. In contrast, the concept of madness has a positive aspect in the case of Ludwig, resulting in a creative process translated into the realisation of his castles in Bavaria. Some portraits of the figures described will also be analysed from a pictorial and psychological point of view.

Keywords: Creativity, Madness, Psychology, Dream, Illusion

INTRODUCTION

The purpose of this work is to offer the reader a rather singular study and psychological and scrupulous reading of three 19th century personalities: Elisabeth of Bavaria, Ludwig II and Rudolf of Habsburg. In the course of this multidisciplinary analysis, which is based mainly in the fields of psychology, literature, art and history, the biographies of the respective characters will be examined, and some of the most significant events that influenced and probably determined the evolution and development of the destiny of each figure will be investigated and analysed.

Basically, the work is based on the fact that only by studying and analysing the entire life of a character, thus knowing his biography, the environment and the social and cultural context in which he lived, can one fully grasp the intrinsic psychological, historical and artistic meaning evinced by him [14]. All of this, without a doubt, requires interdisciplinary research and study to clarify, in terms of conceptual message, the contents that are often not comprehensible at a first reading of the characters examined,

but which require a more careful and in-depth analysis of their psyche, going to evince those aspects that led the subject to perform creative actions and those that, on the contrary, resulted in self-destruction and therefore in madness seen in some cases as psychopathology [4].

At the end of the psychological-biographical analysis of each character, a painting portraying each of them will be considered, thus offering an iconographic and psychological reading.

OBJECTIVES

The aim of this investigation is to analyse the relationship between creativity and psychopathology, i.e. the correlation between the creative process and madness, in an attempt to understand its dynamics. In this work, three historical figures (Elisabeth, Ludwig, and Rudolf) will be examined, observing how creativity may sometimes predominate in each of them, and madness, on the contrary, may sometimes predominate. The detailed objectives of the work are:

1. Analysing the relationship between creativity and madness of the personalities examined;
2. Recognising and analysing the psychopathological aspect of historical figures;
3. Knowing and examining, where present, the creative element of historical characters;
4. Identify and give an iconographic and psychological interpretation of the characters portrayed in paintings.

METHODOLOGY

This study was conducted and pursued through the careful and peculiar study of encyclopaedias and books concerning history and at the same time through the analysis of texts concerning the lives of Elisabeth, Ludwig II and Rudolf, while also analysing texts on general psychology and behavioural analysis.

The line of study we follow in the psychological, artistic, historical and literary fields is that of the Psychology of Art and Literature founded more than forty years ago by Professor Antonio Fusco, as the first chair in Italy. The subject deals with the study of the psychological motivations that led to the creation, that is, the interpretation of a work and the implicit and explicit symbolic elements present within the author's works [5]. The methodology aprioristically excludes a dogmatic-interpretative reading of the text in order to contribute to a clearer and simpler interpretation of the literary message [15].

The psychoanalyst Silvano Arieti distinguishes between ordinary creativity, capable of improving the life of the author by making it more satisfying and fuller, and extraordinary creativity, that which is capable of inventing new paradigms and improving everyone's life, thereby contributing to progress. In his book *Creatività, la sintesi magica* of 1976, the author believes that the subject capable of producing extraordinary creativity 'preserves a greater than average possibility of access to images, metaphor, accentuated verbalisation and other forms connected to the primary process, which is unconscious or

preconscious'. Both the dreamer, the schizophrenic and the creative subject share facilitated access to the primary sphere, but while the schizophrenic remains trapped in it and the dreamer loses his nocturnal suggestions when confronted with the logic of the day, the creative subject chooses, adopts, and adapts primary materials, triggering the logical and integrated thinking that is part of the secondary process. The magic of the creative synthesis, to which the author refers, i.e. the tertiary process, requires a higher than normal dose of receptive passivity, but at the same time it also calls for a higher dose of intentional and conscious activity in order to handle those materials appropriately. Arieti says, therefore, that it is a magic 'of which the creative person remains the repository..., a secret that he cannot reveal either to himself or to others. What is no longer secret is the way in which the creative process unfolds, reaches its conclusion and what conclusions facilitate its emergence' [1].

CHARACTER ANALYSIS

We will now look at the major caesuras in Elisabeth's life and in particular the development of her personality, i.e. the engagement in Bad Ischl, the alleged love marriage to Franz Joseph, the role as Empress of Austria, her rebellion against court life and her increasingly frantic flight from herself, culminating finally in the cult of beauty, obsession with figure and poetic ecstasy until her tragic end at the hands of the anarchist Luigi Lucheni, who put an end to Elisabeth's unhappy life forever. All this undoubtedly contributed decisively to the birth of the myth, which paradoxically she herself had already nurtured for life with her completely unconventional lifestyle. Elisabeth of Bavaria was born in Munich on 24th December 1837 to Duke Maximilian of Bavaria and Ludovica, the daughter of the King of Bavaria. Elisabeth resembled her father in many ways: she loved nature, loved travelling, and had a great passion for horse riding. Sissi basically lived a carefree and free childhood in Munich and at Possenhofen Castle on the shores of Lake Starnberg, far from the ceremonial, the constraints of court and etiquette. Elisabeth became engaged to the young Emperor Franz Joseph in the summer of 1853 in Bad Ischl, taking the place of her older sister Helena. In the meantime, the future Empress grew uneasy and fearful of the Viennese court, as she realised that with the engagement, she had given up her freedom. Contrary to popular belief, Franz Joseph's mother, Archduchess Sophie, did not oppose her son's choice at all, but rather welcomed the frightened Elisabeth and was delighted to see her son happy. We are of the opinion that it was certainly not a dream wedding as Elisabeth became increasingly taciturn in the days leading up to the wedding and was forced to prepare for her farewell to her Bavarian homeland. As soon as she arrived in Vienna, the Viennese, who had come to welcome the future Empress of Austria, were astonished, for instead of a beautiful and radiant betrothed of the emperor, they found an exhausted and dismayed young girl in tears. Elisabeth and Franz Joseph were married on 24 April 1854 in the Hofburg parish church. Elisabeth was overwhelmed by the solemnity of the ceremony, the stares of strangers and the high expectations placed in her. Emperor Franz Joseph, grappling with the war in the Crimea and intent on the affairs of state, was immediately distant from Elisabeth, who was homesick. She wrote shortly after the wedding: 'I woke up in a prison, my wrist is clenched by chains! And my homesickness grows stronger and stronger. You, freedom, have turned your back on me!' Elisabeth felt her duties as empress as an unpleasant task from the outset, despite the fact that at first, she still endeavoured to live up to the expectations placed in her. The duties of representation and the ceremonial of the

Viennese court were disdained by her. Gradually her health became more and more poor, and this 'excuse' led her to travel and distance herself from the Viennese court, trying to stay as far away from it as possible [16]. Her lyrics show how sharp Elisabeth was with her tongue; in her poems, she expressed all her contempt for the Viennese court circles. After Elisabeth's two-year absence, a transformation took place in her upon her return. Instead of the pretty, shy and melancholic girl, we find a comely, proud and self-confident woman. As time went on, the empress took an increasingly rare part in the public appearances of the imperial household, spent large sums of money on riding and travel and all this disinterest irritated public opinion even more. Elisabeth was never very interested in taking an active part in politics and only once interfered in the affairs of state of Franz Joseph, or rather to plead the cause of Hungary, as she felt great sympathy for the Hungarian people whom she saw as energetic and proud, so much so that among her various studies, she studied Hungarian. Much of the credit for the compromise signed by Franz Joseph with Hungary went to Elisabeth, who recognised Hungary's historical rights and thus founded the Austro-Hungarian monarchy. The solemn coronation of the couple as Hungarian royalty took place in 1867 in St. Matthew's Church in Budapest [2]. Between 1855 and 1856 Elisabeth had their first two daughters Sophie and Gisela. Unfortunately, Elisabeth was unable to educate her daughters independently as her mother-in-law constantly interfered. Elisabeth wanted her children to be able to live in her flats and not relegated to a room away from her and under the influence of her mother-in-law. Franz Joseph then asked his mother to give Elisabeth more say in the upbringing of the children and Archduchess Sophie thus gave in and the girls moved in. Shortly afterwards Elisabeth went on a trip to Hungary with her daughters, but unfortunately, they both fell ill with dysentery and high fever, but while Gisella recovered, Sofia died when she was only two years old. Elisabeth felt desperate, with strong feelings of guilt and prostrated by grief, she abandoned the initial battle with her mother-in-law over the upbringing of her children and ended up completely estranged from them. Gisella and Rodolfo were therefore particularly taken care of by Sofia. The only exception was her daughter Maria Valeria, whom she saw as very similar and close to her and was the only one with whom she took on an effectively maternal role, trying to make up with her for all the mistakes she had made with her older children. In fact Elisabeth will always have a detached relationship with Gisella and Rodolfo, who grew up together as children, were inseparable and will be bound to each other all their lives. We believe that Elisabeth's reaction to the claustrophobic feeling that court life gave her was escape, such as escaping into the cult of beauty, poetry, and sports, such as fencing, swimming and horse riding, becoming one of the most talented European horsewomen. In fact, John Welcome described Elisabeth's state of mind when she was engaged in an activity that gave her joy, as serene, happy, generous, and good-natured; when she was forced to stay at the Viennese court, she was quite the opposite, i.e. introverted, selfish and capricious. In addition, she devoted a large part of her days to beauty care and spent her hairdo hours mainly studying languages such as Hungarian, ancient, and modern Greek. As she grew older, the scales and the 'scales diary' became more and more important in Elisabeth's life, since she had stopped riding in the 1880s, she compensated for her need for movement with forced marches that lasted several hours in bad weather, heat or cold, putting even the ladies of the court to the test. Moreover, the empress experimented with the most varied diets to keep her weight down. However, we believe that two factors may have contributed to the rumour that the empress was indeed obsessed with her figure: firstly, she never attempted to emulate the beauty of the time as a beautiful woman at the time was much fatter and

curvier and she was considered too thin. On the other hand, apart from the fact that her brothers were also tall and thin, she had peculiar eating habits. Elisabeth was very obsessed with growing old and wrote about old age: 'If time should ever touch me, I will wear a veil and people will speak of me as the woman I once was'. In fact, in order to be able to go down in history as a young and attractive woman, Elisabeth no longer allowed herself to be photographed after turning 30. The last portraits she posed for date back to 1879 at the age of 42 [7]. From then on, fans, parasols and veils became inseparable companions of the empress in order to conceal her gaze from strangers, but we believe that she increasingly did so as a symbolic barrier to be placed between herself and the surrounding world with which she was not in tune. In fact, all this reveals that a large part of the empress's self-esteem derived from her beauty, and seeing it fade, she felt increasingly worthless, thus falling into depression. All the more so after the death of her only son Rudolf in 1889, Elisabeth became increasingly bitter and withdrawn into herself, shying away from contact with others and becoming strongly superstitious. Elisabeth tormented herself by thinking about her possible faults as a mother, what she could have done and did not do. She always wore black and even her jewellery was black. Only her face had a pale, marble-white and extremely sad complexion. Thus began a new, even more restless phase for her, she was strongly attracted to spiritualism and organised séances to communicate with the souls of the dead. Among her fears was that she would go mad, as had already happened with some members of her family. Above all, she was now constantly travelling around Europe, by train, ship, and carriage. From then on she learnt to impose her will at court, leading an existence in accordance exclusively with her wishes, refusing more and more to assume the role of empress [16]. In order to distract herself, Elisabeth undertook long journeys to discover distant cultures and countries and chose Gödöllő near Budapest, the Hermesvilla in Vienna and finally the Achilleion on the Greek island of Corfu as refuges. Her last public appearance in fact dates back to 1896, on the occasion of the millennial celebrations in Budapest. As far as her travels were concerned, it must be said that Elisabeth did not wander the world without a destination, but on the contrary meticulously planned her travels and itineraries a year in advance, revealing them only to the most confidant and only altering them in the event of bad weather. In spite of this, the empress was constantly on the move, the idea of staying in one place for a long time overwhelmed her and she especially adored sea voyages, as she felt attracted by the infinity of the ocean and in her poems, she dreamed of flying as free as a seagull, being fascinated by the forces of nature on the high seas and the elements [2]. Nevertheless, the empress's melancholy grew stronger and stronger and seemed at times to hold her fully in check. From 1897 Elisabeth was increasingly imprisoned by her thoughts of death and her family was also increasingly distressed by her melancholy. On 10 September 1898, the Empress was murdered while travelling to Geneva and in the company of her lady Irma Sztáray, by a twist of fate by the anarchist Luigi Lucheni. The assassin who had planned, on reading the newspaper, to assassinate the prince of Orléans, who was to be present in Geneva, changed his itinerary at the last moment and as chance would have it, Lucheni found in the same city a much more illustrious victim, namely the Empress of Austria. With her tragic death paradoxically began her immortality. All criticism now fell into oblivion and what remained was the memory of a beautiful and unapproachable empress. In a final analysis, we believe that the Empress managed to channel her inner strength in a rather positive and even in some respects creative manner, conveying her more courtly concerns and reflections in lyrics and poems, leading up to

the realisation of the Achilleion, although particularly in her later years she was prone to depression.



