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Articles

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Transforming External Control of Municipal Finances in Hungary

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Abstract

The external control of the Hungarian municipal finances has been based on the traditional, continental dual model: the State Audit Office of Hungary, responsible for the professional control of these finances on the one hand, and the County (Capital) Government Offices, performing the legal supervision of the decisions and procedures of municipal finances on the other hand. This paper analyzes how this ecosystem has been transformed, and how central governmental control has been strengthened during the last decade. It also examines the phenomenon of blurring the boundaries between professional and legal control and supervision. Finally, it reviews the complementary elements of this system, such as the inspection competences of the Hungarian State Treasury and the asset management control powers of the public prosecutors.

Keywords

external control, professional control, legal supervision, County Government Offices, State Audit Office of Hungary, inspection of central government funding

1 Introduction: municipal finances in the Hungarian system

The changes of the Hungarian municipal finance system are primarily influenced by the transformation of the Hungarian municipal system. It should be emphasized that the concept of local governments has been transformed after the new Constitution, the Fundamental Law of Hungary, entered into force on 1 January 2012, allowing a relatively wide regulatory freedom on municipal law. Though, the basic structure of the municipal law remained intact, a new cardinal Act on the municipalities shortly followed. This new Municipal Code is the Act CLXXXIX of 2011 on the Local Self-Governments of Hungary *(Magyarország helyi önkormányzatairól szóló 2011. évi CLXXXIX. törvény* – hereinafter: LGA-H). As part of the regulatory transformation of the municipal system, both the subject of local governance and the types of municipalities are defined by the LGA-H, and not by the constitution, as it used to be. According to Section 2 of the LGA-H, local governance is a right of the voters' collective of communities and counties. Thus, the former constitutional rules are now being regulated by the LGA-H.

The municipal model based on the general powers of the local entities has transformed partially. As such, the current second-tier municipalities, that is, the county governments, are practically not vested with general powers. In line with Section 27 of the LGA-H, only regional development, spatial planning, rural development, and general coordination are listed as tasks appertaining to the counties' competences (Hoffman, 2014, 405–406).

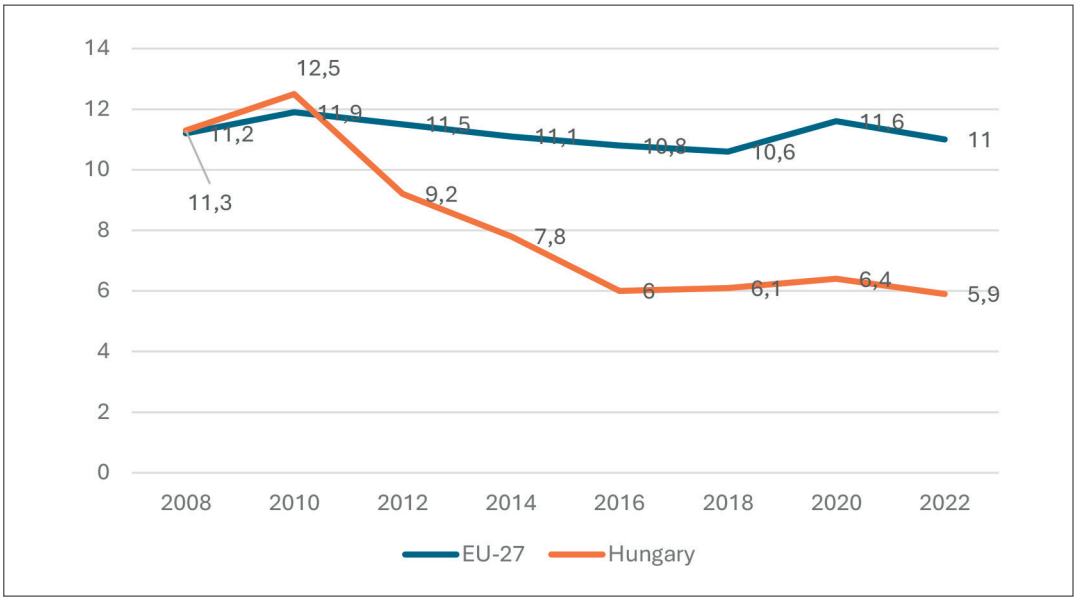
The most important conceptual development in regulation that the new Fundamental Law has brought about, is the paradigm shift in terms of the nature of self-governance. With respect to the former Constitution, self-governance was interpreted as a fundamental right of the local and regional communities, and the main competences and liberties of the local self-governments were considered 'fundamental rights' as well. These municipal rights did not equal the fundamental rights of persons, nevertheless, the Constitution of the Democratic Transition was clearly based on the concept of inherent rights (Bodnár & Dezső, 2010, 220–222). It is this concept which has been transformed by the Fundamental Law. Though, Article 32 of the Fundamental Law lists the major municipal competences, these competences are still not defined as 'fundamental municipal rights', and it is made manifest that municipalities may perform these competences only 'within the framework of the Acts'.

The former paradigm, one may call it an 'autonomous model', has, thus, been transformed into an 'integrated model' (after the classification of Kjellberg, 1995). This is emphasized by Paragraph 1 of Article 34, stating that '[l]ocal governments and state organs shall cooperate to achieve community goals'. This means that the legal protection of the local government has been weakened as well, because municipalities do not have fundamental rights, they cannot file constitutional complaints either against the legislation by which their competences are, constitutionally or not, being restricted.

Thus, the characteristic of the new municipal system is a *centralized one* the provision of public services has been centralized, the supervision competences of the central government and its agencies have been strengthened and the municipal administration has been concentrated (Szente, 2013, 178–180).

These transformations influenced the new concept on municipal budget which has remained part of the public household. However, it is a separate sub-system from the central budget, though municipal finance has a strong impact on the whole public finance system. Municipalities are significant providers of public services and important players in the national economic systems. Although, the economic role of the Hungarian municipalities has been decreased since 2012 (Bencsik & Ercsey, 2020, 235; Siket, 2021, 274–275; Pál & Radvan, 2024, 213), they still have a significant share in the Hungarian GDP (see Figure 1).

Figure 1. Share of municipal expenditures in the GDP in the EU and in Hungary (2008–2022)



Source: Eurostat, 2024.

The regulation on municipal asset has been similarly significantly influenced by the transformation of the Hungarian municipal system. Specifically, the municipal asset has become practically a 'purpose fund'; this means that if municipal tasks change, the corresponding asset may be transferred to the new responsible body. Moreover, between 2012 and 2017 several important municipal assets were nationalized, such as former municipal hospitals, residential social care homes, municipal elementary, vocational and grammar schools, which were either partly or fully nationalized and then maintained by the central government and its agencies (Szilágyi, 2016, 252–256). In addition, another important change has been implemented, at least in principle, namely the requirement for government permission for municipal borrowing, accompanied by the introduction of restrictive regulation concerning municipal budget deficits.

Although, the Hungarian municipal system has been transformed significantly since 2011/12, municipalities still play a decreasing yet important role in the Hungarian administrative system. As a result, the legality and the security of the municipal finances are important issues for the whole public household system of the country (Feret, 2020, 89–91; Kostrubiec, 2021, 116–118). Moreover, the security and legality of the municipal finances are protected not only by the municipal bodies, but also by other public bodies belonging to the central government and even other branches of power, for example the judiciary (Raudla et al., 2023, 393–395). Therefore, by the analyzing these control mechanisms, the major characteristics of the municipal financial autonomy – and, indeed, the autonomy of the municipalities themselves – can be observed (Radvan et al., 2018, 900–902).

In this paper, I assess therefore the situation in Hungary by examining the major forms of external control over municipal finances (Jensen, 2005, 54–57). In this regard, I focus on the regulation and its administrative and judicial practice. Thus, while the methods of legal studies will primarily be applied, the approach of administrative sciences will also be included in my analysis.

2 Legal supervision and subsequent court proceedings

2.1 Scope of the legal supervision

Pursuant to Section 132 of the LGA-H, the legality of municipal decisions, including those relating to property management, may be subject to an extensive review by the county (capital) government offices (Nagy & Hoffman, 2023, 571–774). Specifically, with regard to Section 132(4) of the LGA-H, *municipal finance decisions involving discretionary powers or margins of appreciation are, in principle, exempt from supervision by the government offices*. However, the Section 132(5) of the LGA-H introduces an important exception: even cases where discretionary power or margin of appreciation is applied, the county and capital government offices may examine the legality of the *decision-making procedure* (Gyurita, 2020, 26–27).

Furthermore, the legal means of supervision are outlined in Article 132(1) of the LGA-H. This provision confirms that beyond requesting information and making proposals, the government office may, in cases of unsuccessful requests, initiate judicial review procedures in the courts responsible for overseeing municipal decisions – primarily the Curia (the Supreme Court of Hungary) and the Regional Courts with Administrative Branches (Rozsnyai, 2023, 361–363). Moreover, regarding financial management, the LGA-H explicitly states that the Government Office may initiate proceedings before the State Audit Office of Hungary. In instances where the government office issues a formal notice and the municipal representative body disagrees with its findings, the court has the authority to rule on the legality of the decision. Finally, municipal decrees and decisions are subject to Act I of 2017 on the Code of Administrative Court Procedures (hereinafter: CACP).

2.2 Judicial review of the legality of the decision-making process of local authorities

The court procedures on the municipal finances are mainly focusing on local regulation on taxes and other public revenues. Although, there are several landmark cases on this topic, their detailed analysis is beyond the scope of this article.

Due to the above-mentioned limitations of the tasks and duties of the government offices, judicial practice in this area is relatively limited. However, in the domain of municipal finances, judicial practice addresses several key issues. First and foremost, the Fundamental Law of Hungary introduced a special procedure by the Curia (the Supreme Court of Hungary) for cases where a municipality fails to fulfill its duties in passing municipal decrees. In such cases, the government office may initiate an omission procedure at the Curia. Should the Curia determine that an omission has occurred and the municipality still does not pass the decree, the Head of the Government Office or the county government commission has the authority to enact the decree on behalf of the municipality. The initial set of decisions by the Curia of Hungary focused on this issue. For instance, several rulings have been passed by the Curia of Hungary, because municipalities failed to adopt their annual budgets or final accounts decrees (Decisions of the Curia No. Köm.5.028/2023/5., Köm.5.027/2023/6., Köm.5.020/2023/7., Köm.5.019/2019/4., Köm.5.012/2018/3., Köm.5.016/2017/4. and Köm.5.072/2013/3.).

Another group of decisions in the field of the control of municipal finances are the decisions on the legality of the annual budget and municipal household issues. The Curia of Hungary stated that municipalities have wide autonomy in organizing and deciding on their finances. It has been emphasized by the Curia of Hungary that the compliance of the municipal financial decrees is an important issue. Thus, those correction which are related to the compliance of the financial

planning, and which are in accordance with the local organizational regulations could not be interpreted as infringing actions (Decision of the Curia of Hungary No. Köf.5.024/2023/7.). Because of the limitations of the judicial review of the decrees based on discretionary powers and margin of appreciation, the Curia of Hungary has a very restrictive practice on quashing municipal financial decrees. It has been emphasized by the Curia of Hungary that the most serious infringements can result in the annulment of a decree. For example, if an annual budget has been passed by the representative body (the municipal council) in a closed session, it could be a reason for quashing the whole decree on the annual budget, because it breaches several important principles, especially the accountability of the annual budget and the open and democratic decision making of the municipality (Decision of the Curia of Hungary No. Köf.5.040/2013/4.). Similarly, if the municipality passes a financial decision-making structure which is infringing the national regulations, those sections of the annual local budget should be annulled (Decision of the Curia of Hungary No. Köf.5.067/2012/4.).

Thus, it is clear, that the judicial control of the municipal management has focused on the decision-making and procedural issues, according to the original concept on legal supervision of the LGA-H.

As I have indicated, under the LGA-H the government offices, as bodies responsible for legal supervision, have extended their powers to examine the organization, operation and decision-making procedures of municipalities. This includes the examination of the decision-making procedures of bodies and officials of local governments that, although not governed by the public law, may still be classified as private law entities.

The decision-making process is a crucial factor in several financial decisions, particularly those involving asset management. This is because compliance with the decision-making rules set out in legislation is essential for safeguarding assets and ensuring transparency in asset-related decisions. For this reason, both the government offices – and their predecessors – and the courts have placed significant emphasis on ensuring that procedural rules regarding asset management decisions are followed. In practice, courts have generally not considered breaches of the rules concerning the publicity of meetings in prior proceedings as sufficient grounds for declaring a decision unlawful. However, if other procedural rules governing the adoption of municipal decisions, – such as those relating to the giving of opinions or those established by the municipality itself – are violated, courts have taken these infringements into account (Hoffman, 2010). Moreover, the courts have applied existing case law to procedural errors in municipal cases by analogy, treating such procedural violations as grounds for deeming municipal decision-making unlawful. Thus, for example, in its judgment No 3.K.30.154/2008/8, the Heves County Court held that a tender decision, in which the county assembly declared a tender successful despite the tenderer not attaching one of the annexes required by the call for tenders, was unlawful. In the light of the above, the court annulled the County Assembly's decision to declare the tender for the conclusion of an asset management contract successful.

2.3 Between legal supervision and professional control: the amendment of the LGA-H in 2023

It should be emphasized that the Hungarian control on the activities of the municipalities is based on the European Charter of Local Self-Government, and the regulatory framework is heavily influenced by the German jurisprudence (Hoffman, 2015, 242–243). According to Article 8 Paragraph 2 of the European Charter of Local Self-Government, supervision of municipal activities is primarily based on the control of the legality. However, professional control of

the activities of municipal bodies is allowed as an exception by the Charter. In the Hungarian system, this professional control mainly focuses on municipal activities that have been delegated by central government bodies. Thus, the system has been based mainly on the German concept of '*Rechtsaufsicht*' and '*Fachaufsicht*' (Schmidt, 2022, 145–160). As mentioned above, the practice of the government offices focused on the legality, especially the procedural legality, as a result of the limitations of their legal supervisory powers.

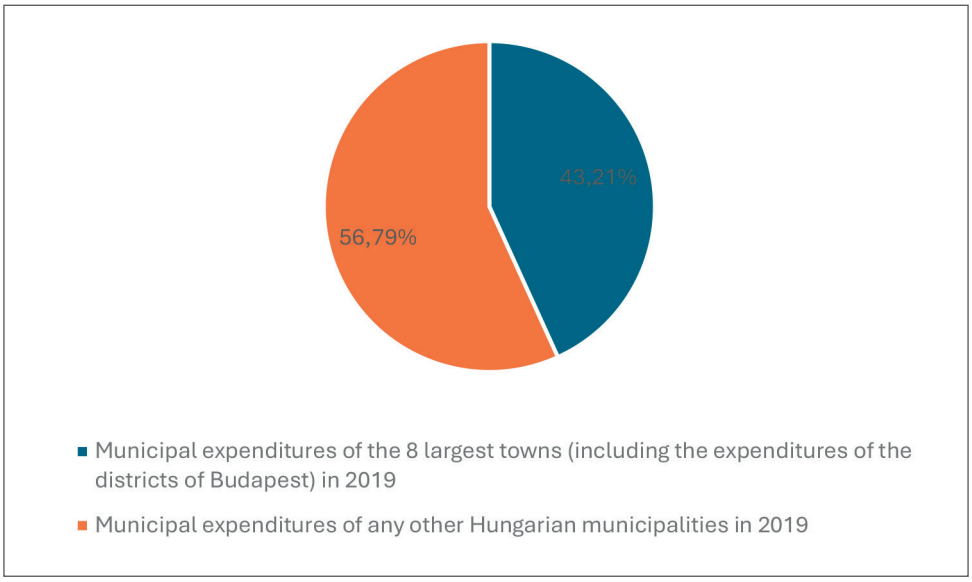
However, this traditional approach will change in 2024. The Act CXIV of 2023 amended the Section 111 of the LGA-H, and new regulations will be introduced. The new regulations, which will enter into force on the new municipal term (1st October 2024), focuses on the aid for the companies owned by the municipalities. Similarly, the government office can check the real cover of the municipal revenues, especially if the planned revenues are increased significantly (by 20% or by 1 billion HUF – around 2.5 million EUR) by the municipal budget. In such cases, the government offices have the right to check the incomes of the municipalities, including whether the planned municipal revenues have real and actual backing. The reasoning of the amendment was the effective enforcement of the regulation banning operational deficits, as defined by the LGA-H. Government offices also have the competencies to appoint an insolvency commissioner to a municipality if they find that it will face an operational deficit due to an unjustified municipal budget, or if the municipality has breached its duty of cooperation during the aforementioned control procedures. The insolvency commissioner is an actual financial guardian of the municipality, because without their consent financial commitment could not be made. Therefore, the financial autonomy of the municipality is effectively terminated by the appointment of this commissioner. The appointment of the commissioner is under judicial control, but regulation is now clear: in case of an unjustified or operational deficit budget, the municipal financial autonomy can be terminated by an agency of central government.

The legal nature of this regulation is questionable. However, the rules are defined by the LGA-H, the content of the regulation has no legal nature, instead it is based on economic control activities, as the cover of the municipal revenues should be checked, and therefore it is at least partially a professional control of the municipal activity (Schmidt, 2022, 159–160). Thus, it cannot be classified clearly as a legal institution of the legal supervision, but it could be interpreted as a partially professional supervision tool. As will be discussed in the next point, there is an opportunity for professional control of municipal finances, although these tasks have been performed by the State Audit Office of Hungary. This regulation was based on the principle of municipal autonomy, as the State Audit Office of Hungary belongs to the legislative power: it is a specialized control body of the Parliament, and is independent of the executive and central government. Thus, it can be interpreted as the control mechanism of the legislative power over the executive power, because in the Hungarian constitutional system, municipalities are considered as an autonomous subsystem of the executive power (Nagy & Hoffman, 2024, 542–548). The new regulation can be understood as a break with this previous, dogmatically clear regulatory model. An agency of the central government will receive a professional supervision task over the municipalities. Although, it is a restricted one, and seems to be exceptional, it has the above-mentioned dogmatical questions. During the last 13 years, the influence of the central government and its agencies on the municipal financial autonomy has been strengthened by the permanent transformation of regulation (Bencsik, 2017, 67). Consequently, this new regulation is another giant step towards the administrative guardianship of the Hungarian municipalities.

Another problematic issue with the regulation is that it seems to be a targeted one, as the regulation on municipal companies seems to be focusing on the budgetary management of the

larger municipalities, which are the major owners of the largest municipal companies (Horváth M. 2015, 24–26) and have the majority of tax revenues in Hungary (Hulkó & Fehér, 2021, 162–165) (See Figure 2.).

Figure 2. Share of the municipal expenditures of the largest Hungarian municipalities



Source: Eurostat, 2024 and the municipal decrees on final accounts

However, this selectivity can be justified, because the larger municipalities have a more significant impact on the debt of the public household. However the introduction could have other reasons, which are not based on the administrative and legal approach (Deets, 2023, 5–7).

3 External control of the State Audit Office of Hungary

According to the constitutional regulation, the State Audit Office of Hungary (hereinafter: SAO) is responsible for the audition of the financial management of the Hungarian local governments. This approach is based on the regulation of the Section 1(3) of Act LXVI of 2011 on the State Audit Office of Hungary (hereinafter: ASAO), "[t]he State Audit Office of Hungary shall have general competence to audit public funds and is responsible for the audit of the management of national and municipal property", and that according to Section 132(1) Point j) of the LGA-H, the government office may initiate an investigation by the SAO into the management of the local government.

In this context, however, the Administrative Chamber of the Supreme Court – as the legal predecessor of the Curia – held in its opinion published in KGD 1996/1, that pursuant to Section 98(3) Point a) and Section 99(2) of the Act LXV of 1990 on the Local Self-Governments (hereinafter: LGA), which was in force until 2011/12, the bodies responsible for controlling the legality of municipal actions may bring an action against the unlawful municipal decisions. In other words, the predecessor to the Curia concluded that these provision did not preclude the administrative offices – predecessors of the current government offices – from reviewing the legality of such decision. As a result, under this regulatory framework, the control exercised by

government agencies was *purely* judicial in nature, meaning that they could only act in in cases of legal violations. While the current practice of the Curia continues to permit legality reviews in such cases, the Curia emphasized in its landmark decision No. BH2023. 206 that individual property disputes – such as disputes arising from agreements on contributing to the operating costs of joint municipal offices – fall outside the scope of conflict-of-law reviews. Moreover, the SAO under Section 1(3) and Chapter III of the ASAO, has the authority to examine not only the legality but also the practicality and effectiveness of municipal management. As mentioned earlier, this approach is based on the German legal doctrine of both legal and professional supervision. Thus, while government agencies are limited to supervising legality, the audit powers of the SAO extend to professional aspects, functioning as a form of professional audit.

The detailed rules of the procedure of the SAO are laid down in the ASAO. Based on these rules, the SAO has a wide range of investigative powers, which are described in detail in the ASAO (Chapter III). In addition to the broad powers of investigation, the ASAO establishes an audit-based control system. This means that the SAO cannot take decisions, but can only initiate proceedings before the relevant authorities. Furthermore, there is no right of appeal against the audit reports of the SAO, but the audited body and its head have the right to submit comments. (Árva, 2013, 444–445).

4 External control of the central government and its agencies

4.1 Central government aid on municipal task performance

In the Hungarian financial system, the municipal revenues are partially derived from their own revenues, especially on local taxes and income from the asset management. However, the role of central budget support is also a significant element of system. As the Hungarian Constitutional Court has stated, this support must be considered an obligatory and inherent part of municipal funding (Kecső, 2016, 248–252). Therefore, the control of these funds can be interpreted as a crucial aspect of the external control of municipal finances.

In the Hungarian legal systems, this financial support is disbursed by the County and Capital Directorates of the Hungarian State Treasury (hereinafter: County Directorates). While several types of support are allocated based on individual (public authority) decision of the County Directorates, the majority are disbursed automatically. relying on data provided by the municipalities. Nevertheless, the Act CXCV of 2011 on the Public Finance (hereinafter: PFA) introduced special control procedures. These procedures are regarded as public authority inspections, and as such they are subject to the provisions of the Act CL of 2016 on the Code of General Administrative Procedures (hereinafter: CGAP). Furthermore, due to the need for rapid and definitive decisions regarding these funds, The PFA outlines specific regulations to expedite the process. Two major types of inspection and control procedures have been established by the PFA. First, Section 57 of the PFA defined an administrative control over data provided by the municipalities. During these procedures, the County Directorates review the data and thus the legality of the municipal aid. If they find the data and the paid support to be inadequate and inappropriate, they can amend it. Decision made by the County Directorate can be reviewed by courts responsible for the review of administrative decisions, with special rules in place for accelerating both administrative and judicial procedures. Another procedure involves the review of annual budgetary reports on central government support. Section 60 of the PFA introduced a special review procedure for this. Because of the importance the County

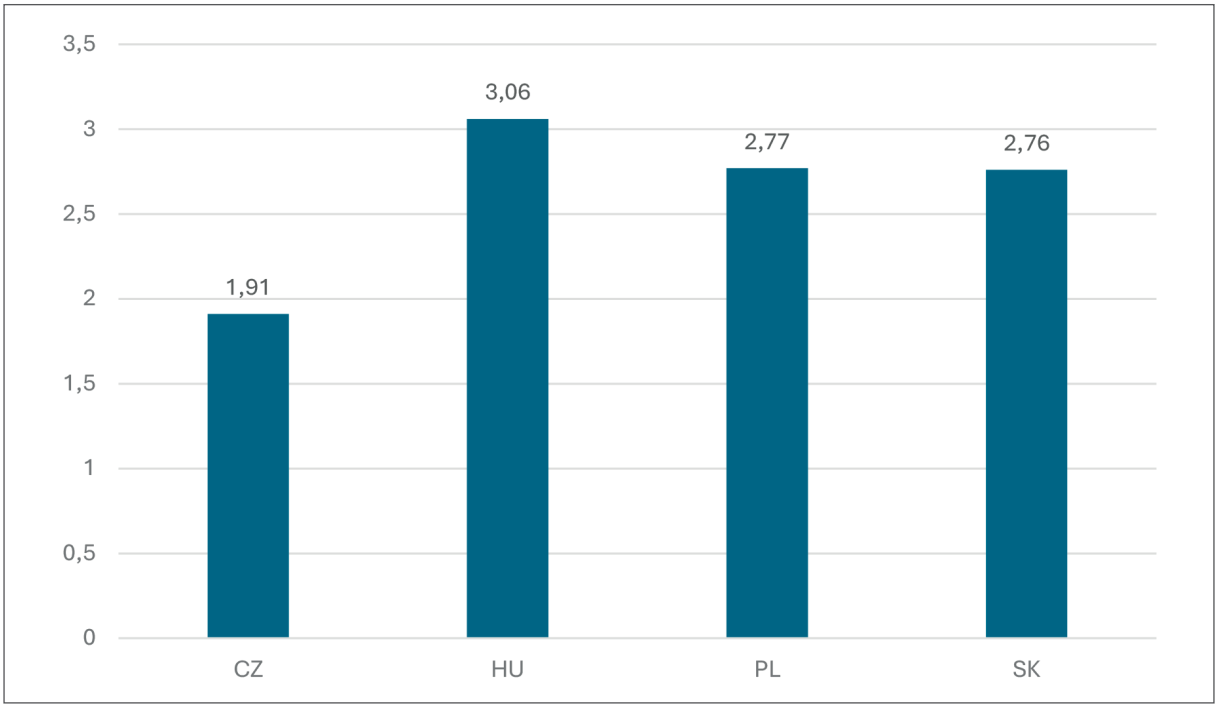
Directorate's decisions, a two-instance procedure has been introduced (Nagy & Hoffman, 2023, 523). It can be interpreted as a special one, because in Hungary administrative procedures are in principle single-instance procedures, with two-instance procedures being the exception. (Rozsnyai, 2021, 494–496).