Fig. 1 Franz Xaver Winterhalter, *Empress Elisabeth of Austria*, Hofburg, 1865.

In the celebratory portrait, the full, slender figure of the empress is depicted by the painter Franz Xaver Winterhalter. He was instrumental in spreading the image and beauty of the woman. Dressed in a richly ornamented white ball gown, Elisabeth is depicted slightly from behind, thus imparting a slight movement to the figure. Along her bare shoulders falls her long braided hair, adorned with diamond star clasps. Winterhalter promoted a sweetened image of the empress: the sweet and affectionate expression on her face clashes with the realistic suffering and revulsion towards court life that characterised her.

In the introduction to his study on Ludwig II of Bavaria, Jaques Bainville states that 'it would be difficult to calculate what literature owes to the legend of this unfortunate king. For Ludwig II of Bavaria, beauty was the only form of love. Ludwig, a shy man who blushed easily, nevertheless had boldness worthy of Caesar and in old Europe in the last years of the 19th century, he was the last great artist to wear a crown. From then on, the king took on a poetic face, a representative value, he was exceptional as a character in tragedy, one might even involuntarily and unconsciously be confused when reading instead of Ludwig's name, that of Hamlet, a character clearly invented and composed by Shakespeare some 250 years before Ludwig's birth [6]. Ludwig II of Bavaria was born in Munich in the Nymphenburg castle on 25 August 1845 to Maria of Prussia and Maximilian II of Bavaria. Even as a child, although he was very spoilt, he was strictly controlled by his educators and subjected to a strict regime of military exercises and study. Ludwig was an alert, intelligent prince, a lover of culture, art and, above all, a history buff. He was attracted to the great monarchs of the past and, in particular, French monarchs such as King Louis XIV. Even as a boy, he showed that he could not tolerate

the restrictions of the education and court programme imposed on him by his father and did not miss an opportunity to react in a despotic manner to the reprimands of his tutors. On the contrary, with his peers, he was open and friendly, but could not bear to have his rank ignored, even in jest. His relations with his parents were always very aloof and strictly tied to protocol, his father in particular never tried to establish emotional relationships with his children, especially with his eldest son as he was considered 'the heir' rather than a son. Of his father Ludwig could not stand his father's poor sense of royalty and of his mother he could not tolerate his ignorance, so much so that when he became king, he referred to her simply as 'the widow of my predecessor'. During his youth, Ludwig sought a loving relationship outside his close family and established an intense friendship with his cousin Elisabeth of Bavaria based on their common love and interest in nature and art. At the age of 18, following the death of his father, Ludwig ascended the throne of Bavaria, joyfully acclaimed by the people, who were fascinated by his appearance and thoughtful air. For much of his reign, Ludwig promoted the arts and the development of the Bavarian economy. In 1867 his betrothal contract was signed with Princess Sophie of Bavaria, his cousin and younger sister of Empress Elisabeth. The marriage between the two cousins was repeatedly postponed by Ludwig himself and finally annulled. The king never married. Ludwig was in fact always tormented by homosexual inclinations, which especially in that century could only cause him problems. Very early on, Ludwig realised that he felt no attraction to the female sex, while marriage and succession to the throne presented themselves as the first problem he had to face once he became king, as it was absolutely necessary to have a male heir. The friendship between Ludwig and Elisabeth represented for the young monarch the deepest and most important relationship he had with a woman. The two were second cousins and the Empress was eight years older, but above all she was married to the Austro-Hungarian Emperor Franz Joseph, which prevented any possible sentimental and sexual involvement between the two. Ludwig admired his cousin, whom he considered an ideal of femininity, beauty, refinement and sensitivity. Moreover, they shared certain passions: they both abhorred court life and confusion, adored the quietness of nature and poetry, but above all, each showed understanding and tolerance for the other's idiosyncrasies. For the two always centre-stage characters, it was crucial to have someone who accepted them as they were without condemning actions and feelings that were wrong for the time. Of the long platonic relationship between Ludwig II and Wagner, there remains an extensive correspondence that goes from 1864 (Ludwig's accession to the throne) to 1883 (Wagner's death). The letters reveal the monarch's deep affection and concern for the man he considered his ideal friend and mentor. In his replies, Wagner renews his devotion and gratitude to his august benefactor. On 8 June 1886, the physicians Bernhard von Gudden, Friedrich Wilhelm Hagen, Hubert von Grashey and Max Hubrich, luminaries of the time, drew up a psychiatric report on the king's mental condition. In it, without even visiting him and by common consent, they declared that the sovereign was suffering from incurable paranoia. The next day, the sovereign was interdicted, suspended from his position as ruler of the kingdom and transferred to Berg's palace. From this moment on, the mystery begins. Ludwig, in the last years of his life, often appeared depressed and had repeatedly feared suicide. In his last days of life, he had been exonerated and imprisoned in Berg Castle on Lake Starnberg, always escorted, and guarded by doctors and nurses. On the evening of 13th June 1886, at 6.00 p.m., the king went out for a walk along the lake together with his doctor, Dr von Gudden, who explicitly asked not to be accompanied by other personnel. They were supposed to return at 8 p.m. for dinner, but by then they

had not returned. After about an hour, they sent all available men into the castle, equipped with lanterns, to scan the surroundings and the shores of the lake. Around 10 p.m. one of the courtiers saw the king's cloak and another garment floating on the dark water. About half an hour later Ludwig's corpse was discovered, but not only that, a few steps from the shore of the lake, the lifeless body of Dr von Gudden also re-emerged from the waters of Lake Starnberg. The Bavarian writer K. Mann has speculated that Ludwig's last days were spent by the monarch in a state of feverish anguish and that his dealings with the 'jailers' so exasperated him that he was easy prey to possible false promises of escape [9]. Ludwig is also known as the 'Swan King' or the 'Fairy Tale King' or even as the 'Mad King', although the latter classification has been disputed as, although he was arrested on the grounds of mental illness, he was never subjected to an actual psychiatric medical examination; the interpretations of the diagnosis, therefore, remain unclear to this day [8]. Ludwig was an eccentric monarch with an incredible penchant for protecting the arts, as evidenced by the numerous commissions for the construction of his fairytale castles. The castles he conceived (Neuschwanstein Castle, Linderhof Castle and Herrenchiemsee Castle) allowed the monarch to spend a good part of his existence immersed in a fantasy world, ethereal, where he could be himself, where he could fully comprehend his personality immersed between dream and reality. [10]. Despite his ties to depression and self-destructive thinking, Ludwig was able to channel this inner energy of his into the realisation of the castles, works born from his creative and brilliant mind, representing the peak of his creativity. In any case, the hypothesis that Ludwig suffered from paranoia, i.e. a psychosis characterised by chronic delirium that evolves while leaving the remaining functions intact and that this was the motivation that led him to distance himself from others and common sense in order to seek refuge in an ideal world, is supported by various scholars, including the Armenian-French psychiatrist Arthur Tatossian [12]. Based on this hypothesis, the scholar assumed that the king arrived at an inability to experience everyday life and to be able to understand whom he could trust. Continuing on his path of estrangement from the real world, Ludwig would have taken refuge in an aesthetic world that was an end in itself, bordering on autism, accusing others, primarily the government, of narrowness and an inability to understand the greatness of his thought and architectural works. In life Ludwig had positive interpersonal relationships with a few people, such as Richard Wagner, his cousin Elisabeth, and a few friends, while with others he had relationships based on his role as monarch. We could say that in his interpersonal relations Ludwig used three modes: veneration and idealisation for certain people, considered superior minds; formal and despotic relations with anyone he considered guilty of not understanding the height of his ideals; and affability with anyone who followed his orders and adhered to his vision of reality. Ludwig was unable to live in the real world and consequently to rule as a paranoid. On the other hand, as monarch he was able to realise his fantasies through the realisation of his castles. We could say that he lives eternally in his realisations, out of the world and out of time, eternalised by the stones of his constructions just as Achilles was eternalised by the verses of the Iliad [13].



Fig. 2 Ferdinand von Piloty, *Ludwig II of Bavaria*, Munich, 1865.

The full-length portrait of Ludwig II celebrates the youthful image of the ruler in his early twenties. He is depicted at the moment of his coronation wearing the blue uniform of the Bavarian general, the medals on his chest, the sword on his hip and the ermine fur coronation cloak on his shoulders. The proud and melancholic gaze of the sovereign is turned towards the background, while behind the emperor are the symbols of imperial power: the royal throne and crown.

Let us now look at the figure of Rudolf of Habsburg-Lorraine. He was the third and only male child of the Empress of Austria and Queen of Hungary Elisabeth and the Emperor of Austria and King of Hungary Franz Joseph, born on 21 August 1858 in Vienna at Laxenburg Castle. He was the crown prince, i.e. the one who was to succeed his father's title of emperor. Rudolf's life was very complicated and stormy. From an early age he underwent a very strict and counterproductive military education. Franz Joseph had appointed Count Gondrecourt, an old army officer, as Rudolf's first head tutor. The 19th century methods of training were hardly a suitable and appropriate way to approach the intellectual and emotional needs of a very sensitive child. The count tried to awaken Rudolf's courage by means of detrimental methods, such as locking him behind the high walls of the imperial hunting ground, subsequently frightening the child by warning him to watch out for the boars. In addition, according to the count, he fired a few pistol shots in the crown prince's bedroom at night, believing he was getting him used to the sounds of battle and hunting. On top of that, Rudolf was forced to endure other hard trials, such as staying alone at night in the rain in the Linz woods or taking cold showers and hard training in the deep snow early in the morning. All this in order to strengthen and train a valiant soldier. We are of the opinion that if Emperor Franz Joseph had understood beforehand the devastating consequences of the harsh treatment his son was subjected to,

he would not have allowed it any further, but as he understood Rudolf little from a psychological point of view, he was firmly convinced that he had chosen the right educator [11]. The result of all this was a complex personality with poor health. Indeed, Rudolf's tendency to illness, anxiety and seriousness inevitably worsened. Empress Elisabeth soon realised how unhappy her son was but could do nothing as the influence of her mother-in-law Sophie was very strong. In the end, Elisabeth succeeded in getting the count dismissed about a year later by means of an ultimatum to her husband, who then agreed. Thus, the young man's education was entrusted to Joseph Latour, a teacher who was more conscientious and psychologically close to Rudolf and who managed to cultivate a healthy interest in studies and above all a liberal spirit. Rudolf would forever be grateful to his mother for this important and significant gesture. In fact, as time went by, he grew closer and closer to his mother's liberal ideas, also inheriting a strong contempt for the Viennese court and positioning himself at the antipodes of his father's conservative views. Despite this, the child continued to suffer from nocturnal enuresis and recurring nightmares, clear signs that much damage had already been done. Although historical documents show that his mother Elisabeth was well aware of her son's predicament, there is no indication that she tried to spend more time with him for this reason. In fact, the Empress was often absent for long periods. Scholar John Bowlby conducted a series of studies on the impact of a child's separation from the mother figure and observed that when this happens, the child exhibits separation anxiety and protest behaviour. Indeed, it has been shown that the loss of the mother between the ages of six months and four years has a high potential for harmful consequences, unequivocally affecting future personality development. It is possible, therefore, that anxious children or children with an insecure attachment react even more severely than others to separation. During his childhood, Rudolf would often change reference figures, such as his grandmother Sofia, his mother Elisabeth, his sister Gisella, the nanny, etc., all of whom were very close to him. Despite the fact that each of them loved him in their own way, none of them was essentially a constant dominating force emotionally devoted to Rudolf. The replacement of the mother figure often becomes synonymous with loss in a double sense. Scholar Harry Hardin, who has studied the after-effects of mother figure replacement, argues that 'no child can emerge unscathed from such trauma, which so often occurs during the vulnerable separation-identification phase of his or her development'. Another study by Eugene Paykel notes that depression is an automatic consequence of painful events in one's existence. There is evidence that both genetic and, above all, experiential environmental factors play a substantial role in the development of an individual's personality [11]. Elisabeth's absences, together with her inadequate and inconsistent maternal care, played a fundamental role in predisposing Rudolf to depression that was already genetically vulnerable. Fundamentally, the separation process itself may be deleterious, but the type of care provided to the child during separation may explain significant differences. His sister Gisella, although as an adult she generally did not display an expansive and extrovert personality, apart from her little brother Rudolf, to whom she was very close, seems to have suffered less damage than her brother. This may be due both to Rudolf's stronger physical constitution and the fact that she was relatively protected by her conventional marriage. In any case, for Rudolf the feeling of being important to his parents diminished even more with the arrival of the fourth and last daughter of the imperial couple: Valeria. It is evident that the changes that occur in a family with the arrival of a new member increase the stresses considerably and mainly on the older child, even under reasonably normal circumstances, because the interaction is