Thus, there is a 'traditional' individual inspection procedure for municipal finances. The reasoning behind this regulation is that because of the autonomy of the municipalities, the central government support cannot be interpreted as a hierarchical activity. Instead, this relative independence has led to the implementation of an administrative procedure. (Nagy, 2017, 23–25).

4.2 External control on the use of EU funds

In Europe, the European Union has become an outstanding actor in the regional policies. As a result, even municipal activities are widely supported through projects co-funded by the EU. It should be emphasized that the European Structural and Investment Funds (ESIF) play a particularly significant role in Hungary. During the 2014–2020 EU budget cycle, the Visegrád countries received substantial EU funding. According to Eurostat data on national accounts, the ESIF funds received by these countries amounted to 1.91–3.06% of their GDPs (see Figure 3).

Figure 3. Yearly ESIF fundings from EU (2014-2020) in the share of the average of 2014-2020 GDP (current market prices) (%)



Source: Eurostat national accounts 2014–2020 and https://cohesiondata.ec.europa.eu/countries

Therefore, the control mechanism on the EU funds is also an important part of the Hungarian municipal funding. First of all, there is a European framework on the remedies on the decisions on funds. Based on the EU regulations, a complaint against a decision to grant aid, which may be derived from the right to complain, is available to the applicant or beneficiary**.** This allows

the applicant or the beneficiary to lodge a complaint with the Minister responsible for the use of EU funds (currently the Minister for Public Administration and Regional Development). The complaint can be interpreted as a remedy which protects the subjective rights of the applicant, thus, it is only indirectly part of the external control mechanism of the municipal finances. There is, however, a tool that can be seen as an external control: the irregularity procedures. Irregularity refers to an administrative type of sanction related to the use of EU funding (Nagy, 2012, 91–93), and this control is carried out by the managing authorities If irregularities are detected, an *irregularity procedure* is initiated. In Hungary, given the structure of EU co-financed fund management, the County Directorates are primarily responsible for this control (Hoffman, 2023, 36–40).

The enforcement of the legal consequences specified in a decision of irregularity may be suspended by the Minister for Public Administration and Regional Development until the legal remedy procedure is concluded or terminated. No further appeal is permitted against the decision of the Minister responsible for the use of EU funds in such cases.

The above-mentioned instruments ensure that the bodies responsible for coordinating EU funds domestically can, on the one hand, exercise control over the decisions of municipalities co-financed by the EU, particularly those concerning asset management. On the other hand, they ensure that applicants and beneficiaries of funding receive adequate legal protection throughout the decision-making and control processes.

5 The public prosecutor as an external control body

Additionally, the public prosecutors also have a role – albeit a limited one – in the external control of the municipal finances. A specific case of indirect review of administrative decisions was the power of the public prosecutor, as laid down in Article 36/A of Decree-Law No. 11 of 1960 on the entry into force and enactment of the Hungarian Civil Code (hereinafter: EHCC), which was in force until 14 March 2014. The EHCC allowed the prosecutors to file a claim for the annulment of a contracts that were null and void in order to remedy the damage caused to the public interest. The examination of the above-mentioned question is of particular interest because, pursuant to Article 6:88(4) of Act V of 2013 on the Hungarian Civil Code, in force since 15 March 2014, "[i]n order to remedy the damage caused to the public interest and in the case of a usurious contract, the public prosecutor may bring an action for a declaration that the contract is null and void or for the application of the legal consequences of nullity", i.e. the prosecutor retained this right to protect the public interest.

According to the Supreme Court's decision published as EBH2004. 1043, the purpose of Article 36/A of the EHCC is to remedy the harm caused in the public interest, and therefore the prosecutor has the right to bring an action if the nullity of the contract causes actual damage to the interests of society as a whole or of a community. In its judgement, the Regional Court of Appeal of Pécs emphasized that "a void contract which has not yet entered into force can also be harmful to the public interest, and therefore the prosecutor's right to bring an action for damages extends to the right to bring an action for the nullity of a contract that is subject to a suspensive condition and has not yet entered into force. The public trust in the lawful functioning of the bodies which exercise public authority and administer public property, as detailed in the applicant's appeal, is in fact also infringed by the conclusion of such legal transactions." Notwithstanding the above principle, the Court of First Instance dismissed the action brought by the Somogy County Prosecutor General's Office in the specific case, since the parties had in the

meantime terminated the contract, so that the contract which had endangered public property had not been concluded. The above-mentioned case also illustrates the importance of the decision of the municipal representative bodies (assemblies) in relation to property contracts. Thus, it is recognized in court judgements that the public prosecutor has the competence and power to challenge these municipal activities. Even if the contracting parties have terminated their legal relationship before the end of the proceedings, the prosecutor could challenge the terminated contract. In light of these rules, the role of the prosecutor is exceptional and complementary, focusing on the legality of private law activities of local authorities, especially in the field of municipal asset management.

6 Closing remarks

The Hungarian municipal finances have a multi-layer external control system. However, the system followed the major continental pattern, especially the German and partially the French system, where the professional control of the municipal finances has been performed by the SAO and the County (Capital) Government Offices are responsible for the legal supervision, these strict boundaries are blurred. First of all, it should be emphasized that the Hungarian State Treasury became a major player in the control and inspection of the central support for the local governments and in the control of the application of EU co-financed funds. Similarly, the boundaries between professional and legal control are changing by the introduction of the budgetary control procedure managed by the County Government Offices, which will enter into force on 1st October 2024. Even the public prosecutors have complementary competences in the legal control of several private law contracts. Thus, the control system is changing, and it could be summarized, that the municipal autonomy is not strengthened by these transformations.

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The Role of Property Tax in Municipal Budget

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Abstract

Tax revenues of municipalities can be divided into shared and entrusted (own, local) taxes in the Czech Republic. There are several local taxes *sensu lato*, the most important of which is the immovable property tax. This article is set to evaluate its role in the Czech municipal budgets, predominantly by way of comparing the economic data concerning the revenues of local self-government units in OECD countries. From a legal perspective, the text describes and critically analyzes the legal regulation of the Czech immovable property tax and specifically points out municipalities' potential to influence their revenue with regard to political debates and recent changes in legal regulation. In the discussion part, the challenges connected with the changes in the legal regulation of the immovable property tax and changes in the budget determination of taxes are defined, and the impacts of these changes are analyzed in details. The authors argue that the role of the property tax is negligible and municipalities must rely on sources of funding other than local taxes to meet their statutory obligations.

Keywords

property tax, recurrent property tax, municipal budget, tax revenues, local tax, budget determination of taxes

1 Introduction

According to the Czech Constitution, municipalities are the basic territorial self-governing units.[1] Territorial self-governing units have the right to self-government; this fact is also expressed in the economic principles set in the Constitution dealing with local self-government: municipalities are public law corporations, they may own property, and they manage their affairs on the basis of their own budget.[2] However, the Czech Constitution does not go into details when dealing with these issues. Also, the European Charter of Local Self-Government was never entirely

[1] Art. 99 of the Act no. 1/1993 Sb., Constitution of the Czech Republic, as amended.

[2] Art. 101 of the Act no. 1/1993 Sb., Constitution of the Czech Republic, as amended.

accepted in the Czech Republic as the Czech Republic still does not consider itself bound by several provisions of the Charter with regard to financial autonomy. For example, the Czech Republic does not want to guarantee that local taxes and charges will form at least a part of local financial resources and does not want to ensure the power of local authorities to determine the local tax rates within statutory limits.

On the other hand, many Czech acts delegate tasks and duties to municipalities. To fulfill these tasks, municipalities need to find sufficient funding. The revenues of municipal budgets include revenues from taxes and charges, transfers and subsidies, non-tax revenues, loans and borrowings. The most important sources of financing for municipalities are tax revenues, transfers, and subsidies. Tax revenues of municipalities can be divided into shared and entrusted (own, local) taxes. Local taxes are defined as financial levies determined for the municipal budget, which can, at least to a certain extent, be influenced by the municipality, irrespective of whether they are labeled as local taxes or local charges (fees). This influence may involve aspects such as the tax base, tax rate, or correction elements (Románová et al., 2019, 605).

There are several local taxes sensu lato in the Czech Republic: the immovable property tax and eight local charges. While the property tax is an obligatory tax administered by (state) tax offices, municipalities are free to adopt local bylaws on local charges and collect them. This difference is the reason why the following text deals only with the immovable property tax and its role in municipal budgets.

The main aim of this article is to evaluate the role of the immovable property tax in municipal budgets in the Czech Republic and to confirm whether the hypothesis that the role of the property tax is negligible and municipalities must rely on sources of funding other than local taxes to meet their statutory obligations is tenable.

2 Methodology and Literature Background

To achieve the aim of this research and test the hypothesis, the IMRaD (Introduction, Methodology, Research, Discussion) structure was chosen for the paper. In the research part, it is necessary to identify the importance of the immovable property tax for municipal budgets in the Czech Republic. The comparison of economic data concerning the revenues of local self-government units in OECD countries shows the differences in funding of local governments. Additional comparative and analytical studies explain the differences in property tax revenues between municipalities in the Czech Republic. From a legal perspective, it is necessary to briefly describe and critically analyze the legal regulation of the Czech immovable property tax and specifically point out municipalities' potential to influence their revenue with regard to political debates and recent changes in legal regulation.

In the discussion part, the challenges connected with the changes in the legal regulation of the immovable property tax and changes in the budget determination of taxes are defined, and the impacts of these changes are analyzed in detail. In conclusion, by summarising and synthesizing the knowledge and findings gained, the authors test the stated hypothesis and set some de lege ferenda solutions.

Concerning the scientific literature in a given area, numerous books, book chapters, and articles address the financing of local self-government units. From the Central and Eastern European perspectives, many interesting papers (e.g., Cakoci & Červená, 2018; Kozieł, 2018; Radvan, 2018; Tomášková & Mrkývka, 2018) were published in the conference proceedings on the challenges of local government financing in the light of European Union regional policy

edited by Mrkývka et al. (2018). The funding of local government and its tasks with regard to the European Charter of Local Self-Government was a topic of the conference proceedings edited by Gliniecka et al. (2016), where exciting texts are available (e.g., Czudek & Kranecová, 2016; Janovec, 2016; Kozieł, 2016; Radvan, 2016; Románová & Červená, 2016). Essential books on local self-government finance were written by Pařízková (2005) and Peková (2004). This topic is also covered by Průcha (2011). The challenges of implementing the European Charter of Local Self-Government in Czech legislation were described by Radvan, Mrkývka & Schweigl (2018). From all the boos dealing with property taxation, it is necessary to mention Youngman (2016) from an international perspective. On the European level, a summary book was published in Slovenia and edited by Radvan et al. (2021). In the Czech Republic, the most active author in this area is also Radvan (e.g., Radvan & Kranecová, 2021).

3 Research

3.1 Importance of Immovable Property Tax for Municipal Budgets

Municipalities are to carry out activities within their defined competencies, focusing on finding sufficient funding to finance the needs of the local public sector. For this reason, the financing of municipalities in the Czech Republic is set up in such a way as to ensure a certain degree of independence from the central budget. Municipal budget revenues include revenues from taxes and charges/fees, transfers and subsidies, non-tax revenues, credits and loans. Tax revenues are among the most important sources of financing for municipalities, followed by transfers and subsidies (see *Table 1*).

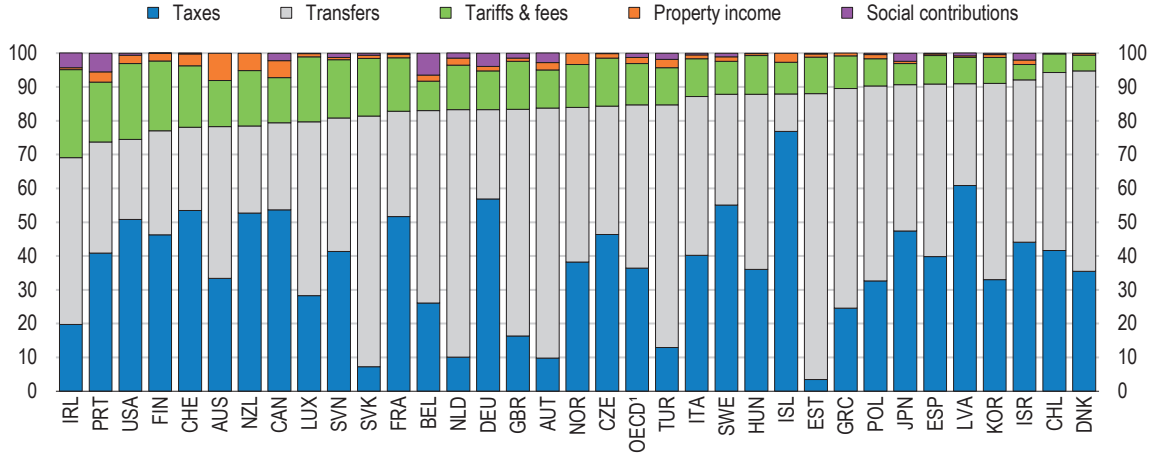
Table 1. Municipal budget revenues

Revenues	**Share of the total budget**
Tax revenues and fees	65% – 70%
Non-tax revenues	9% – 13%
Capital Gains	1% – 5%
Transfers	15% – 20%

Source: Own processing according to documents from the Ministry of Finance of the Czech Republic

Tax revenues of municipalities account for two-thirds of all revenues, transfers a maximum of one-fifth, and the remaining revenues are so low that it is difficult for municipalities to rely on this income to plan larger investment expenditures. However, the situation in other countries may be different. A look at the revenues of the territorial self-governing units within the OECD countries can give us some idea (see *Figure 1*).

Figure 1. Revenues of the territorial self-governing units by type
(% of total revenues, data for 2016, unweighted average)



Source: OECD (2020).

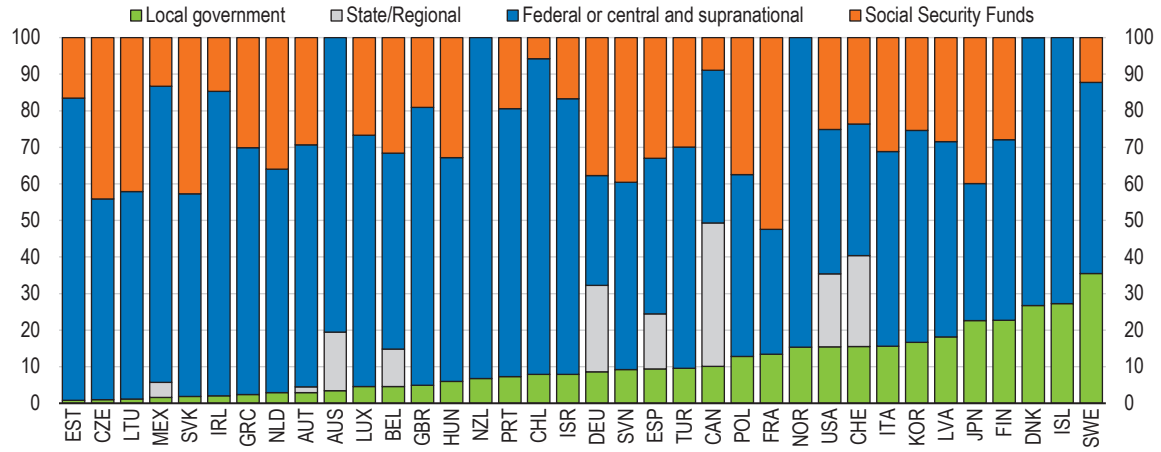
As can be seen from the figure, the Czech Republic has a higher share of tax revenues, a lower share of transfers, and a slightly higher share of tariffs and fees compared to the OECD average. Unlike in some other countries, social insurance revenues are not income for municipal budgets. Tax revenues of municipalities can be divided into shared and entrusted taxes. Shared taxes include VAT, personal income tax, and corporate income tax, unless the taxpayers are municipalities themselves. The amount of shared taxes is set out in Act no. 243/2000 Sb., on Budgetary Allocation of Taxes, as amended. Until 2023, VAT and corporate income tax revenues and individual personal income taxes were distributed as follows:

– 9.78% for the region budget;
– 25.84% for the municipal budget;
– 64.38% for the state budget.

The distribution of personal income tax from dependent activities differed in part. Municipalities were entitled to a higher percentage of the total revenue of this tax; they received 25.84% and furthermore 1.5% of the nationwide revenue of this tax. Only 62.88% of the national revenue flowed to the state budget. In the case of regions, the determination of the tax remained unchanged, and they received 9.78 % of total revenues.

The entrusted tax in the full amount flowing into the municipal budget is immovable property tax and corporate income tax paid by the municipality itself. The amount of revenue from shared taxes is highly dependent on the economic cycle, and the total revenue, therefore, fluctuates considerably. However, VAT and income taxes are the most important revenues of public budgets. Municipalities can influence the amount of taxes entrusted to them, but only to a minimal extent, as all taxes within the tax system have nationwide obligatory validity. Compared to the Czech Republic with other countries, the possibility of influencing taxes by municipalities is very small (see *Figure 2*).

Figure 2. Tax revenues of local government as % of total tax revenues
(2018 or latest available year)



Note: Compulsory social security contributions are treated as taxes.
Source: OECD (2020).

As can be seen in the figure, only Estonia has lower tax revenues at the local level. And except Lithuania, with which the Czech Republic is at about the same level, in all other countries tax revenues are higher at the local level.

If we focus on the revenue from the recurrent property tax, then the revenue of this tax (excluding Prague) in 2022 amounted to CZK 10.9 billion. Municipalities received a revenue of CZK 85.8 billion from shared taxes. The share of immovable property tax in total tax revenues was only 3% in 2022. Although municipalities had the opportunity to increase the immovable property tax coefficient and thus its total revenue, this option was not used much by municipalities. Municipalities do not have the possibility to adjust the amount of property tax in any other way than by adjusting the coefficients of this tax. Any other attempt by the municipality to increase the amount of property tax would be an overstepping of the limits of the municipality‘s independent powers. Between 2013 and 2022, the average annual growth rate of immovable property tax was 2%.

The revenue from recurrent property tax varies according to the category of the municipality. The leaders in this regard in 2022 were the smallest municipalities (up to 199 inhabitants), which collected an average of CZK 2,130 per inhabitant. As the size of the municipality increases, the value of this indicator decreases, up to CZK 1,063 per inhabitant in the largest municipalities (5,000 or more inhabitants). At the same time, the value of the coefficient, which affects the amount of the tax rate, increases with the increasing size of the municipality, i.e., small municipalities do not impose a higher property tax rate. The reason why the smallest municipalities collect the highest revenue is that the smallest municipalities have a higher share of recreational real estate, which pays a higher tax rate. Larger municipalities, on the other hand, have a large share of real estate intended for permanent housing, for which a lower tax rate applies.

There is a significant difference between municipalities with the highest and lowest incomes per capita. In 2022, the twenty municipalities with the highest immovable property tax revenues received an average of CZK 23,844 per inhabitant. The twenty municipalities with the lowest immovable property tax revenue received an average of only CZK 253 per capita in 2022. There is also a significant disproportion between individual regions. Municipalities received the

highest immovable property tax revenue in 2022 in the Central Bohemia Region (CZK 1,437 per inhabitant) and the Karlovy Vary Region (CZK 1,423 per inhabitant). The lowest revenue from this tax was obtained by municipalities in the Moravian-Silesian Region (CZK 939 per inhabitant) and the Zlín Region (CZK 987 per inhabitant) (Kameníčková, 2023).

3.2 Possibilities of Czech Municipalities to Influence Property Tax

Recurrent property tax collected in the Czech Republic is officially called immovable property tax, and the Immovable Property Tax Act regulates it.[3] This Act provides for two taxes on immovable property: the land tax and the tax on buildings, including houses, flats/apartments, and non-residential premises. Generally, the tax is paid by the owner of the property. Primarily, the unit/area (in terms of square meters) system is used. The tax is administered by the central State tax offices (i.e., the Financial Office) and not by local governments. Notwithstanding that all of the revenue raised from the immovable property tax goes to the municipal budget, depending on where the taxable property is located, municipalities only have a limited ability to influence the structural components of the immovable property tax (Radvan & Kranecová, 2021, 51). Municipalities can adopt local bylaws (usually a generally binding ordinance) to exempt immovable property affected by natural disasters, certain agricultural land (not gardens), and immovable property in special industrial zones. In addition, they can change coefficients influencing the tax rate (i.e., the location rent, the municipal coefficient) or the tax itself (i.e., the local coefficient).

The coefficient called location rent is influenced by the number of inhabitants with permanent residence in the municipality. Location rent is a multiplier applied to the standard tax rate for immovable property, such as development land, residential buildings, flats, etc. The basic value of the coefficient is laid down in the Act within the range of 1.0 and 4.5. Municipalities have the right to increase the basic co-efficient by one level (or reduce it by three levels[4]). Till the end of 2024, the municipal coefficient (1.5) can also be applied to other buildings and units where the location rent does not apply (Radvan & Kranecová, 2021, 52). Fiscally, the most important is the local coefficient. This coefficient influences the tax liability by a factor within the range of 0.5 and 5.0 (0.5 and 1.5 in the case of agricultural land and some other land) for the entire municipality, individual cadastral territory, individual municipal district, or individual group of immovable property). The local coefficient can also be adopted by a measure of a general nature issued by the municipal council for individually identified immovable property.

3.3 Recent Development in Property Tax Regulation

In June 2023, the Czech government sent the draft bill dealing with changes (not only) in tax law regulation in connection with public budgets consolidation to the Parliament.[5] The draft bill also included an amendment to the Immovable Property Tax Act. Among good things (such as the introduction of the inflation coefficient, amendments in coefficients as mentioned above, regulation of correction components, reducing the excessive tax burden on hard-to-use land, etc.), the draft bill aimed to introduce the state part and the local part of the immovable property tax. The new state part meant a 100% increase in the property tax, while the entire increase was

[3] Act no. 338/1992 Sb., Immovable Property Tax Act, as amended.

[4] In the case of reduction only till the end of 2024.