altered and tends to favour the younger child: for Rudolf this turned into a major trauma. As the years went by, eminent tutors, mostly university scholars, prepared an extremely heavy curriculum, the scope of which for those times was unlike any other. The Emperor's perfectionistic and obsessive characteristics were combined with the Empress's desire for a broad, liberal and modern education for their only son, the Crown Prince. It almost seems as if both parents wanted to fulfil a need of their own through their son's education. During his maturity, Rudolf's life was characterised by an acute dichotomy between his official role and his personal interests, the consequence of which was a constant inner struggle. As the emperor's official representative, Rudolf juggled very well. The crown prince studied and made many trips to Europe, Great Britain and the Holy Land; he was honoured with visits to garrisons, hospitals, churches, municipalities and various associations. Rudolf opened exhibitions and inaugurated new buildings; he was an excellent orator, writing speeches himself or improvising them on the spot. He possessed few books on military history, but many on travel, zoology, especially ornithology, and many books on science, medicine, and technology. The prince's library also included texts on socialism, synonymous with Rudolf's focus on the physical and social welfare of workers. In 1881, Rudolf married Stephanie of Belgium, a marriage arranged by Emperor Franz Joseph in the hope that it would be a solution to the crown prince's restless character. Mentally, Stefania was not a suitable companion for Rudolf, as her superficiality, an aspect not unlike many other archduchesses of the time, was in open contrast to Rudolf's curious and creative mind. However, despite the bad auspices of the beginning, the first four years of marriage were relatively happy and constructive. For the first time, Rudolf believed he had found an accommodation and that there would be someone who would listen and understand him. He hoped that she would reciprocate his burgeoning love and that they would be able to make plans together, but none of this happened. Out of their marriage came a daughter named Elisabeth, affectionately known as 'Erzsi', the Hungarian diminutive of Elisabeth, to whom the crown prince was deeply attached. Perhaps to make up for the lack of affection, perhaps due to an initial sharing of intentions, Rudolf was able to bond with Stefania, spending a period that was if not happy, at least more serene. Stefania, at least initially, corresponded with love, eager to actively participate in the construction of a happy relationship also cemented by the birth of Elisabeth, but unfortunately it did not turn out that way. In 1886 the crown prince contracted the venereal disease gonorrhoea, which affected his physical and mental state and also his marriage, as by becoming sterile he could not secure an heir in the Austro-Hungarian empire [18]. So it was that Rudolf was forced to take very powerful drugs to combat the severe pains, such as morphine, which over time became a real addiction. Rudolf and Stefania began to go their separate and parallel ways. The Crown Prince's lifestyle had become increasingly self-destructive, he drank a considerable amount of wine, cognac and champagne, went to bed after midnight and got up at four in the morning to go hunting or to write. As time went by, his only consolations were alcohol, morphine, hours spent in solitude, and Mizzi Kaspar, an actress and prostitute who for years collected Rudolf's personal confidences, alleviated his moments of despondency and became one of his greatest confidants [18]. The inability to creatively and positively utilise his potential and talents became ever stronger to the extent that the obsessive thought of death as self-destructive became omnipresent in his every thought. Physical illness went hand in hand with mental illness. The crown prince wandered for months in search of someone willing to share the experience of suicide with him. He also asked his friend Mizzi and other confidants, but they all tried to dissuade him from his tragic

intention. It is difficult in our opinion to determine whether Rudolf suffered from a genuine personality disorder. His way of thinking and acting was not only conditioned by his depression, physical ailments, and addictions, but also by his particular social status. We believe that perhaps the prince may have had a mixed personality disorder with narcissistic, grumpy, and histrionic traits. In fact, his sense of importance alternated with times when he was vulnerable and fragile to criticism, all of which often led him to belittle his own achievements. It is highly probable that Rudolf's temperament characteristics and the devolution of his character had a substantial impact on his lifestyle and interpersonal relationships, but there were too many influences from his imperial position and his diagnosable illnesses to undoubtedly ghettoise his case as a personality disorder. The fact that during his existence Rudolf tried to bind himself to several women was linked to the simple fact that he fully desired to be able to find one who could understand him, who could understand him in his most complex moments, who could love him, who could encourage and support him in his main interests and passions. The most significant and fatal encounter was Rudolf's last encounter with the baroness Maria Vetsera. Maria's uncritical admiration of Rudolf, her unconditional emotional support and her awareness of the prince's hypersensitivity gave significant comfort to his mood. In fact, the baroness was the first person willing to accept Rudolf's idea of a double suicide. Maria was so blinded by her own adulation, to the point of considering death with him, as the only solution to a desperate situation that prevented her from becoming Rudolf's consort. Vetsera's excited and exuberant temperament helped Rudolf to reinforce his decision to commit suicide. This took place at the hunting lodge in Mayerling, not far from Vienna on 29th January 1889 [17]. Rudolf's main intention was to find a person who would accompany him in the embrace of death. Maria's presence in Mayerling essentially finally gave Rudolf, who had never been brave or a man of easy decisions, the opportunity to shoot himself. The two lovers left their loved ones a farewell letter before performing the final act together. The chosen method of self-sacrifice is usually metaphorically linked to the homicidal fantasy underlying the suicidal impulse. According to Sigmund Freud, suicide represents the ultimate revenge, directed against the disappointing object. He also argued that in pathological depression the individual identifies with an object that is both loved and hated and that the identification itself constitutes an act of love [3]. However, when as a consequence of a loss, rejection or disappointment it turns into hatred, then the suicidal tendency becomes overwhelming. If, moreover, the individual feels guilt towards the object, it becomes all the more a necessary condition, because with a single act he not only destroys the object, but in fact the guilt arising from the hatred is also expiated. Nevertheless, studies have identified other important factors that can lead to suicide, such as feelings of guilt, anxiety and anger, feelings of despair and abandonment. The fact that he lost the battle for political responsibility and recognition from his father the Emperor also made Rudolf, at the age of 30, a desperate, broken and resigned man.



Fig. 3 Eugen Felix, *Rudolf of Habsburg-Lorraine*, before 1889.

The portrait of Rudolf depicts the prince in military dress decorated with medals and the sword at his side, emblems of his political role as future emperor. The work goes beyond physiognomic representation, investigating the personality and psychology of the man. Depicted inside his study, one can see a stuffed eagle on his desk and numerous papers crowding the work surface, symbols of his passion for ornithology and study.

CONCLUSIONS

Based on the considerations and studies we have carried out and starting from our line of investigation of the Psychology of Art and Literature, we believe we can affirm how sometimes the gap between creativity and madness is very subtle and related not only to the vicissitudes and negative or positive experiences experienced by the characters, but also and above all to their psyche.

In fact, in all three of the characters we analysed, the creative element is clear. Elisabeth's poems, Ludwig's Bavarian Castles, and Rudolf's texts and projects represent concrete demonstrations of creativity, but in the latter's case, due to emotional shortcomings, misunderstandings, and other more or less relevant aspects, it over time led to self-destruction, i.e. to pure madness, which we might say verges on the psychopathological. All this led Rudolf to commit suicide, which at present would seem to be confirmed by the various testimonies that have come down to us.

Probably the above aspects are also a plausible explanation of how the three characters were seen, studied, portrayed and completely decontextualised from their time, forerunners and therefore too far ahead to be fully understood. On the other hand, this is the price that one has to pay many times, especially the category of artists who only after some time, perhaps even postmortem, are re-evaluated and receive the proper attention and consideration that they did not have in life.

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DIRECTIONS FOR OVERCOMING GENDER INEQUALITY IN THE LABOR MARKET (EVIDANCE FROM GEORGIA)

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ABSTRACT

The paper discusses the global trends of gender inequality in the labor market and gender discrimination in the Georgian labor market; the importance of approaches to eliminate gender inequality and promote inclusiveness. The world's best practices for promoting gender equality in the labor market are discussed.

The research aimed to reveal the directions for overcoming the main challenges that hinder gender equality in the labor market. Mixed research methods were used: combination of quantitative and qualitative data to provide an analysis. Research methodology included desk research (review and comparative analysis of existing studies, analysis of secondary data and official statistical data, discussion of empirical evidence). Qualitative methods of research such as interviews with focus groups and surveys were used to adress the research question.

In Georgia and in the whole world indicators of gender inequality in employment is striking. The participation rate of women in the labor force is lower than that of men. Gender inequality reflects the broader socio-economic and cultural barriers women face in employment. Gender inequality is driven by traditional gender roles—women often take on greater responsibility for domestic work and family care than men.

Employment sectors remain gender segregated, with women predominantly occupying low-paid and less secure jobs. In addition, inadequate childcare support and workplace discrimination remain significant barriers to achieving gender equality in the labor market.

Keywords: gender equality, gender discrimination, labor market, Georgia, sustainable development.

INTRODUCTION

Gender equality means equal rights, responsibilities and opportunities of both women and men as well as girls and boys. Gender equality means that human beings' rights, responsibilities and opportunities are not dependent on whether they are born male or female. According the United Nations [11], gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognizing the diversity of different groups of women and men. Article 11 of the Constitution of Georgia (including amendments approved by the Parliament in 2017) and the Law of Georgia on Gender Equality (approved by the Parliament in 2010) establish equal rights and opportunities for women and indicate the need for achievement of equality between women and men and eliminate inequality in Georgia. Achieving gender equality and empowering women and girls is a principal component of the United Nations 2030 Agenda for Sustainable Development. Gender equality is a precondition for, and indicator of, sustainable people-centred development.

The paper discusses the importance of gender equality in the labor market, global trends in gender inequality in the labor market, Georgian labor market and gender equality problems, gender discrimination in the labor market (gender bias, wage gap, segregation); the importance of approaches to eliminate gender inequality and promote inclusiveness in the labor market. In addition, the world's best practices for promoting gender equality in the labor market are discussed.

The work examines one of the most important and acute global problems of modern times - gender inequality in the labor market. In Georgia as well as in the whole world gender inequality in employment indicators is striking. The participation rate of women in the labor force is lower than that of men. This reality of gender inequality reflects the broader socio-economic and cultural barriers women face in employment. Gender inequality is driven by traditional gender roles-women often take on greater responsibility for domestic work and family care than men.

The issue of gender equality in the labour market is very relevant for several reasons: 1. Achieving gender equality will contribute to higher economic growth; 2. Ensuring equal opportunities for all genders is critical to social justice. Gender equality is a fundamental human right and a cornerstone of an inclusive society; 3. Diverse teams, including gender-diverse teams, improve business performance, innovation and decision-making.