[5] Parliamentary print no. 488, available at https://www.psp.cz/sqw/historie.sqw?o=9&t=488

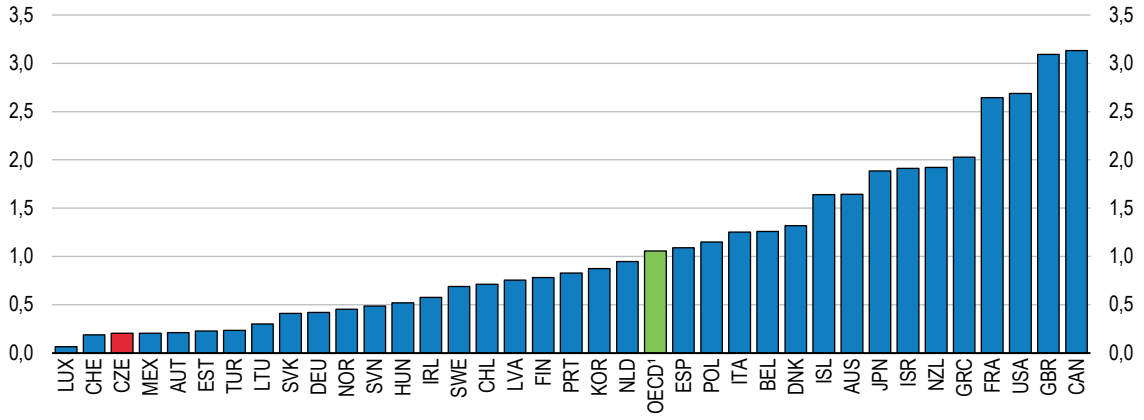
to benefit the state budget. So, a purely local tax was to become a shared tax. The government supported this opinion with several facts. Mainly, the property tax is administered by state tax offices, and the state pays the administrative costs. Also, the abolition of the tax on acquisition of immovable property in 2020 should be compensated with the state part of the property tax. Moreover, in some countries, the recurrent property tax revenue is wholly or partly the income of the state budget (Chamber of Deputies, 2023, 301–302).

The proposal to introduce the state part of the property tax was widely criticized by experts and especially by municipalities. The result was the adoption of an amendment in such a form that the state portion of the immovable property tax was not introduced. Still, the proposed tax increase was retained in connection with changes in the percentage of redistributed shared taxes (VAT, personal income tax, corporate income tax) to the benefit of the state budget and to the detriment of municipal budgets.[6]

4 Discussion

The current situation associated with the change in immovable property tax and the change in the budgetary allocation of the tax brings a number of challenges to municipalities, and they must be able to respond appropriately. The first of these challenges is of a more general nature and relates to the correct tax setting. The fact that the current property tax in the Czech Republic is not set up optimally is also criticized by the OECD. On the one hand, this criticism is related to the fact that there is a very low property tax. Furthermore, the market value of the property is not taken into account in the calculation of the tax; it is only the area and purpose of the property (OECD Economic Surveys: Czech Republic 2020, OECD Subnational Government Structure and Finance database). The recurrent taxes on immovable property in the Czech Republic are very low (see *Figure 3*).

Figure 3. Recurrent taxes on immovable property, % of GDP, 2021 or latest available year



1. Unweighted average
Source: OECD Revenue Statistics.

[6] From 25,84% of the revenue for municipal budgets in 2023 to 24,92% in 2024 and 24,16% in 2025.

As can be seen from the figure above, recurrent taxes on immovable property account for an average of 1% of GDP in countries of OECD. Recurrent taxes on immovable property account for only about 0.2% of the GDP of the Czech Republic.

The second challenge concerns the definition of the importance of immovable property tax in the overall revenues of municipalities. Recurrent property tax revenues will become more important revenue for municipalities as shared tax revenues decrease, and the change in the budgetary allocation of taxes will result in a reduction in revenues from shared taxes for municipalities (see *Table 2*).

Table 2. Income of municipalities from shared taxes in 2021 and 2022 and quantification of the amount of the change in the budgetary allocation of taxes

Shared revenues (bil. CZK)	2021	2022	Change 2021	Change 2022
VAT	463,265	535,734	4,262	4,929
Corporate Income Tax	195,964	228,676	1,803	2,104
Personal Income Tax - Entrepreneurs	9,629	13,963	89	128
Personal Income Tax - Dependent Activity	138,466	149,594	1,274	1,376
Withholding income tax at a special rate	29,121	38,618	268	355
Total shared revenues	836,445	966,585	7,696	8,892

Source: Own processing according to documents from the Ministry of Finance of the Czech Republic (no data for 2023 at the moment)

As can be seen from the table above, the change in the budgetary allocation of taxes will result in a reduction in revenues from shared taxes for municipalities by at least CZK 8 billion in total. CZK, what is not a negligible amount. Therefore, although the immovable property tax revenue will become a more significant income for municipalities from 2024, the municipality does not have access to information about which property owners paid this tax even after this change. Although it is possible to argue that municipalities do not have any costs associated with this decree, unlike, for example, local fees, on the other hand, it could be useful for municipalities to know which of the property owners pay their tax liability properly and on time. At the same time, they could also negotiate in their own interest with property owners who do not do so.[7] From the tax authorities' point of view, this is not a very profitable tax, which is associated with significant administration. The question is how much effort the tax authorities put into collecting this tax compared to other taxes.

The third challenge relates to ensuring sufficient revenues for municipalities, especially in the long term. The dynamics of immovable property tax revenue and shared tax revenue are different. Between 2013 and 2022, immovable property tax revenue increased by 21%, while shared tax revenue increased by 92%. The dynamics of shared tax revenues could also be higher thanks to income tax if there were no changes in connection with the COVID-19 pandemic primarily associated with the abolition of the so-called super-gross wage (Kameníčková, 2023). It can be assumed that this trend will continue, i.e., the development of shared taxes will be

[7] However, this would mean changes in the legal regulation of the obligation to maintain confidentiality in tax administration.

much more dynamic. For municipalities, an increase in property tax in exchange for a reduction in municipalities' share of shared taxes will, therefore, be disadvantageous. A one-time increase in the revenue of a slow-rising tax cannot compensate for a reduction in the revenue of a rapidly rising tax.

The last challenge focuses on the sustainability of municipal budgets as a whole. Municipalities are trying to manage a long-term balanced budget. Moreover, in recent years, the balance of cash in bank accounts has been higher than the total debt (see *Table 3*).

Table 3. Bank accounts and loans of municipalities *(in CZK billions)*

	2013	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**
Bank Accounts	95.0	104.3	111.6	153.3	176.4	183.1	210.9	230.0	262.2	290.1
Debt	92.2	88.9	86.9	71.9	69.0	68.6	70.0	71.1	69.6	71.1

Source: DVS (2024).

The table also shows that although there have been fluctuations in the economy and a significant increase in inflation in recent years, the debt of municipalities has been stable throughout the period under review, and the total amount of funds in bank accounts at the end of 2022 exceeded the value of the total debt of municipalities by more than four times. Simultaneously, it was found that in 2022, 3,167 municipalities, i.e., 50.6 % of municipalities, reported debt. This indicator has also not changed significantly in recent years. This situation is quite different from the development of the state debt (see *Table 4*).

Table 4. State debt *(in CZK billions)*

	2013	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**
Debt	1,683.3	1,663.7	1,673.0	1,613.4	1,624.7	1,622.0	1,640.2	2,049.7	2,465.7	2,894.8

Source: Ministry of Finance of the Czech Republic.

In the first view, there is a significant difference between the development of municipal indebtedness and the development of state indebtedness. Unlike the state, the management of municipalities remains stable and in good condition (although there are some exceptions). A negative phenomenon is defined as a lower use of budget surpluses, which are not used for the development of the municipality and the needs of citizens. In addition, due to inflation, the value of these funds has been lost (DVS, 2024).

The question is to what extent will the increase in immovable property tax and the change in the budgetary allocation of taxes affect the total debt, or what other obligations, including financing, will be transferred to municipalities in the future? This situation also lends itself to the assumption that municipalities are being punished for their management, which may lead to a certain animosity of municipalities towards the state.

4.1 Immovable Property Tax Regulation *de Lege Ferenda*

Undoubtedly, the recurrent property tax must remain exclusively local tax. However, many problematic issues connected with property taxation in the Czech Republic are still unsolved,

and the role of the property tax is marginal. The problem of low revenue could be resolved by adopting an *ad valorem* tax base. However, the current Czech government does not have the political will to increase the immovable property tax revenue. Without a strategic decision to significantly increase the property tax, there is no real incentive to implement an *ad valorem* system; it is expensive to establish, administratively demanding, and time-consuming. The immediate solution for the Czech Republic is to retain the unit system (area) tax base. There should be one maximum tax rate in the legislation for every type of property, and municipalities should have the right to introduce their own specific tax rates below that level. As there are 6,258 municipalities in the Czech Republic, and many of them are extremely small with a very low number of inhabitants,[8] there should be another rate (standard rate) in the legislation for those municipalities that do not set their own specific tax rates. As small municipalities are not able to administer the tax themselves, it is reasonable to retain state tax offices as immovable property tax administrators (Radvan & Kranecová, 2021, 76).

5 Conclusions

There are many objections to the payment of immovable property tax. The most common objection is why property owners should pay tax on property they have acquired from previously taxed income. The argument, of course, is that property owners benefit from the services provided by the municipalities and cities (e.g., infrastructure provision, transport routes, subsidized transport, security provision, fire protection, education, amenities, etc.) in whose territory the property is located. Nota bene, these services increase not only the quality of life but also the value of the property. However, the authors of this article believe that most property owners are aware of these facts, and therefore, objections of this nature are rarely heard. More fundamental, however, are the requirements for the tax to be suitably designed, sufficiently general and comprehensible, simple to calculate, with minimal administration and collection costs, and, last but not least, to take account of the specificities of each municipality.

As obvious from the text above, the hypothesis that the role of the immovable property tax is negligible and municipalities must rely on sources of funding other than local taxes to meet their statutory obligations was confirmed. Although the state part of the property tax has not been introduced, with regard to the reduction of the municipalities‘ share of shared taxes, the winner of these changes is the state: municipalities will have to find another source of revenue, including a possible increase in the property tax. Given their options, it is to be expected that municipal investment plans will be slowed or suspended. It is now more of a wishful thinking that the state will be able to use the funds thus raised more effectively, efficiently, and economically than if they had remained revenue for municipal budgets. From the point of view of the municipalities, we can only hope that in the near future there will be significant changes in the legal regulation of the immovable property tax: if the value-based system of taxation is not introduced, then we are inclined at least to the modifications as proposed in the discussion section above.

[8] Only 268 municipalities have more then 5,000 inhabitants (Dolejší, 2024).

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Challenges of the Current Tax-sharing System in Slovakia

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Abstract

The sharing of state tax revenues with local self-governments is a common practice in most countries, and the Slovak Republic is no exception. However, these systems vary significantly and while some countries apply a wider tax mix, others use just a single shared-tax system. The latter is the case in Slovakia. The paper evaluates, therefore, the appropriateness of using the current single tax (PIT), in terms of income stability, budget foreseeability and income sufficiency, for this purpose, and afterwards, it takes a look at the appropriateness of the single shared-tax system at large. Based on the data, PIT seems to be a smart choice for the Slovak Republic, as it is both income stable and budgetary foreseeable. From the income-sufficiency point of view, PIT is a medium voluminous tax, compared to other state taxes. However, from the local governments' perspective and with reference to their needs, this tax is simply not enough. Thus, the overall findings support the idea of enlarging the system to a broader tax mix, just like the ones endorsed by most of the neighboring countries.

Keywords

Slovakia, local self-government, local finance, shared tax, personal income tax

1 Introduction

Under the Slovak Constitution (the Constitutional Act No. 460/1992 Coll., Constitution of the Slovak Republic, municipalities and higher territorial units ("HTU") are the basis of self-government (Art. 64), and they finance their needs predominantly from their own resources, as well as from the state subsidies. Without autonomy, there is no self-government (Varga, 2023, 86) and as regards the components of autonomy, financial autonomy is especially important, since without this, the autonomy of local self-government is only illusory (Kecső, 2016, 97). When it comes to tasks of local self-government, they must be viably prepared to perform them, both organizationally and financially; therefore, an extremely important element of decentralization is proper material security of local self-government units, both in terms of assets and possibility to receive funds (Bieś-Srokosz, 2023, 31).

Regarding the municipal revenues, their more detailed structure is determined by Act No. 583/2004 Coll. on fiscal rules of local self-government and the amendments to certain acts ("Act on Fiscal Rules") setting forth in its Art. 5 that revenues of municipalities' budgets consist of their own and other resources. Own resources are created by the revenues from local taxes and local charges; non-tax revenues from the ownership of municipal property (including its transfer) and activities of the municipality and its budgetary organizations; interests and other revenues from the funds of the municipality; sanctions for violations of financial discipline imposed by the municipality; donations and revenues from voluntary collections to the municipality; the share in the taxes administered by the State, and other revenues on condition that a special law provides so expressly. The others include subsidies from the state budget covering the costs of the transferred performance of the state administration and subsidies from state funds; additional subsidies from the state budget; purpose-built subsidies from the HTUs or the budget of another municipality to carry out contracts under special laws; funds from the European Union and other foreign funds granted for a specific purpose, and other revenues determined by special laws.