Achieving gender equality in the labor market is hampered by several persistent challenges: (1) Wage gap - Despite women's increasing educational attainment and labor force participation, their earnings continue to lag behind men in the same fields and occupations. This wage gap is evident across industries and educational levels: women earn 20% less than men worldwide; (2) Occupational segregation - Some occupations are highly gender segregated, further exacerbating gender inequality in the labour market. Women remain disproportionately concentrated in low-wage and low-cost sectors such as health care, education, retail, and administrative support. This segregation limits women's access to high-paying and male-dominated fields such as STEM (Science, Technology, Engineering and Mathematics), limiting their earning potential and career advancement prospects; (3) Glass ceiling - Women face significant barriers to career advancement, resulting in underrepresentation in senior management and executive positions. This phenomenon, known as the glass ceiling, limits women's career growth and potential. Moreover, the prevalence of glass ceilings and gender biases in recruitment, promotion and leadership processes perpetuate inequality at the highest levels of organizations; (4) Work-life balance - Women are disproportionately burdened with unpaid domestic and caregiving responsibilities, affecting their ability to participate fully in the workforce. This imbalance affects their career choices, access to work and long-term professional development; (5) Discrimination and harassment - Gender discrimination and sexual harassment are common occurrences that create a hostile work environment and hinder women's career advancement. These problems contribute to higher turnover rates and lower job satisfaction among women; (6) Access to education and training - In many regions, women have less access to education and vocational training, which limits their employment opportunities and potential earnings. This educational disparity perpetuates the cycle of gender inequality in the labour market. Overcoming these challenges requires a concerted effort by policy makers, employers, civil society and individuals to break down barriers.

MATERIALS AND METHODS

Gender inequality in labor markets is a global issue and Georgia is no exception. Understanding these disparities involves analyzing a variety of factors, such as employment rates, the wage gap, occupational segregation, access to opportunities, discrimination, work-life balance. Research on gender equality in the labor market covers a wide range of topics and methodologies. These include: economic and social studies, as well as policy analysis and organizational studies.

The aim of the research was to reveal the directions for overcoming the main challenges that hinder gender equality in the labor market. The research uses mixed research methods - an approach that combines quantitative and qualitative data to provide an analysis of the challenges of gender equality in the labor market. Research methodology included desk research (review and comparative analysis of existing studies, analysis of secondary data and official statistical data, discussion of empirical evidence). Also, qualitative methods of research such as interviews with focus groups and surveys were used to address the research question.

Research methodology included: bibliographic research, including academic papers, reports of international organizations such as the International Labor Organization, World Bank, United Nations Women and World Economic Forum reports. In addition, the analysis of labor market statistics in Georgia is used, which includes indicators of labor force participation, salary differences and representation in different professional categories.

A qualitative methodology of sociological research was used, which included face-to-face interviews with employees in different fields. The interview questionnaire included open-ended questions about experiences and perceptions related to gender inequality in the workplace. The focus group consisted of representatives of both the private and public sectors on a random sampling basis. The number of interviewed respondents is represented by gender as follows: 44 women and 16 men, total 60 respondents. The interview took place in June-August, 2024. The respondents participating in the qualitative research represent various companies, individual educational institutions, organizations from the public sector.

The research also includes in-depth interviews with representatives of non-governmental organizations and representatives of public sector whose main focus is women and women's rights. The interviews with respondents are about the cancellation of gender quotas in Georgian Rule of Election of Parliament as well as about the discrimination in the labor market, outstanding initiatives, ways to overcome economic inequality.

The current state of research on gender equality in the labor market is dynamic and evolving, although progress is slow and uneven across regions and sectors.

RESULTS

As part of the qualitative research, direct interviews (online and by phone) with employees in various business sectors were used. Several large companies in Georgia have been identified, belonging to the following fields: finance, education, retail and wholesale trade, electronic commerce, healthcare and aviation. Most of the respondents

(86%) are employed full-time and about 43% of them often or rarely have to work overtime. The latter was most evident in the financial, retail and wholesale sectors.

When respondents were asked if they think they have equal access to career advancement opportunities compared to other colleagues, all of the men surveyed think that these opportunities are equal, while 50% of women say the opposite. The reasons for this are gender-based selection for specific positions, discrimination, nepotism, glass ceiling and subjective decisions when promoting personnel.

One of the important positive findings of the interviews is that there are organizations with leadership development, formal mentoring and professional development programs that are important for employee career advancement and improving job quality. Respondents have no experience of such development programs in retail trade, and this is mostly characteristic of large businesses. The one who mentioned that the company does not have such programs also said: "After having a child, they no longer invite me to innovation developing meetings,". This fact leads to a decrease in satisfaction with the work environment for the employee. All employees say that there is no childcare support in their company or organization. The employer does not provide child care facilities at the workplace, or financial assistance, or flexible working hours, or other services and resources to help the parent remain employed in the labor market.

Regarding barriers and discrimination in the workplace perceived by employees, a large part of respondents (87%) does not perceive these barriers or do not pay attention to them, because they are not sufficiently informed about the issue. When asked if they have experienced or witnessed harassment and inappropriate behavior at the workplace, 43% of respondents answered positively, but could not name specific facts. In addition, they note that they do not know whether such an action has resulted in an appropriate response from the employer, and 18% say that there was no response from them, and 61% do not know about it, which means that the issue of gender equality is clearly on the agenda of companies. Some issues are not standing and are still "taboo".

When asked how satisfied they are with their pay and benefits, 47% of respondents are completely dissatisfied, and about 36% are more or less satisfied. Nevertheless, they have been in this field or position for years. The reason for this is their working environment and colleagues. When asked if they would be a victim of discrimination or harassment in any way, it would be a reason for them to leave their job, 68% answered in the affirmative. Which means that for most of the interviewed employees, a healthy working environment and management are the most important. Also, according these answers, we can say that the activities of some large companies are more or less anti-discriminatory today, because half of the respondents are more or less satisfied with their working environment. Also, about 79% of the respondents show that there is no gender pay gap in the company and note that the reason for the pay gap in similar positions is more the subjectivity and good will of the employers.

Given that 50% of respondents are more or less satisfied with their current job, the majority (94%) of their goals are to develop work-related skills, advance, and achieve work-life balance. They try to make maximum use of all the benefits and resources of the employing company, which will contribute to their development and advancement.

It should be noted here that the interpretations or conclusions made based on the analysis of the information collected within the qualitative research cannot be

generalized to the employers registered in Georgia, because these conclusions are based only on the opinions of the 60 interviewed respondents.

DISCUSSION

Findings of the in-depth interviews and face-to-face survey results are consistent with the other research results conducted worldwide and with data of official statistics in Georgia. Results of the in-depth interviews and face-to-face surveys shows the same tendencies. Gender inequality still exists in Georgia. The majority of the population in Georgia formally shares the idea of gender equality. At the same time, a certain part of the population shares the idea of the traditional distribution of gender roles [5]. The difficulties that prevent women from choosing entrepreneurial activities and advancing their entrepreneurial career have been the following factors: individual and situational factors affecting business start-up as well as factors influencing the development of business idea [2].

According to the World Economic Forum's 2023 report [14], women's representation in the workforce has been changing dramatically, with notable declines in the services and agriculture sectors, but gains in the government and public sectors. Despite this, the representation of women in leadership positions is lower than that of men. Only 32.2% of women are represented in managerial positions worldwide. Global gender inequality is expected to take 131 years to progress at the current speed. The current process is quite slow and uneven in different countries and sectors. The first seven successful countries according to the gender gap index are: Iceland, Norway, Finland, New Zealand, Sweden, Germany and Nicaragua. Among 146 countries in the list, Georgia ranks 76th with 70.8%.

The latest World Bank report reveals that global gender gaps in legal and economic rights are wider than previously thought. Women have less than two-thirds of the legal rights of men - almost three out of every four men and almost half of women participate in the global workforce. This affects their participation and progress in the labour market. The report highlights the need for legal reforms to promote gender equality in employment and entrepreneurship [13]. The International Labor Organization (ILO) report highlights significant gender inequality in the global labor market: 45.6% of women over 15 years of age are employed, 69.2% of men are employed. This indicates that the gender gap in employment rates is 23.6%. There are expectations that the global participation rate for men will exceed that of women by 25 percentage points, and the gap will widen significantly to 38 percentage points in middle-income countries [1].

The Organization for Economic Cooperation and Development (OECD) developed the Social Institutions and Gender Index (SIGI) to measure and understand gender discrimination in social institutions in different countries. SIGI addresses discriminatory social norms, practices and laws that perpetuate gender inequality. According to SIGI 2023, women hold only 25% of leadership positions globally, which is the result of systemic discrimination and reflects the gender gap in the labor market [6].

According to the 2019 research report of the Institute for the Development of Freedom of Information (IDFI), the goal of which was to improve the current situation in terms of gender inequality in the public service in Georgia, 71% of respondents believe that men achieve success faster on the career path [12].

According to the National Statistics Office of Georgia[3], participation in the labour market represents one of the key factors for promoting gender equality. The labour participation rate over the past 10 years was stood 62%-67% for men and 40%- 46% for women, indicating significant gender differences in entering the labour market. Traditionally lower unemployment rates for females than for males in Georgia seems to be confusing. One should consider that since women are considerably less active in the labour market, the share of unemployed women is low as well. Gender differences in wages are significant: women earn less than two thirds of men's average monthly salary. In 2022, the ratio of women's wages to men's wages was 68.3% (0.3% lower than the 2021 data.) Gap in wage differences is increasing. The labour force participation rate in Georgia is low compared to other countries and it was 53.3% in 2023 [2].

In Georgia, a man is traditionally considered to be the head of the household. Accordingly, the share of male-headed households exceeds 62 percent. The data on the type of ownership of dwellings, household total incomes and expenditures as well as poverty indicators do not reveal gender differences among male-headed and female-headed households. Gender differences are revealed through an analysis of certain categories of household incomes and expenditures: in some cases male-headed household income is higher (incomes from selling agricultural production and property disposal) and in some cases female-headed households income (incomes from property leasing and money received as a gift) is higher [3]. Women are less likely to be employed, and their salary is lower in almost every economic sector. The number of men founding businesses is almost twice as high as the number of women in the same category. The number of female owners is much higher than the number of male owners in areas of activity such as education, health and social services and other services.

Access to education is essential economic development and women's empowerment. In Georgia, the share of boys and girls of the respective age entering primary school is at fairly high level. Boys are more likely to quit general schooling after completing compulsory basic education. Boys are more inclined to enter the labour market. Girls tend to dominate in vocational programmes in the health, social welfare, business, administration and law, service. Women have higher enrolment in higher education favouring programmes in the business and law, arts and humanities, science. Men tend to favour programmes in engineering, manufacturing and construction. A similar sex distribution remains for doctoral students. General education teachers represent the largest category of employees in the education sector. The number of female school teachers in 2022 exceeded the number of male school teachers 7 times. Women outnumber men in vocational and higher education, but these differences are less pronounced [3].

In Georgia the penetration of ICT in education, e-commerce, business and social communication has been increasing over the years. ICT area is one of the few areas in which gender indicators are very similar: women and men equally possess computers and mobile phones, their access to the internet is very much similar across age groups. In Georgia the absence of gender differences in ICT area creates ground for an optimism: it can be concluded that in the era of digitalization the gap of gender inequality will show the tendency of decrease.

Men are much more likely to commit a crime worldwide, and this pattern exists in Georgia as well. Over the past 10 years, the statistics of victims of criminal offenses, by gender, have changed substantially: from 2010 to 2022, men constituted the majority of victims of crime (about 55%). The share of women victims of crime was steadily increasing in the past five years, and amounted to 48% in 2022. This fact is largely related to the issue of domestic violence, whose main victims are women. Surveys on violence against women show that registered cases represent only a small part of all cases of domestic violence [3].

Gender differences across the three branches of government in Georgia remain quite uneven. In the executive and legislative branches, the gender power gap is relatively moderate (the share of women varies from 19% among ambassadors to 17% among government ministers). The judicial branch includes around 55% of women as general court judges. The share of women members of the Parliament of Georgia constituted 18 per cent in 2022[3].

Georgia has enacted laws aimed at promoting gender equality and preventing discrimination, such as the Law on Gender Equality [8] and the Labor Code [7], which includes provisions to ensure equal pay and prevent discrimination in the workplace. On March 23, 2023, the government adopted the state concept of economic empowerment of women [9]. The Parliament of Georgia canceled the gender quota adopted in July 2020 (Election Code of Georgia, Article 203) on April 4, 2024[10]. According to the majority of non-governmental organizations, this step will further deepen gender inequality.

CONCLUSION

The existing gender inequality in the labor market reflects the complex interrelationship of factors that hinder the achievement of equality. It is true that the level of education of women has improved, however, translating this situation into equal economic opportunities remains a challenge. Employment sectors remain gender segregated, with women predominantly occupying low-paid and less secure jobs. In addition, inadequate childcare support and workplace discrimination remain significant barriers to achieving gender equality in the labor market. In Georgia, a man is traditionally considered to be the head of the household. Women are less likely to be employed, and their salary is lower in almost every economic sector. The number of men founding businesses is almost twice as high as the number of women in the same category.