According to the findings of our previous research (Vartašová & Červená, 2019, 48), which is also confirmed by some parallel sources (Papcunová et al., 2020, 13; Maličká, 2021, 669; Poliak, 2016), the municipalities are highly dependent on the state transferred resources, i.e. the grants, subsidies and shared taxes that altogether stand for approximately 70% of their revenues, compared to which local taxes play just a minor role. Shared taxes are a major tax source (amounting to approximately 80% of all municipal tax revenues) (Maličká, 2021, 682). These may be characterized as being an income accruing to several levels of public administration in the shares set by the law (Černěnko et al., 2021, 3). The Slovak system of state-shared taxes is created by only one state tax, personal income tax ("PIT"), and just for the years 2023 and 2024, there is an *ad hoc* partial sharing of corporate income tax ("CIT") as well. Thus, standardly, the whole tax-source revenues of municipalities consist of PIT shares and the local taxes, while the HTUs' tax sources are only created by the shared PIT.

As municipalities experienced problematic situations during the period of Covid-19[1] regarding the stability and sufficiency of this income in particular (Vartašová & Červená, 2021; Molitoris, 2021; Kubincová, 2021; Lazoríková & Vartašová, 2023; Červená & Cakoci, 2022), this research aims to address the system of state-tax sharing in Slovakia and to identify the potentials for its improvement. Accordingly, the paper purports to tackle two interrelated research questions, namely, whether the PIT as the current shared state tax is appropriate for the above purpose (in terms of income stability, budget foreseeability and income sufficiency) in comparison to other state taxes, and second, whether the current system of sharing only one state tax with municipalities/HTUs may be considered as sustainable from the point of income stability, budgetary foreseeability and sufficiency of the income.

From the point of methodology, the paper employs graphic presentation and descriptive statistics to evaluate the income of PIT from 2005 to 2022 and compares it with the rest of the four main state taxes: corporate income tax ("CIT"), value added tax ("VAT") and excise duties based on three selected characteristics, namely (a) the stability of the income (following I. year-on-year change in the nominal income and II. monthly income regularity[2]), (b) foreseeability of the income (using the ratio between the budgeted and actual income) and finally (c) the volume

[1] Not only in Slovakia. Compare Gajewski & Olczyk (2024, 95), Gawlowski (2022), Bouhlel (2021).

[2] This criterion was evaluated for the period 2018-2022 to reflect the pre-covid, covid and post-covid period.

of the income from particular taxes (supported by the growth of tax income for the evaluated period). This enables to evaluate the appropriateness of using PIT as a shared tax.

We used these results as a primary data source also for the evaluation of the one shared-tax system as such, together with the analysis of recent legislative changes in the tax-sharing-system regulation as the secondary data source. We analyzed, then, the systems of shared taxes applied by the neighboring EU Member States, i.e.: the Czech Republic, Poland, Hungary, and Austria, to seek other countries' solutions to this issue. The data was taken from the state final accounts published by the Ministry of Finance of the Slovak Republic and for the PIT income from the Monitoring of Fiscal Decentralisation published by the Ministry of Finance of the Slovak Republic.

2 The legal background of the tax-sharing system in Slovakia

The Act on Fiscal Rules determines in Art. 3 the financial relations between the state and the budgets of municipalities and HTUs created by, *inter alia*, the shares in taxes administered by the state. These are to be regulated by a special law, Act No. 564/2004 Coll. on budgetary determination of income tax revenue to local self-government and on amendment of certain laws ("Budgetary Determination Act"). The Budgetary Determination Act is crucial since it regulates the actual budgetary determination, remittance terms, method of distribution and remittance of a particular shared tax, which is the personal income tax (except for income tax collected through withholding), to the budgets of municipalities and HTUs. Since 2016, the whole revenue of this tax has been transferred to the budgets of municipalities and HTUs in the ratio of 70% and 30%, respectively; however, this ratio was updated over time.[3] The actual division of these sums within particular municipalities/HTUs is based on the formula set by Government Regulation No. 668/2004 Coll. on the distribution of the revenue from income tax to local self-government. These shares are transferred to municipalities and HTUs by the Tax Offices on a monthly basis by the 20th day of a month for the previous month. Overpayments and underpayments detected as of December 31 of the relevant calendar year are settled by March 31 of the following calendar year.

For 2023 and 2024, due to the extraordinary financial needs of local self-government, the *ad hoc* sharing of another tax, corporate income tax was approved by the parliament in the specified amounts of EUR 228,059,000 and EUR 236,546,000 (for municipalities) and EUR 97,739,000 and EUR 101,377,000 (for HTUs). In 2023, these sums were transferred by April 28 *en bloc* and for 2024, they follow the rule of monthly transfer of one-twelfth of the shared sum.

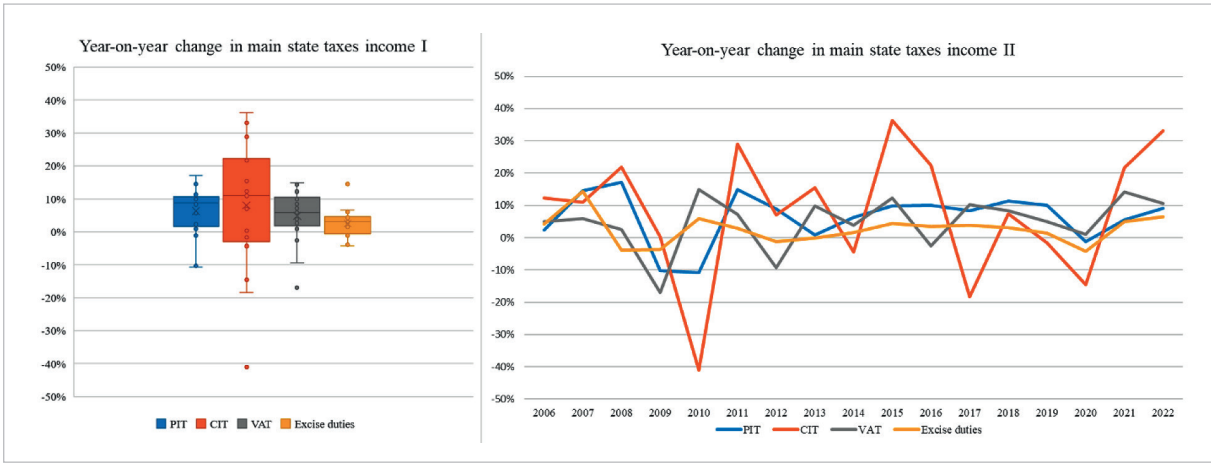
3 Research

For the first criterion, we first evaluated the year-on-year change in the nominal annual income from the four main state taxes (*Figures 1* and *2*). This was not uniform, and we identified significant differences among the particular taxes' patterns. The highest differences in the tax

[3] When the act was adopted, it was shared in 70.3% with municipalities and 23.5% with HTUs; the rest was kept by the state itself. Since 2012, it was 65.4 % for municipalities and 21.9% for HTUs; since 2014 it was 67% and 21.9% and since 2015 it was 68.5 % and 29.2%.

performance were observed in the case of CIT which fluctuated from -41.08% to 36.24% and had the highest annual increases, but also the decreases among the taxes. The most stable were the excise duties, moving between -4.24% and 14.45% of annual change. The least cases of annual decreases in tax income (3) were observed with PIT and VAT and the most with CIT (5). From the perspective of maximizing the income, taking into regard the positive annual change and the least annual declines, the best results were achieved by the PIT and VAT since excise duties are stable, but their annual raise is rather low.

Figure 1. Year-on-year change in the nominal annual income from the four main state taxes (cumulative)



Source: own elaboration

Figure 2 Year-on-year change in the nominal annual income from the four main state taxes (individual)

Source: own elaboration

The descriptive values are shown in *Table 1*. We see that the CIT was the most year-on-year raising tax among the assessed ones, but thanks to significant drops, it never reached the volume of the VAT and, with the highest values of variability, it is the most unstable tax. The best variability values were achieved by the excise duties.

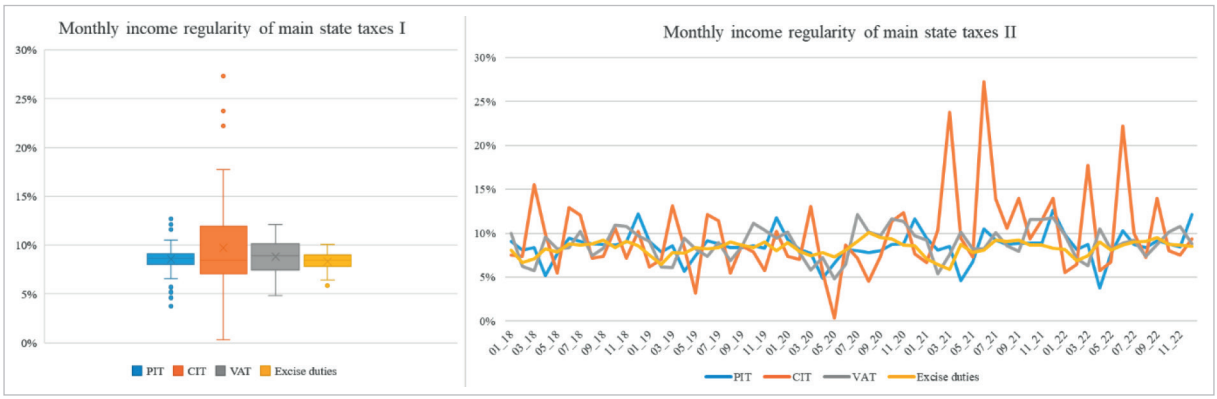
Table 1. Year-on-year change in main state taxes' income

	PIT	*CIT*	*VAT*	*Excise duties*
Mean	6,312	8,102	4,831	2,592
Standard Error	1,929	4,870	2,017	1,106
Median	8,872	10,941	5,850	3,158
Standard Deviation	7,952	20,080	8,315	4,561
Sample Variance	0,632	4,032	0,691	0,208
Range	27,910	77,324	31,937	18,691
Minimum	-10,740	-41,083	-16,970	-4,242
Maximum	17,170	36,241	14,967	14,449
Count	17	17	17	17

Source: own elaboration

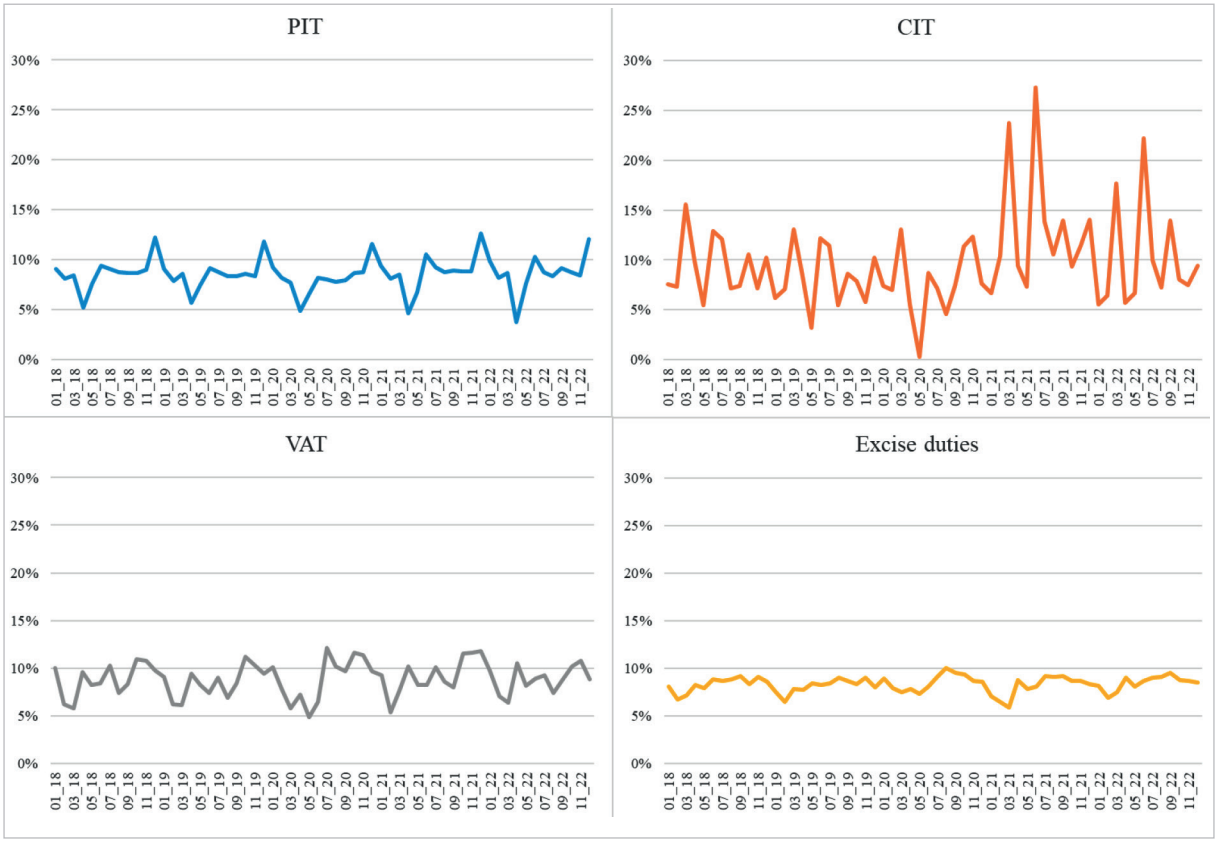
Secondly, we investigated the monthly regularity of the state taxes' income (*Figures 3* and *4*). The share of state-shared taxes is transferred to the local self-government monthly, thus, on the one hand, the state needs to have the available resources for this purpose and, it is also important for the self-government to count with a certain, preferably steady sum of funds, on the other hand. From the point of this data, the results were very similar: again the highest volatility was observed in the case of the CIT and the lowest with the excise duties. PIT is significantly cyclical with December peaks at around 12% of the annual budgeted income and April troughs between 3.7% to 5.69%. Its advantage may be the foreseeability of this almost perfect pattern regularity.