Although the legal framework in Georgia is relatively strong, the implementation and enforcement of these laws is inconsistent. Many women still experience discrimination and unequal pay despite legal protections. The representation of women in leadership positions, both in the public and private sectors, is relatively low.

In Georgia the absence of gender differences in ICT area creates ground for an optimism: it can be concluded that in the era of digitalization the gap of gender inequality will show the tendency of decrease.

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LEFT BEHIND: THE IMPACT OF PARENTAL MIGRATION ON THE PSYCHOLOGICAL WELL-BEING OF ROMANIAN ADOLESCENTS

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ABSTRACT

Many Romanian parents leave their families behind in search of a better life, resulting in thousands of abandoned children. The absence of parents and disrupted attachments adversely affect the socioemotional development of these children, leading to lower psychological well-being. Existing data primarily focus on children and negative aspects and are less known about the effects of parental absence on adolescents' well-being. Purpose: This study aims to examine the psychological well-being of left-behind adolescents, specifically regarding their subjective happiness, life satisfaction, self-regard, and future regard. Method: The study included a sample of N=477 participants (291 girls and 185 boys) with one or both parents working abroad, and a comparison group of N=542 participants living with their parents, drawn from a larger nationally representative sample of high school students. A self-administered online questionnaire assessed levels of subjective happiness, life satisfaction, positive self-regard, positive illusions and optimism, as well as physical well-being. Results: The findings indicated more negative outcomes for youth with their mother or both parents missing from the household across nearly every aspect analyzed. Discussion: The discussion highlights the necessity of designing social interventions that strengthen social inclusion for these adolescents.

Keywords: adolescent left behind, well-being, happiness, life satisfaction, optimism

INTRODUCTION

At present, according to the National Authority for the Protection of the Rights of the Child and Adoption (ANPDCA) [1], as well as considering other reliable sources like Save the Children Romania [2] and the National Institute of Statistics, more than 80,000 children had one or both parents working abroad in 2021. Because few parents inform the authorities about their intention to leave the country, the above data is not even realistic. Non-governmental organizations like The Soros Foundation and The Save the Children Foundation estimate that around 350,000 children live in migrant families, and 16% of Romanian high school students have either their father or mother or both parents working abroad. In a report conducted in 2019 and then in 2021 and recently reported in 2024 by UNICEF, a similar number was also estimated [3].

The majority of studies conducted on Chinese, Indonesian, Latin American, and African children indicate that growing up without parents can seriously affect the psychological development of children and adolescents, resulting in multiple negative outcomes and high-risk profiles [4]. In Romania, the subject gained attention in 2007

when seven cases of child suicides were recorded and presented in the media. Goodbye notes revealed that the motive behind these unnatural and shocking acts was the feelings of unbearable loneliness, lack of love, fear of being abandoned, and lack of emotional support.

Romanian studies carried out by foundations show that 36% of children whose parents are working abroad feel alone, abandoned, and lonely; 20% believe that no one loves them; 35% are frequently in situations where they feel humiliated; 20% are often threatened, and 15% have been physically abused by grandparents and relatives. This proves that, although the absence is temporary, the effects on children can be identical to the effects of long-term or final separations [5], [6]. In the classic conceptual framework of attachment theories like Bowlby, Erikson, or Ainsworth, we know well the short- and long-term costs of separation from caregivers.

Some studies conducted in Romania found that adolescents who are left alone at home are at greater risk for overall mental health problems, low self-esteem, affective disorders like depression and anxiety, and they are more likely to have an unhealthy lifestyle, especially if the mother is missing or both parents are missing and when the child was young [7]. Besides, the deterioration of the child's relationship with the parent often leads to vulnerability to health problems, physical, psychological, and sexual abuse, difficulties in adopting ethical-moral norms, and early sexual activity. According to another study, adolescents are more likely to become engaged in criminal behavior, show higher rates of suicidal thoughts, are less satisfied with their body, eat unhealthier, and engage more frequently in risky behaviors such as drug and alcohol abuse or unprotected sexual behavior [8]. Emotional and behavioral problems may have negative effects on the academic performance and education of children in these households as well. Another study carried out on Romanians found that GPA and general school performance significantly dropped after parents left. Adolescents with both parents and the mother working abroad were more likely to manifest a negative attitude towards school, be late to classes, skip classes unmotivated, not complete homework, exhibit inappropriate behavior at school, have conflicts with teachers, or even abandon school. According to the study, they were also less motivated to continue their studies and intended to leave the country in the future [9].

Although the absence of parents at an early age can cause more serious damage, adolescence is a particularly difficult and vulnerable period of life when support from parents can be essential in facing new challenges and developing appropriate coping skills. Existing data mostly focus on preschool and elementary school children, and less is known about the migration effect on adolescents' well-being.

A consolidated literature review proves that subjective happiness, life satisfaction, and positive self-regard provide useful insight into an individual's quality of life and a reliable source of information about people's well-being [10]. Besides happiness and life satisfaction, we included positive illusions about the self and future because they have been considered key constructs of mental health and well-being. Taylor and her associates studied the relation of positive illusions to mental health, gathering evidence for the many beneficial effects of self-enhancement on mental functioning and repeatedly reaching the conclusion that optimistic beliefs are protective of health [11].

The aim of this paper is to explore whether adolescents in migrant households are more predisposed to lower levels of well-being, measured by subjective feelings of happiness, life satisfaction, self-esteem, and positive illusions about their future, and

whether they suffer from emotional distress compared to their peers in non-immigrant households.

METHOD

Sample

A sample of N=477 (291 girls and 185 boys, 81% living in urban areas) participants was found with parents working abroad in a larger study that aimed to investigate outcomes of adolescents, which included a total of 3,524 subjects. A sample of N=542 participants living with both of their parents was selected by random sampling to provide a comparative base. The N=477 sample was restricted to adolescents whose parents, one or both, had worked abroad for at least two years at the time of evaluation (44% mother, 39% father, 17% both parents working abroad) to focus on the medium and long-term impact of parents' absence on different outcomes.

Procedure

The survey was conducted online, with questionnaires completed on our project website: www.viitoradult.ro. Respondents were recruited with the help and assistance of school inspectorates and school directors during the pilot testing when we obtained their contact data and agreement to participate in our study.

Measures

General and emotional well-being included measures of happiness, life satisfaction, positive self-regard, positive illusions, and optimism, as well as the lack of emotional distress. Happiness was measured using the Subjective Happiness Scale (SHS [12]), and life satisfaction was assessed with the Satisfaction with Life Scale (SWLS) [13]. Items related to demographics and socio-economic status were taken from the Generations and Gender Survey (GGS, <http://www.ggp-i.org>). Several items assessed positive self-regard, which are good indicators of well-being. Positive illusions about the self were assessed with the How Do I See Myself Scale and Positive Illusions about the Future Scale [14]. Positive regard for the future was measured with the Life Orientation Test, while positive self-esteem was measured with the Rosenberg Self-Esteem Scale. These scales were chosen because they have good psychometric indicators and show higher correlations with mental health. Physical well-being included subjective evaluation of health and chronic illness, health behaviors like taking vitamins and medicines, physical activity, eating habits, etc.

RESULTS

Data were analyzed using SPSS version 25 for Microsoft Windows. Descriptive statistics were used to reveal the distribution of responses for the independent and dependent variables. Chi-square analyses and independent T-tests were conducted to test for between-group differences in the analyzed variables. Tables 1 and 2 summarize the results obtained.

Table 1

Summary of comparative results of emotional well-being, positive self regard and physical well-being among adolescents in migrant and non-immigrant households (df= 3, 997)

Well-being and positive self-regard		N	M	SD	F	p
Life Satisfaction	Lives with parents	542	25.22	4.41	3.345	.005
	Mother works abroad	200	22.37	6.58		
	Father works abroad	178	25.39	6.60		
	Both parents are working abroad	77	22.60	5.67		
Subjective Happiness	Lives with parents	542	19.30	4.01	4.897	.001
	Mother works abroad	200	15.69	3.95		
	Father works abroad	178	19.71	3.53		
	Both parents are working abroad	77	16.97	3.91		
Self-Efficacy	Lives with parents	542	28.92	5.39	1.454	Ns.
	Mother works abroad	200	28.70	5.93		
	Father works abroad	178	28.88	5.67		
	Both parents are working abroad	77	27.75	4.40		
Positive self-regard	Lives with parents	542	14.31	1.29	26.97	.000
	Mother works abroad	200	11.39	1.84		
	Father works abroad	178	13.35	2.21		
	Both parents are working abroad	77	13.25	2.20		
Physical well-being and health issues	Lives with parents	497	39.66	4.42	2.592	.051
	Mother works abroad	171	34.02	4.85		
	Father works abroad	162	39.79	5.59		
	Both parents are working abroad	69	38.26	5.37		

As post hoc analysis of ANOVA revealed, adolescents who missed their mothers ($M = 22.37$, $SD = 6.58$) or both parents ($M = 22.60$, $SD = 5.67$) felt significantly less satisfied with their lives compared to adolescents living with both of their parents ($M = 25.22$, $SD = 4.41$) or missing only their father ($M = 25.39$, $SD = 5.05$), $F(3, 979) = 3.345$, $p < .005$. The same pattern was observed in terms of subjective feelings of happiness. Adolescents who missed their mothers ($M = 15.69$, $SD = 3.95$) or both parents ($M = 16.97$, $SD = 3.91$) felt significantly less happy compared to adolescents living with both of their parents or missing only their father, $F(3, 979) = 4.897$, $p < .001$. These data are in line with previous studies.

Positive self-regard has been shown to be an important determinant of health. More than two-thirds of respondents reported a high level of self-confidence and positive self-regard. The average for the whole sample was 13.43 ($SD = 2.00$). Adolescents who missed their mother ($M = 11.39$, $SD = 5.16$) or both parents ($M = 10.25$, $SD = 4.88$) had significantly lower self-esteem compared with adolescents living with both parents ($M = 13.46$, $SD = 5.16$) or missing just the father ($M = 13.35$, $SD = 5.16$), $F(3, 993) = 26.971$, $p < .01$. While only 2.8% of the general sample reported low levels of self-esteem, the majority were characterized by high (23%) or normal (74%)

levels of self-esteem. In contrast, more than twice as many (8%) of adolescents with both parents missing and 6% of adolescents with only the father missing reported very low levels of self-esteem. There were no significant differences between boys and girls. No significant differences were found in terms of self-efficacy.

Table 2

Summary of comparative results of positive regard of the future vision of adolescents in migrant and non-immigrant households (df= 3, 997)

Positive regard of future		<i>N</i>	<i>M</i>	<i>SD</i>	<i>F</i>	<i>p</i>
Optimism	Lives with parents	531	34.53	3.91	2672	.046
	Mother works abroad	195	32.56	4.67		
	Father works abroad	176	34.10	4.93		
	Both parents are working	77	33.16	4.22		
Positive illusions about the self and future	Lives with parents	494	40.67	4.10	13.515	.000
	Mother works abroad	178	38.93	4.73		
	Father works abroad	165	39.25	4.45		
	Both parents are working abroad	68	38.07	4.33		

No significant differences were found in the level of optimism when only the father was absent from the family's life; the majority of students reported a high level of optimism toward the future. Adolescents with both parents ($M = 33.16$, $SD = 4.22$) or with their mother missing ($M = 32.56$, $SD = 4.22$) reported slightly lower levels of a positive attitude toward the future, $F(3,993)=2.672, p<.05$ $F(3,993) = 2.672, p < .05$ $F(3,993)=2.672, p<.05$. More than two-thirds of respondents reported a high level of positive illusions. The average for the whole sample was 38.43 ($SD = 2.00$). Adolescents who missed their mother ($M = 35.93$, $SD = 4.73$) reported significantly lower levels of positive illusions, $F(3,993)=13.515, p<.01$ $F(3,993) = 13.515, p < .01$ $F(3,993)=13.515, p<.01$, compared with the rest of the sample.

DISCUSSION

Overall, our data indicated that adolescents whose parents work abroad exhibited lower levels of psychological and physical well-being. Adolescents missing their mother or both parents were less happy, less satisfied with their lives, had lower self-esteem, and were less optimistic about their future. They were also characterized by higher levels of depression and anxiety. Our findings corroborate previous reports that abandoned children are at greater risk of developing mental health problems and of not achieving their educational potential. In the absence of a functional family model and a safe, coherent environment, abandoned children may adopt the affective neglect model of their original family and apply it during adolescence. These effects may not be easily reversed, even if migrant parents permanently return home.