Figure 3. Monthly income regularity of the four main state taxes (cumulative)



Source: own elaboration

Figure 4: Monthly income regularity of the four main state taxes (cumulative)

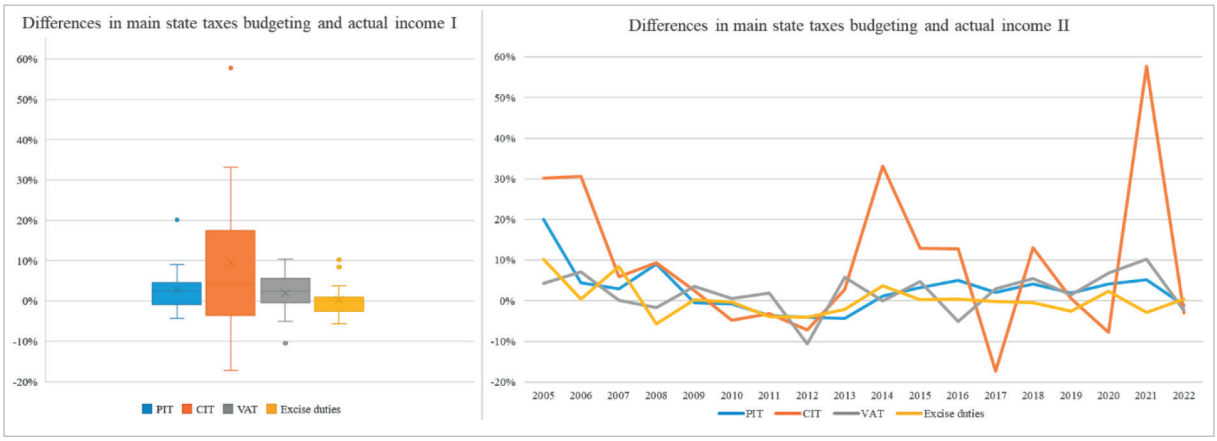


Source: own elaboration

As for the second criterion, the foreseeability of the income, we used the ratio between the budgeted[4] and actual income (*Figures 5* and *6*) to see how accurately the government sees the income that will become part of the local self-government income in a particular year. The results highly resemble to those for the first evaluated set of data. Considering the preciseness of the budgeting, the worst results were achieved by the CIT and the best by the excise duties, however, taking into regard also the positive difference between the expectation and the reality, PIT would be classified as the best option since, in half of the budget years, the actual income from the excise duties was lower than its budgetary expectation. PIT achieved lower-than-expected income in more cases than the VAT, but their decrease was less significant in particular years.

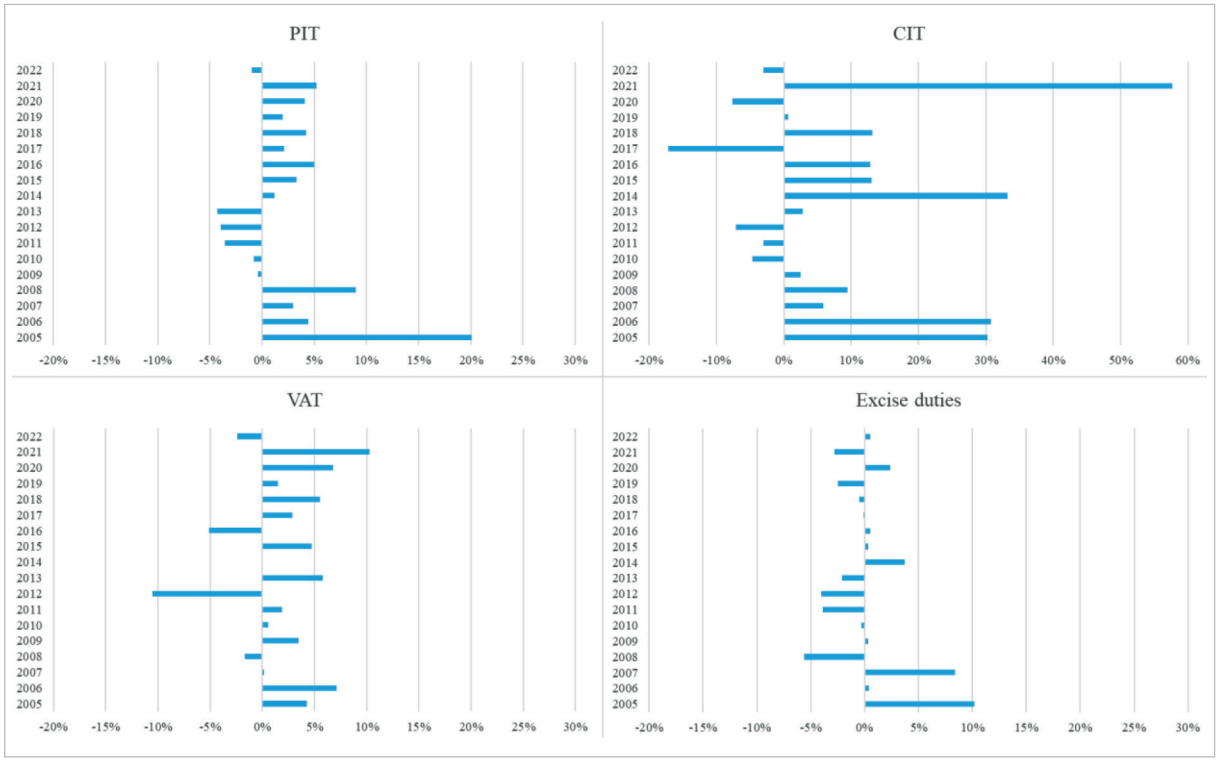
[4] We used the final value of the amended budget for a particular year.

Figure 5. Budgeted vs. actual income of the four main state taxes (cumulative)



Source: own elaboration

Figure 6: Budgeted vs. actual income of the four main state taxes (cumulative)



Source: own elaboration

The full data is shown in *Table 2*, from which we can conclude that the highest variability of values is present in the case of CIT and the smallest in excise duties, which, however, did not "surprise" the government with unexpectedly good annual performance (unlike CIT in particular years).

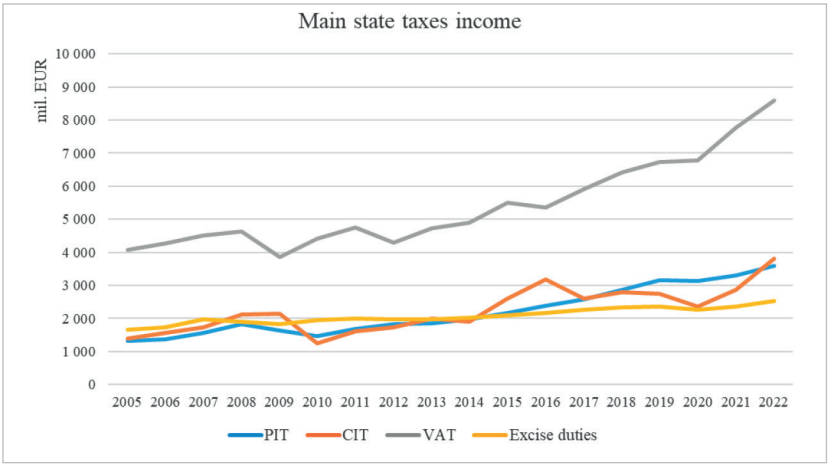
Table 2. Budgeted vs. actual income of main state taxes

	PIT	*CIT*	*VAT*	*Excise duties*
Mean	2,750	9,394	1,967	0,272
Standard Error	1,321	4,348	1,157	0,948
Median	2,550	4,350	2,400	0,100
Standard Deviation	5,603	18,448	4,907	4,022
Sample Variance	0,314	3,403	0,241	0,162
Range	24,400	74,900	20,800	15,800
Minimum	-4,300	-17,200	-10,500	-5,600
Maximum	20,100	57,700	10,300	10,200
Count	18	18	18	18

Source: own elaboration

Finally, we identified the volume of particular taxes' income, which is indicated in *Figure 7*. We see that PIT is not the most voluminous state tax but holds the second place after the VAT (sharing with CIT). The least yielding is the group of excise duties, and what might be even more important, their annual income is increasing only very slowly: in 2022, it was only 1.52 times that of 2005, while it was 2.11 times in case of VAT and above 2.7 in case of PIT and CIT. This shows higher growth potential for those taxes and a better chance to meet the rising expenses of local government.

Figure 7. Main state taxes' incomes



Source: own elaboration

4 Is a sole-tax-sharing system sufficient?

The analyzed data indicate a few interesting facts. Looking at the crisis period of Covid-19, we see that all the taxes' incomes dropped in 2020, so from this general point of view, it does not matter which tax is the shared one. The same situation appeared in 2009. However, not all the taxes dropped in the same way and, unlike in 2009, in 2020, one tax did not drop below its previous year's income, which was the VAT. Similarly, PIT dropped only -1.12% of the

previous year's income, which, given the circumstances, is a good result and may contributed to the fact that the overall financial situation in 2020 was not as bad as expected at the beginning of the year (Černěnko et al., 2021, 12). From a more general point of view, considering the whole assessed period, we see that the worst tax to share in the conditions of the SR would be the CIT. It is the most unstable tax as to its income stability and foreseeability, yet, it has very high annual increases (when it has one). The most stable and predictable might be the excise duties, nevertheless, they are the least yielding and their annual income is increasing very slowly. For this reason, it might not meet the needs of self-governments and their rising costs. A good tax to share would be the VAT, as it is both relatively stable and foreseeable, moreover, the most voluminous tax of the Slovak tax system. The current shared tax, PIT, achieved good results in all the assessed criteria and even its negative feature (monthly cyclicality) might be seen as positive due to the preciseness of its pattern of peaks and troughs.

This combination of positives and negatives of the assessed taxes leads us to the perception that using a mix of more taxes might help overcome the shortcomings of individual taxes and their reaction to external impulses. Moreover, the problem of only one tax-sharing system was especially visible during the Covid-19 period, when the tax income dropped and the state had to subsidize self-governments based on *ad hoc* agreements on the provision of repayable financial assistance (Vartašová & Červená, 2021, 392) to supplement the (un)expected drop in the PIT income (from EUR 3.155 bil. in 2019 to EUR 3.120 bil. in 2020), but, moreover, the unexpected Covid-related and further induced expenses (Molitoris, 2021, 249 et seq.). The municipalities got their share of money regularly, but in a lot less sum than would have been expected from the development in previous years; yet, there was no other shared tax (perhaps with better performance) that would compensate for it. The next sign of insufficiency of the one-source system was the *ad hoc* addition of a small part of CIT income to help the financial situation of self-governments for 2023 and 2024. This, even though an unsystematic solution, clearly shows the necessity of enlarging the tax-sharing system in Slovakia. Černěnko et al. (2021, 13) also found that a high concentration of local government tax revenues from PITs makes them vulnerable to economic fluctuations.