Some migrant parents become so focused on providing financial security that they forget their initial motive: ensuring a better life for their children. The social and

emotional inequalities that children experience due to parental absence likely contribute to gaps in test scores and behavioral issues among adolescents left behind, as they may lack critical resources and a stimulating environment necessary for healthy emotional development. As previous findings suggest, abandoned adolescents are more likely to experience disturbing emotions or even develop affective disorders, as they lack emotional support and role models and are more likely to adopt less effective coping methods.

A lower level of well-being is a negative outcome and leads to vicious circles. One secondary negative outcome is lower performance. How can one perform at an optimal level or behave exemplary while lacking appropriate parental support, social and coping skills, and role models? Emotional imbalance and insecurities in the absence of parents often lead to poor social skills and coping abilities, which in turn can result in more bullying, emotional and physical humiliation, and threats. These children may have more difficulties forming friendships and may develop deviant behaviors such as stealing or running away to compensate, impress, and gain attention and affection. They might also engage in maladaptive coping strategies like substance use. Such behaviors may be generated unconsciously in an attempt to bring their parents back.

Despite these negative aspects, there are a few positive outcomes as well. Parents' migration often translates into an increase in their children's economic welfare. They more frequently own cell phones, computers, game consoles, and tablets. They also possess other personal goods typical of this age group (such as bicycles, devices, and roller blades) more often than children whose parents are not working abroad. They also tend to travel abroad at higher rates than other children (34% of children whose both parents are abroad have traveled abroad, compared to only 14% of non-migrant children). The resulting question is obvious: Is it worth it?

Migration is unfortunately expected to increase even further in the future.

Concerns about the welfare of children living in migrant households are not yet a part of anti-poverty development strategies. We believe that the Romanian government should take measures to reunite families and break down barriers between migrant parents and their children, both from an economic and a human rights perspective. Parents should be made aware of the risks they are taking when leaving their children behind. Additionally, strengthening emotional and social support in schools and families can significantly contribute to reducing risks for these vulnerable children. To achieve a more profound understanding, there is still a need for comparative and longitudinal studies, causal analysis, and an examination of the long-term impacts on children's achievement.

CONCLUSION

The findings from this study shed light on the significant psychological challenges faced by Romanian adolescents left behind by parents working abroad. The absence of parental figures, particularly mothers or both parents, negatively impacts various aspects of these adolescents' well-being, including subjective happiness, life satisfaction, self-esteem, and positive regard for the future. Adolescents in households where the mother or both parents are absent exhibit lower levels of life satisfaction and happiness compared to their peers living with both parents or those with only the father absent. These results are consistent with previous research emphasizing the critical role of the

mother in a child's emotional development and attachment, highlighting that her absence is particularly detrimental.

Moreover, adolescents with missing mothers or both parents demonstrate reduced positive self-regard and optimism about the future, which are crucial components of mental health and long-term well-being. The lower levels of self-esteem and optimism suggest that parental absence creates a void in the support system that these adolescents need to face the challenges of adolescence, potentially leading to emotional distress and maladaptive coping strategies. While self-efficacy did not show significant differences across groups, the overall findings reinforce the notion that maternal presence plays a vital role in fostering a sense of security and emotional stability in adolescents.

This study also highlights the importance of positive illusions in maintaining mental health, showing that adolescents left behind are less likely to harbor these protective cognitive mechanisms. Without the emotional support from parents, particularly mothers, these adolescents may struggle to develop and sustain a positive self-image and a hopeful vision of their future.

The psychological impact on left-behind adolescents underscores the need for targeted social interventions. Policymakers, educators, and mental health professionals must collaborate to create support systems for these adolescents, fostering social inclusion, emotional support, and psychological resilience. School-based programs, counseling services, and community initiatives that aim to mitigate the negative effects of parental migration can play a crucial role in promoting the well-being of these vulnerable adolescents.

In conclusion, the results of this study call for a national response to address the long-term psychological effects of parental migration on Romanian adolescents. As migration continues to be a social and economic reality, efforts must be made to ensure that the psychological well-being of the children left behind does not deteriorate further, affecting their developmental outcomes and their future potential.

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PHILOSOPHICAL PSYCHOTHERAPY AND COUNSELING IN THE MEDICAL ENGLISH CLASSROOM

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ABSTRACT

The teacher of English as a foreign/ second language (EFL, ESL), in general and the one for specific purposes (ESP), in particular needs to bring specialty knowledge to the classroom to adjust to the requirements of the students' specialism. Alongside comes the (cap)ability to pass on language skills to learners and sensitize them in matters of intercultural communication. In this sense, Medical English classes (mainly addressed to students in General Medicine but also fitting Nursing and Nutrition ones) could particularly benefit from practical philosophy. Therefore, we draw on Lou Marinoff's work, *Plato, Not Prozac! Applying Eternal Wisdom to Everyday Problems* (2000) or the more scholarly views on counseling via existential psychotherapy encapsulated in Irvin D. Yalom's novels, *When Nietzsche Wept* (1993) and *Lying on the Couch* (1997). Thus, the aim of this paper is to account for the two authors' work to the extent to which it can be used in Medical English seminars when dealing with the communication between doctor and patient in its professional to lay acceptance of intralingual translation.

Keywords: philosophical psychotherapy/ psychosophy, counseling, teaching methodology, Medical English.

INTRODUCTION

Medical English, as branch of ESP/ ESL requires the teacher to develop students' productive and receptive skills, i.e., speaking and writing, on the one hand and reading and listening, on the other hand, along with the learners' acquisition of specialized vocabulary. However, more than teaching vocabulary is nowadays recommended by recent trends in methodology and to cope with the new changes caused by the pandemic, "the great development of telemedicine, along with all the other activities that were part of a medical student or a healthcare professional, areas that covered things from application forms and attending an online interview up to the idea of carrying out one's scientific research. Likewise, Academic Writing, a significant part of a medical student's linguistic training, also had to make references to the new realities, such as attending an online interview or attending an online scientific presentation." (Leon 2022: 244) Ethical issues (as defined by Unesco in 2005 in bioethics and human rights to cover confidentiality, informed consent, avoidance of discrimination, cultural diversity and pluralism, encouragement of solidarity and interhuman cooperation and completed by the World Medical Association drawing on the revised declarations of Geneva and Lisboa, along with the International Code of Medical Ethics) should also be considered in learning outcomes in which a moral behaviour needs fostering for interactions in the professional sphere. This occurs within English for Medical Purposes (EMP) in its flexible demands that require the satisfaction of learners' specific needs with methods and activities tailored to suit their purposes, the selection and treatment of grammar and communication features

to the respective field (be they grammar, vocabulary, register, learning strategies, text types and discourse) (Cretu 2010: 349-351, *passim*). Furthermore, one of the most recent developments recommends the introduction of literary works to medical classes to help students in the listening of the patients' stories as "Fictionalizing the harsh reality (and why not a bad diagnosis) seems to be a frequently used technique in the works of contemporary writers (...). Most of the times, in their literary works, they describe traumatic events that they survived (...) sharing their own stories, this being a healing process for them. People, the same way authors do, may try to lie (hide the truth), manipulate, skip details, but (...) a doctor trained to detect such artistic errors, will be able to read between the lines, ask more questions and eventually fill in the gaps" (Leon 2022: 247). Works by contemporary Romanian writers could be employed, as well as biographies by popular actors or other personalities (*ibidem*). It is in this context that we recommend some of Irvin D. Yalom's novels that apply existential psychotherapy. Lou Marinoff's work may be correlated to an approach in which, after being "conventionally singled out of the class of antidepressants", the medicine in question, "Prozac is further associated (...) with poetic activity in terms of postmodern female identity." (Diaconu et al. 2024: 12) Authors such as "Liza Porter and Martha Silano are lost and adrift in their stressed-out dysfunctional families, not in the least because of their mood disorders, major depression and respectively postpartum psychosis. Psychotherapy turning out to be inefficient for them in the long run, antidepressants or rather a combination of them come into play, and they restore a sense, even if more or less altered, of some poetic identity. In their interviews, they actually admit they are both cases of a definite progress from non-poetry to poetry." (*ibidem*)

Irvin D. Yalom's and Lou Marinoff's Works on Philosophical Psychotherapy for Medical Students

Lou Marinoff's *Plato, Not Prozac! Applying Eternal Wisdom to Everyday Problems* proposes five steps to deal with problems from a philosophical viewpoint after bringing arguments for the rightful place of philosophy in life as the discipline "doesn't have to be intimidating, boring, or incomprehensible. (...) at its heart, philosophy examines the questions we all ask: What is a good life? What is good? What is life about? Why am I here? Why should I do the right thing? What is the right thing? These are not easy questions, and there are no easy answers (...). No two people will automatically arrive at the same answers. But we all have a set of operating principles we work from, whether or not we are conscious of them and can enumerate them." (Marinoff 2000: 11) The steps are quite common sensical as a problem needs to be first identified, then one "must take stock of the emotions provoked by the problem. (...) must experience emotions genuinely and channel them constructively" (Marinoff, *idem*, p. 48). The third step implies the analysis in which assessment of an option for problem solving needs to occur. A fourth step requires a contemplation of the situation and finally, the fifth, equilibrium (*Idem*, pp. 49-50). To become peaceful, which may take time, depending on the individual, one needs to "work through all five dimensions" (*ibidem*) either with or without any (specialized) help. Medical students should benefit from this simple 5-step process before embarking on more difficult or conceptual frameworks that they need to internalize before dealing with doctor-patient communication as future professionals.

Irvin D. Yalom is drawn on as basic reference of the 1980 when "existential concerns (death, freedom, meaninglessness, and isolation)" need exploring as an "approach for the

understanding and treatment of psychopathology” and “existential phenomenology for the development of therapists as well as supervision” (Heidenreich et al., 2021). In *When Nietzsche Wept* (1992), a philosophical and psychological novel, a ‘psychobiography’, the nihilist philosopher is seen by the physician from Vienna, Josef Breuer (1842–1925) after being shown a letter from Richard Wagner to the future patient by a desperate female character: “You have now given to the world a work that is unequaled. Your book is characterized by an assurance so consummate as to betoken the most profound originality. (...) But you are ill! Are you also discouraged? If so, how gladly would I do something to dispel your despondency! How shall I begin? I can do no other than lavish my unqualified praise upon you. Accept it, at least, in a friendly spirit, even though it leave you unsatisfied.” (Yalom 1993: 4) The therapist asks himself existential questions, according to criticism since, among other things, Nietzsche feels that his mentor, Wagner had turned his back on him: “How can Breuer treat a man who is so ill that he has recently resigned his professorship at the University of Basel, left his relatives and home, and traveled throughout Europe in search of relief from devastating pain? Nietzsche’s nomadic existence left him rootless and friendless. Betrayed years earlier by his mentor, Richard Wagner, and now by Paul Rée and Lou Salomé, as well as by his sister, Elisabeth, who sought to destroy his relationship with Rée and Salomé, and who later, as his literary executor, twisted his writings to fit her anti-Semitic agenda, Nietzsche is contemptuous of sympathy, pity, and gratitude, all of which are a part of a relational world that he believes enfeebles the self. How can Breuer treat a patient who associates humankind with a herd mentality, women with duplicity, gratitude with revenge, and altruism with weakness?” (Berman 2019: 92) The title is meant “to emphasize the philosopher’s celebration of the affective dimension of human life. The belief that philosophy is mainly about reason is at least as old as Socrates, but Nietzsche affirmed the role of the passions. Excessive reason, he believed, can blind us to our emotions. Yalom’s Nietzsche prods Breuer into examining his emotional life, particularly his obsession with Bertha Pappenheim, and finally, under pressure from the physician, the philosopher reciprocates by examining his own obsession with Lou Salomé.” (Berman, *idem*, p. 115) A man with few intellectual equals in his time, Nietzsche shared his love for Lou Salomé with Freud, and after she rejected his marriage proposal, he had a ‘suicidal crisis’ (Berman, *idem*, p. 94), which marks the beginning of the novel. She resorts to ‘a doctor for despair’, able to provide “a ‘talking cure’— a cure based on reason, on the unraveling of tangled mental health associations.” (Yalom, *apud* Berman, *idem*, p. 90) Fear of death in the novel equals a “prison of time” where there is no escape from and a psychological therapy by a ‘doctor for the soul’ is preferred to ‘excessive medication’, seen as an “equivalent of pharmacologic replacement therapy” and may lead to ‘existential healing’. This is particularly the case when the patient feels that “Parts of our mind may operate independently of others,” and one’s ‘I’ and the ‘body’ may have plotted without the mind knowing it since “The mind is (...) fond of back alleys and trapdoors” (Yalom, *apud* Berman, *idem*, pp. 91-92). At times, patient and doctor change roles; Nietzsche, despite Brauer’s “traditional medical point of view that continued until the last quarter of the twentieth century” according to which one “does not have the right to impose a painful truth onto others (...), objects: “Who can determine what one wishes *not* to know? (...) Sometimes (...) teachers must be hard. People must be given a hard message because life is hard, and dying is hard” (Yalom, *apud* Berman, *idem*, p. 95). This wins the Nihilistic philosopher the label of ‘disillusioner’ (Berman, *ibidem*). Medical students could benefit from the role that the philosopher and therapist played and exchanged in the novel, in

improving doctor-patient communication, empathy and patience when dealing with difficult people that often do not want to be treated.

A psychotherapy novel, as well, *Lying on the Couch* is ironic even from its title which “contains a rare *triple* entendre, a phrase capable of three distinct meanings, beginning with analysands reclining on the therapist’s couch, the archetypal setting for talk therapy.” It “also signifies the ambiguities of truth-telling in psychotherapy, the difficulty of determining the accuracy of patients’ stories (...) conjures up sexualized psychotherapy, the most serious boundary violation in therapy.” (Berman, *idem*, p. 117) The novel revolves around ‘memory wars’ which were fashionable at the time despite the skepticism around them; they addressed suggestibility concerns in psychotherapy such as controversial ‘recovered memories’, ‘past lives’ therapeutical developments, ‘satanic ritual abuses’ or ‘multiple personality disorders’ summarized in one of the replies in the novel: “We’re so used to patients paying us to listen to their truth that we’re probably naive about the possibility of lying” (Yalom *apud*. Berman, *idem*, p. 118). Seymour Trotter, a septuagenarian psychotherapist very skilled in his profession and head of the American Psychiatric Association is devoted a prologue of more than thirty pages in the beginning of the novel; we find out that selection is key for therapy, individuals that do not belong to the field should not be chosen for training to treat others. Moreover, honesty in the approach and the uniqueness of each patient should be embraced. When facing one’s mortal destiny, “heightened awareness of death (...) can lead to an increased appreciation for life. Patients waiting for the results of an HIV test (...) have a unique window of opportunity that a therapist may put to good advantage. (*idem*, pp. 119-120) It is a screwtape letter piece of advice if we were to draw on inkling literature, yet this is what the senior Trotter initiates young(er) Ernest into after having trouble recalling his name and ironically bringing into play the publication of four Alzheimer papers in journals he forgot about (Yalom 1997: 3, *passim*): “It’s a time when you can help them to examine and reshuffle their priorities, to base their lives and their behavior on the things that really count. *Existential shock therapy*, I sometimes call it” (Yalom, *apud* Berman, *ibidem*). A Faustian pact is made between therapist and patient, Trotter agreeing to take Belle to San Francisco on a weekend if she stayed clean (from drugs) and behaved for two years (no more one-night stands). They get romantically involved during the weekend with a relapse from the patient and catastrophic consequences for the therapist who is left by his wife and sued by Belle’s husband. The novel also talks about Ernest treating his patient Justin in his awful marriage from which he escapes after having met another woman; the patient reproaches his therapist that had he escaped his ordeal earlier, he would have saved the large amount of money spent on psychotherapy. At this stage, a Christian viewpoint would imply that confession (to a priest) is free of charge, as opposed to psychotherapy that incurs costs. The topic has been dealt with in literature and film, and a Romanian account on the matter can be found in the movie *Aniversarea/ The Anniversary* (2017) in which an old patient is asked to receive by the family on his birthday both a priest and a psychologist and they start fighting about the legitimacy of one another to relieve the soul of a dying man. However, Carol, the wife, is angry and maleficently destroys her husband’s things, wishing revenge to the psychotherapist especially since she dealt with the sort before and was convinced in her youth to become sexually involved to be cured, hence her choice of profession as lawyer. She believes that some ‘shrinks’ are useless and “will keep you coming in perpetuity” (Yalom, *apud* Berman, *idem*, p. 127). Marshal Streider, a character in his sixties that knows no sexual boundaries in the novel, gives Ernest (a name picked to remind the author of a

performance of Oscar Wilde's *The Importance of Being Earnest*) clinical pieces of advice. This is because the latter has a pharmacological background and used to discharge patients after giving them medical treatment in the beginning of his career. Among the novelist's words of wisdom as satirist, we have: "Supervision lay in the no-man's land between therapy and education" (Yalom, *apud* Berman, *idem*, p. 129) only to contrast with Ernest's "Reveal yourself only to the extent it will be helpful to the patient" (*idem*, p. 132), solid advice meant to keep him out of trouble in Carol's plot that involved his 'therapist self-disclosure' (*ibidem*). Eventually, Carol agrees that Ernest had not been a good psychotherapist to her, and, as 'wounded healer', becomes efficient in counseling Streider following recommendations given by Ernest and healing herself on the process (Berman, *idem*, p. 138). In a nutshell, what medical students can take home from Yalom's novel is honesty in approaching the patient and avoidance of manipulation of any kind, i.e., Ernest dos and Streider's and Trotter's don'ts. Credit should be given to characters like Carol as belief in change for the better to the wounded that hurts for defense.

CONCLUSION

The Medical English classroom could benefit from the novels by Yalom discussed, as well as Marinoff's simple and practical philosophy in five steps in the sense that the precepts stated (honesty, empathy, clarity and avoidance of personal involvement with patients) could lead to an improvement of the future professional's ethical conduct and clarity in thought. By introspection and choice of Marinoff's method, overcomplication of things and despair can be avoided along with the cultivation of contemplation and peace promoted by his philosophical insights. In the case of Yalom, wisdom can be taken from the positive characters' struggles in their work and everyday life, their learning from mistakes and the resolution in which they are given what they deserve. The plot twists are also a great opportunity for students to enhance their (academic) writing skills by observation of style and devices.

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THE INFLUENCE OF FAMILY VIOLENCE EXPERIENCED IN CHILDHOOD ON YOUNG ADULT ALCOHOL AND RISK OF DRUG USE: FINDINGS FROM A NATIONWIDE STUDY

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ABSTRACT

Background: Childhood maltreatment (including sexual abuse, physical abuse, and neglect) is a significant risk factor for substance use and drug-related problems in adolescents and young adulthood. *Objective:* This study aimed to examine the associations between social support, forms of abuse experienced in childhood, and subsequent alcohol and drug use in young adulthood. *Method:* Data were drawn from a large-scale, nationally representative longitudinal sample of N=1,497. Hierarchical and logistic regressions were used to estimate the predictive effect of family violence, controlling for several variables such as negative life events, friends, and neighborhood influence. *Findings:* Emotional abuse and neglect have predicted alcohol and drug use and risk for substance use in the future. The buffering effect of social support is discussed.

Keywords: domestic violence, abuse, substance use, alcohol, and drug use

INTRODUCTION

Family violence experienced during childhood, encompassing physical, emotional, and sexual abuse as well as neglect, represents a profound and pervasive public health issue with far-reaching consequences [1]. These adverse childhood experiences (ACEs) have been consistently linked to a range of negative outcomes, including substance use disorders (SUDs) in young adulthood [2],[3]. The impact of early maltreatment on subsequent alcohol and drug use is well-documented, underscoring the importance of understanding and addressing this critical issue [4]. The National Institutes of Health (NIH) report that more than a third of adolescents with a report of abuse or neglect will have a substance use disorder before they reach their 18th birthday. These results have been found in a wide range of settings and in different race/ethnic and socio-economic populations.

Prevalence and Long-Term Impact

Numerous studies have highlighted the high prevalence of childhood maltreatment and its association with various psychological and behavioral problems. According to a comprehensive meta-analysis, nearly one-third of children globally experience some form of physical abuse, while emotional abuse and neglect affect similar or even greater proportions [5]. Such traumatic experiences during formative years can disrupt normal developmental trajectories, leading to a heightened risk of substance use in later life [1]. According to the ANA, the average age at which Romanian youngsters start using drugs is 10-11 years (lower than in the case of alcohol or tobacco). Among the population aged 15-64, the most vulnerable group is that of 15-24 years old.

According to the European Monitoring Center for Drug Consumption (EMCDDA 2023 report), based on the latest data, the most widely used drug among adolescents and youth was cannabis (49%), followed by heroin (24%) and other drugs (24%), including MDMA, amphetamines, cocaine, and ethnobotanics. Boys scored twice as high compared to girls on substance use [6]. A nationwide Romanian study conducted on adolescents also found that the prevalence of alcohol use was higher among Romanian adolescents compared to European averages. Study data indicated that 27% of questioned high school students reported being drunk at least a few times, and 11% reported being drunk frequently. Students reported increased vulnerability in terms of drug use: 9% said they would try to consume drugs if they had the opportunity, and 10% declared that they already tried some illicit drugs [7].

Mechanisms Linking Childhood Maltreatment to Substance Use

The theory of latent vulnerability provides a framework for understanding how childhood maltreatment translates into increased risk for SUDs in adulthood. This theoretical model posits that early adverse experiences induce long-lasting changes in neurocognitive systems, particularly those involved in stress regulation, reward processing, and executive functioning [8]. These alterations may predispose individuals to maladaptive coping mechanisms, including substance use, as a means of self-medication or escape from psychological distress [9]. Gender differences in the impact of childhood maltreatment on substance use have also been observed. Research indicates that men and women may respond differently to early trauma, with variations in the type and severity of substance use disorders [3]. These differences necessitate gender-sensitive approaches to prevention and intervention, recognizing the unique pathways through which childhood abuse affects substance use behaviors.

Given the significant public health implications, this study aims to explore the association between childhood family violence and subsequent alcohol and illicit drug use in young adulthood. Utilizing data from a nationally representative sample, we examine the prevalence and predictors of substance use, with a focus on the moderating role of social support and socio-economic factors. By enhancing our understanding of these relationships, we seek to inform the development of targeted interventions to reduce the burden of substance use disorders among those affected by early family violence.

METHOD

Data were drawn from a large longitudinal sample of 1497 young adults, who filled out the questionnaire on two occasions: before graduating high school and two years after graduation. The models included gender, residency, and experiences of violence (physical, emotional, and sexual abuse, neglect, witnessing domestic violence).

Sample

N=1497 participants (ages 19–23, M=21.6 years, S.D. =1.3, 44.6% female, 59.0% female, 41% male, 24% in rural, 76% living in urban residential areas) participated in the study. The majority of the sample were students enrolled in universities (74%) or technical schools (7.6%). The remaining sample (17%) were working or staying home.

Procedure

Respondents were recruited with the assistance of school inspectorates during the first wave of the study and reintroduced when we obtained their contact data and agreement to participate in our study. The surveys were mainly conducted online, with

questionnaires being completed on our project website: www.viitoradult.ro. In some targeted regions without internet, project team members and trained students assessed participants individually. The current study employs a cross-sectional quantitative design.

Measures

Questions referring to alcohol, tobacco, and drugs were retrieved and adapted from our previous studies and AUDIT scales [10]. Social support was measured with several questions about familial, peer, and teacher support. Items were retrieved and adapted from the SSP questionnaire [11]. Questions were selected to assess the emotional, cognitive, and behavioral aspects of social support.

RESULTS

Data were analyzed using SPSS version 25 for Microsoft Windows. Four main analyses were run. Descriptive statistics were used to reveal the distribution of responses to the study measures/variables. Mean comparison and variance analysis were used to estimate differences according to sociodemographic factors, and multiple hierarchical regression models and binary logistic regression were carried out to test the effects of predictors on depression, anxiety, substance use, and suicidal risk behaviors.

Descriptive Data and Preliminary Analyses

Drug and Alcohol Use

Our data indicated that only 25.3% said they have never consumed alcohol; the remaining 74.7% are on a continuum of vulnerability of consumption, with 27.1% consuming several times a month and 11% several times a week. Men in urban areas and in situations of severe material deprivation declared more frequent consumption. Risk behavior regarding drinking was also measured with the frequency of being drunk. 27% of those questioned reported being drunk at least a few times, and 11% reported being drunk frequently. Generally, more men reported drunkenness ($\chi^2 = 10.49$, $df = 1$, $p = .001$) compared to women. Students from urban areas reported being drunk more often ($\chi^2 = 5.39$, $df = 4$, $p = .002$). Participants reported increased vulnerability in terms of drug use: 28.8% of them know people who use illicit substances, while 7.6% said they would try to consume drugs if they had the opportunity, and 9.3% declared that they already tried some illicit drugs.

Family Violence

In our sample $N=1479$, 32.6% reported experiencing at least one form of violence in the family. 39.7% of youth reported physical abuse (at least one time), 13.1% reported neglect, 50% reported emotional abuse at least once, and 27.1% reported witnessing domestic violence at least once. Women ($M=12.60$, $SD=3.70$) reported higher levels of abuse experienced in childhood compared to men ($M=11.00$, $SD=3.7$), $t(1451) = 3.48$, $p<.001$. Youth living in rural areas ($M=13.60$, $SD=3.70$) reported higher levels of abuse experienced in childhood compared to those living in urban areas ($M=11.20$, $SD=2.7$), $t(1451) = 4.58$, $p<.001$. Father's education level also significantly counted. Romanian youth having a more educated father (BA and superior studies) experienced less abuse in the family compared to those with less educated fathers, $F(8,1443) = 2.79$, $p<.005$.

Regression analysis for alcohol and drug use

A series of multiple hierarchical regressions were conducted to determine predictors of substance use. Violations of the normality assumption were checked using Shapiro-

Wilk's test. As a result, the dependent variables were transformed by square-root transformation (moderately positively skewed data and moderately negatively skewed data). Multiple regression models were used to quantify the variance in substance use explained by demographic data and several risk factors such as alcoholism in the family, friends' alcohol use, poverty, neighborhood, and friends' negative influence. Sex and residential area were introduced into the equation as dummy variables to indicate membership in any mutually exclusive and exhaustive category. The Durbin-Watson statistic was used to test the autocorrelation in the residuals from a statistical regression analysis, and the linearity and multicollinearity were checked for the assumptions as they relate to how the data fit the multiple regression model.

To control for demographic variables as well as other relevant variables, in the first model, we introduced sex and residential area (rural/urban). In the second model, we entered alcoholism in the family, friends' alcohol use, poverty, neighborhood, and friends' negative influence. In the third model, forms of abuse were entered: physical, emotional, sexual, neglect, and witnessed domestic violence as the main predictors of interest. R change (ΔR) was calculated for each test. Results are presented in Table 1.

Table 1

Summary of multiple hierarchical regression results predicting frequency of alcohol use by abuse experienced in childhood and adolescents (N =1479), controlling for background variables.

Predictors	Model I			Model II			Model III		
	<i>B</i>	<i>SEB</i>	β	<i>B</i>	<i>SEB</i>	β	<i>B</i>	<i>SEB</i>	β
Sex	.559**	.051	.311	.374**	.04	.208	.376**	.050	.210
Age	-.182	.054	-	-.127	.04	-.066	-.126	.049	-.066
Residential area	.219	.060	.104	.168	.05	.080	.169	.055	.080
Negative life events				.020	.01	.052	.021	.011	.054
Alcoholism in family				-.045	.09	-.013	-.047	.093	-.014
Friends' alcohol use				.254**	.02	-.303	.255**	.024	-.304
Neighborhood				.038	.01	.084	.038	.014	.082
Poverty/financial				.256*	.01	-.282	-.057	.018	-.083
Social support				-1.14**	.13	-.244	-1.52**	.138	-.216
Physical abuse							.228	.028	.119
Emotional abuse							.379**	.156	.084
Sexual abuse							.186	.065	.037
Neglect							.401**	.031	.323
Domestic violence							.122*	.119	.031
<i>R</i>²	.105			.193			.266**		
<i>F</i>	30.11*			35.84**			38.12*		
ΔR	.108**			.166**			.012**		

Note: * $p < .05$, ** $p < .01$, ΔR = R change DV=dependent variable

The controlled variables in the first model explained only 10% of the variance in alcohol use in young adulthood. Only gender significantly predicted the variance in alcohol use in the first step, with men being more vulnerable to alcohol use. In the second model, friends' alcohol use had the strongest negative predictive value, followed by poverty or poor financial situations of the family. In the third block, emotional abuse

had the strongest predictive value, followed by neglect. The R^2 indicated that 36% of the variance in alcohol use frequency could be explained by these variables. The R change (ΔR^2) indicated that if we control for demographic variables, financial situation, negative life events other than childhood abuse, and economic situation, different forms of abuse explain only 14% of the variance in alcohol use.

Logistic regression was used to assess the impact of family violence on drug use. Items that evaluated substance use (e.g., "Have you ever used drugs?" "If you had the opportunity, would you try using drugs?") were transformed into dummy variables. Table 2 presents the results.

Table 2

Summary of Logistic Regression analysis for abuse experienced in childhood predicting drug use Romanian youth (N= 1479), controlling for background variables

	Block 1				Block 2				Block 3			
	B	SE	Wald	OR	B	SE	Wald	OR	B	SE	Wald	OR
Sex	.513	.203	16.0	2.2	.291	.233	1.56	1.33	.373	.238	2.45	1.45
Age	-.091	.211	.184	.91	-.164	.229	.512	.849	-.121	.230	.279	.886
Residential area	.507	.263	3.71	1.6	.582	.284	4.18	1.79	.598	.286	4.36	1.81
Negative life					-.064	.047	1.86	.938	.021	.011	.854	.956
Friends negative influence					-.160	.043	14.0	.852	-.047	.093	11.8	.861
Community negative influence					-.185	.052	12.6	.831	.255	.024	12.6	.829
Physical abuse									.048	.119	.163	1.04
Emotional abuse									-.010	.114	.008	.990
Sexual abuse									.060	.235	.066	1.06
Neglect									-.140	.127	1.21	.869
Domestic violence									-.085	.090	.891	.919
Social support					-.116**	.017	45.26	.890	-.072**	.019	14.0	.930
Nagelkerke R^2	.034				.147				.153**			
χ^2	16.49				63.48*				3.209**			

Hosmer and Lemeshow Test $\chi^2=3.074$, $p= .678$, Note: * $p < .05$, ** $p < .01$, $\Delta R = R$ change DV=dependent variable

The logistic regression in the case of drug use as an outcome variable, using the same predictive model (forms of abuse experienced in childhood), controlled for demographics, negative life events, and environmental influences (friends and community), was statistically significant as well, $\chi^2 = 3.209$, $df = 3$, $N = 1479$, $p < .001$. Nagelkerke R Square was 0.153 in block 3, indicating that 15.3% of the variance in this outcome variable was explained by the independent variables included in the model. The overall correctness was 67%.

Wald test results, and Odds Ratios. Considering the Wald test results, we can say that only three variables from the model are statistically significant predictors of drug use. Living in an urban area predicted drug use (Odds Ratio was $OR = 1.66$), indicating that the chance of using drugs was 1.66 times greater if one lives in urban. The other significant positive predictor for drug use possibility was friends negative influence (drinking, smoking, using drugs, skipping classes, having low grades, having trouble with the police) $OR = .861$, $p < .001$ indicating that the chance of using drugs 0.95 % times greater if one has bad friends. Living in a bad neighborhood (conflicts with

police,) also significantly counted in predicting drug use. Wald test result was 12.646**, and OR = .829, $p < .005$.

A similar analysis was conducted in case of drug use risk (If you would have a chance would you try any drugs?) as an outcome variable, for the same predictive model (forms of abuse experienced in childhood). We controlled for demographics, negative life events and environmental influences (friends and community) turned out statistically significant as well $\chi^2 = 3.209$, $df = 3$, $N = 1479$, $p < .001$. *Nagelkerke R Square* was 0.155 in block 3 of the variance in this outcome variable was explained by the independent variables included in the model. The model classified correctly 99% from the undergraduates with risk of drug use and 77% without. The overall correctness was 87%. Hosmer and Lemeshow Test $\chi^2 = 5.465$, $p = .903$ indicating that conditions are good for performing this analysis. Considering the Wald test results we can say that only three variables from the model are statistically significant predictors of future risk of using drugs. Living in urban predicted higher levels of risk for future drug use Odds Ratio was (OR= 1.942), indicating that the chance of being at risk for using drugs was 1.94 % greater if one lives in urban. The other significant positive predictor for drug use risk was friends negative influence (drinking, smoking, using drugs, skipping classes, having low grades, having trouble with the police) OR = 1.267, $p < .001$ indicating that the chance of future risk drug use is 1.26 % times greater. Lack of social support from family, friend and school also proved to be a predictor for risk of drug use Wald test was 14.289, OR = .868, $p < .001$. From our main predictor only neglect proved to be a significant predictor for future risk of drug use.

DISCUSSION

The present study investigates the impact of social support and experiences of family violence during childhood on alcohol and illicit drug use in young adulthood, using data from a large, nationally representative sample. The findings provide important insights into the long-term effects of childhood maltreatment and the protective role of social support, while also highlighting significant gender differences and the influence of socio-economic factors.

Key Findings

The results indicate a clear association between experiences of family violence in childhood and increased likelihood of alcohol and substance use in young adulthood. Specifically, individuals who experienced physical, emotional, or sexual abuse, as well as those who witnessed domestic violence, demonstrated higher levels of alcohol consumption and drug use. The impact of these experiences appears to be compounded by a lack of social support, with those lacking supportive networks being more vulnerable to substance use.

The study also found that gender plays a significant role in how individuals respond to childhood maltreatment. Men and women exhibited different patterns of substance use, with men reporting higher frequencies of alcohol consumption and drug use. Residential area also accounted, those living in urban and experiencing family violence being more vulnerable for substance use compared to those living at country. This finding aligns with previous research suggesting gender-specific coping mechanisms and vulnerability factors [12].

The lack of a significant correlation between alcoholism in individuals and a history of alcoholism within their families could potentially be attributed to a psychological

aversion to alcohol developed by those with alcoholic family members. It is plausible that individuals exposed to alcoholism within their family environments cultivate a strong aversion to alcohol consumption, stemming from negative associations and the adverse impacts witnessed during their formative years. Consequently, this aversion may act as a protective factor, reducing the likelihood of these individuals engaging in alcohol use themselves.

Individuals with strong social support networks and better financial situations were less likely to engage in substance use, even if they had experienced childhood maltreatment. This underscores the importance of targeted interventions aimed at strengthening social support systems and improving socio-economic conditions for at-risk youth.

Implications for Theory and Practice

These findings support the theory of latent vulnerability, which posits that childhood maltreatment leads to measurable changes in neurocognitive systems, increasing the risk of psychological and behavioral disorders in adulthood. The study extends this theory by demonstrating that the presence of social support can mitigate some of these risks, highlighting the dynamic interplay between risk and protective factors. The results have implications for clinical practice and policy. Early intervention programs that provide social support and address the effects of family violence can potentially reduce the incidence of substance use disorders among young adults. This is particularly crucial for populations in urban areas and those experiencing severe material deprivation, as these groups were identified as having higher levels of substance use.

Social support has been identified as a crucial buffering factor that can mitigate the negative effects of childhood maltreatment. Supportive relationships with family, peers, and community members can provide emotional and practical assistance, reducing the likelihood of substance use as a coping strategy. Meta-analytic evidence suggests that high levels of social support are associated with lower rates of alcohol and drug use among individuals with a history of childhood abuse [13].

Limitations and Future Research

The reliance on self-reported data may introduce bias, and the cross-sectional design limits the ability to establish causal relationships. Future research should employ longitudinal designs to better understand the temporal dynamics between childhood maltreatment, social support, and substance use. Additionally, exploring the underlying neurobiological mechanisms in more detail could provide deeper insights into how early experiences shape long-term outcomes. The observed gender differences in response to childhood maltreatment suggest that gender-specific interventions may be necessary. Future studies should investigate the unique pathways through which men and women develop substance use disorders following childhood maltreatment, considering both biological and socio-cultural factors.

CONCLUSION

In conclusion, this study highlights the significant impact of childhood family violence and the protective role of social support on substance use in young adulthood. By identifying key risk and protective factors, the findings provide a foundation for developing targeted interventions to reduce substance use disorders in this vulnerable population. Addressing the long-term effects of childhood maltreatment and enhancing

social support systems are critical steps towards improving the mental health and well-being of young adults.

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