We can compare the situation in Slovakia with the neighboring EU states.

In Poland, the income sources of local self-government are determined by the Act of November 13, 2003, on the incomes of local self-government units which stipulates that, among the local taxes[5] (and fees) that are the incomes of municipalities, there are also the shares in central taxes that are part of local budgets. In particular, it is the share in PIT, from taxpayers of this tax residing in the municipal/district(*powiat*)/voivodship[6] area (39.34% for municipalities, 10.25% for districts, and 1.6% for voivodships), and CIT, from taxpayers of this tax based in the commune area (6.71% for municipalities, 1.4% for districts, and 14.75% for voivodships). In total, the state shares 51.19% of PIT and 22.86% of CIT with local government. This system makes the municipal authorities try to attract new taxpayers, i.e. residents and especially entrepreneurs because their presence (and employing other persons) contributes to increasing the budget revenues of these local government units (Dworakowska-Raj, 2020).

[5] Comprising real estate tax, agricultural tax, forestry tax, tax on means of transport, personal income tax paid in the form of a tax card, inheritance and donation tax, and civil law transactions tax. For details see Vartašová, (2021).

[6] For more details on the structure of local self-government in Poland see e.g. Malinowska-Misiąg & Misiąg (2021).

The legal regulation of shared-tax revenues in the Czech Republic is set out in Act No. 243/2000 Coll., on the budgetary allocation of revenues from certain taxes to territorial self-governing units and certain state funds, as amended. Let alone that the whole revenue of real property tax (100% of the tax revenue from immovable property located on the territory of the given municipality) is transferred to municipalities and that this *de lege lata* state tax is considered as a local tax by the Czech academia (Radvan, 2019, 152–153; Marková, 2005), we can see that the system of state-shared taxes is broader than in Slovakia, comprising the VAT, PIT[7] and CIT. In particular, 9.76% of gross revenue from these taxes accrues to the regions and 24.92% to the municipalities[8]). Altogether, 34.6% of these three taxes are shared with local self-government.

Austria definitely has the widest system of shared taxes. According to Federal Equalization Act, regulating financial equalization for the years 2024 to 2028 and other financial equalization provisions (Financial Equalization Act 2024 – FAG 2024)[9], the taxes shared between the federal government on the one side and the Lands and municipalities on the other are PIT, CIT, sales tax, minimum tax, and one-off payments in accordance with the agreements on cooperation in the field of taxes with the Swiss Confederation and the Principality of Liechtenstein, capital transfer taxes, tobacco tax, electricity levy, natural gas levy, coal levy, beer tax, wine tax, sparkling wine tax, intermediate product tax, alcohol tax, mineral oil tax, inheritance and gift tax Foundation input tax, the stability levy, the flight levy, the real estate transfer tax, the land value levy, the motor vehicle tax, the insurance tax, the standard consumption levy, the motor-related insurance tax, the advertising levy, the concession levy, the casino levy and the art funding contribution. The federal government bears the costs of collecting joint federal taxes and subject to division is their net income. The basic key for division into federal, Lands' and municipal shares is in the case of real estate transfer tax the ratio of 5.702% to 0.556% to 93.742% and in the case of land value levy 4% to 0% to 96%. The rest of the shared taxes are so-called taxes with a uniform key, where the ratio is 67.934% to 20.217% to 11.849%.

Hungary represents a special case, as Hoffman (2021, 37) concludes, its formerly municipality-based public service system was transformed into a centrally organized and provided model and that the role of municipalities has been significantly weakened (which is clear from the continuous decline of local government expenditure). After the shared motor vehicle tax was transformed into a fully central tax, there is currently only one shared tax mentioned in article 41 (Chapter IV Section 14 – Revenues transferred to local governments) of Act No. LV of 2023 on the 2024 Central Budget of Hungary (besides the share in fines for violations of obligations in specified fields of public administration). It is the PIT on the income from the rental of agricultural land, which is collected by the municipality in which the particular land is located and this tax is shared with the municipalities in full (100%). However, representing only 1.03% of the local government's revenues in 2019, as Kecső (2020) emphasizes, shared taxes were not significant in 2019 and these sources became even less important in 2020 after the COVID legislation ceased to share the motor vehicle tax.[10] Thus, the actual share in local revenues

[7] Excluding income of entrepreneurs.

[8] These get additional 1.5% of the national gross income tax revenue of natural persons from dependent activities (excluding personal income tax collected by deduction according to a special rate).

[9] *Federal Law Gazette* I No. 168/2023.

[10] Lentner and Hegedűs (2019, 62) mention a significant reduction in shared taxes after the second act on local self-governments came into force in 2011 – PIT in general was removed from among the shared central taxes and the share in motor vehicle tax was reduced to 40%.

would be even smaller than in 2019. Hungarian system of local government funding is therefore based on state transfers (amounting to approx. 50% of their income) and the significance of local taxes[11] (Kecső, 2020) which, gradually raising, amounted to almost 30% of local incomes in 2020,[12] unlike in the rest of Visegrad countries, where the share of local taxes in local funding represents only around 10–11% (on average for 2010–2020) in Slovakia and Poland and even much less (around 3%) in the Czech Republic (Vartašová & Červená, 2022, 199).[13]

Finally, there is yet an interesting issue, namely the attitude of Slovak political parties to the problem of local self-government (especially municipal) funding and the role of state-shared taxes. The research of Vartašová and Červená (2024) shows that 28% (7 out of 25) of the Slovak political parties taking part in the latest elections for the national parliament in September 2023, proposed the change of the state-tax mix for municipal funding, four of them being currently in the parliament, but not the members of the government, and even one of them being a governmental party that proposed enlarging the current system by the sharing of CIT, as well. They all proposed some form of enlargement of the current one-tax-sharing system (especially to include the CIT and/or VAT). Some parties even proposed determining a minimum sum of support in this regard.

Conclusions

The above inquiry enabled us to conclude with a positive response to the first of our research questions, namely, whether PIT (as the current shared state tax) is appropriate for the purpose of tax-sharing (in terms of income stability, budget foreseeability and income volume). If we looked at the variant where the government wants to keep a tax-sharing system with a sole tax, then PIT would be the best option or, perhaps, the second best option with the VAT as the winner only due to the volume of yield criterion, since VAT is the most yielding tax and yet it has still good stability and foreseeability features. In such a case, we would not advise relying on excise duties due to their low yields, even though the taxes provide a very stable and foreseeable income, and definitely not on CIT due to its excessive instability and unforeseeability.

In terms of the second research question, namely, whether the current system of sharing only one state tax with municipalities/HTUs may be considered sustainable (from the point of income stability, budgetary foreseeability and sufficiency of the income), we came to a negative conclusion. If we look at the yields of PIT in comparison to other state taxes, it is a medium voluminous tax, however, from the perspective of local government needs, the tax is not enough. Each of the taxes has its own peculiarities in their income development and even though there are more stable and less stable taxes, we found that there is a difference between stability and profitability, as in the case of Slovakia, the most stable tax yields the least. Each crisis had different effects on particular taxes and while some of them fluctuated for that reason dramatically, some of them only slightly. We saw that in times of crisis, all the taxes' incomes dropped, however, not all the taxes dropped in the same way and, in 2020, it was the VAT only that did not drop below its previous year's income. We found that even though PIT is a good tax

[11] Even despite their reduction by limitation of the most important local tax, local business tax, to only cover small and medium enterprises (Hoffman, 2021, 37).

[12] For more details on the developments see Lentner & Hegedűs (2022) or Borsa et al. (2022).

[13] For 2022, Pál and Radvan (2024) mention 28% for Hungary, 16% for Poland and 13% for Slovakia.

to share from all the assessed criteria, the recent development showed that the income from this tax is yet not enough from the point of its volume. With the Covid-19 crisis, the government had to compensate for the drop in the PIT yield by *ad hoc* measures and did so by sharing part of CIT for 2023 and 2024. The experience from neighboring EU countries shows that most of them rely on a combination of state taxes to be shared, which in our opinion is the way to overcome the peculiarities of the development of particular taxes over time and especially their response to crises as we saw that not all the taxes reacted in the same way to external impulses.

A way to overcome the fluctuation of the shared state tax income, and especially the lower-than-needed transferred state administration duties compensation, would be, besides the changes in the system of tax sharing, the change in the system of local taxation, especially the real property tax as the most significant one. Should local self-government dispose of higher own local income sources, it would be much less dependent on the will of the state to share its central ones.

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The Transformation of the Financial Autonomy of Local Governments

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Abstract

Ensuring a broad degree of financial autonomy is a fundamental issue for local government. In the context of the administrative modernization of recent years, several legislative measures have been taken which have directly or indirectly limited the financial and economic autonomy of local governments in Hungary. The paper gives a brief overview of the development of the Hungarian local government system in 1990, comparing the initial regulation with the standards of the *European Charter of Local Self-Government*. It discusses, then, the restructuring of the system in 2011, and lists the legal institutions which, in the author's view, have led to restrictions on local government management. The paper covers the introduction of the task-financing system, the establishment of district offices, the restructuring of the role of county governments, and the constitutional and other legal obstacles to municipal borrowing.

Keywords

local governments, public administration, decentralization, rule of law, Fundamental Law of Hungary, financial autonomy

1 Introductory thoughts

Local governments are – in the words of Zoltán Magyary (Magyary, 1942, 112) – key players in the unified national public administration, that is to say, they are the custodians of decentralization in the Hungarian state. The economic-political-social regime change of 1989–90 reinstated, through Act LXV of 1990 on Local Self-Government (hereinafter: 1990 LG Act), the two-tier local self-government system, remedying a historic debt of the Socialist council system. During that period, placing local governments in the unified institutional system of public administration did not pose any dilemmas, as they were meant to become meaningful actors in the renewed Hungarian public administration. What is more, they were believed to counterbalance the central state power. The spirit of this novel sentiment had its origin, among others, in the thoughts of Zoltán Magyary, who distinguished two forms of decentralization as an organizational principle: deconcentration and self-government (cf. Magyary, 1942, 112). In the years following the transition, local government thus became a decentralized body of Hungarian public administration, which meant essentially decentralizing public functions, that is, imposing compulsory tasks on the local government subsystem (see Fazekas, 2019, 119–120).

Needless to say, the decentralization of public tasks should, at least ideally, also involve the transfer of the necessary financial resources, since scarcity of funds and decentralization of public tasks "may in some cases lead to a reduction in the independence of local governments" (cf. Hoffman & Nagy, 2012, 350). Local governments thus essentially face a risk of a linear process where the gap between their revenues and their mandatory costs gradually increase, making them financially dependent on the central budget and public subsidies.

This leads, then, to the most sensitive issue in the financing of local government: the question of local autonomy. In the most general sense, autonomy is unthinkable without organizational, operational and financial aspects. This is rather well-illustrated by asserting key significance for the provision of financial resources which expresses both the autonomy the state wishes to guarantee and the role local governments assume in the performance of public tasks (Berényi, 2003, 323).

That is why, "if local governments are so strongly linked to the central budget, their political independence also becomes questionable" (Csefkó, 2011, 111). This very idea has been elaborated by the former judicial practice of the Hungarian Constitutional Court, ruling that "the autonomy of local governments can only be achieved if the economic conditions for it are met, and administrative autonomy is coupled with economic autonomy".[1]

These trends have led to serious anomalies in financing the Hungarian system of local government and have prompted legislators to 'redesign' the system on several occasions, the most radical version of which was the adoption of the Fundamental Law of Hungary and Act CLXXXIX of 2011 on Local Governments in Hungary (hereinafter: 2011 LG Act.). These changes concern two main issues, namely, (1) whether the financial relationship between the government and local governments is too close-knit, and (2) whether the Government will provide the necessary resources for local governments to fulfil their responsibilities. The first question concerns the autonomy of municipalities, while the second their debt problems.

The present study examines, then, the changing financial situation of local governments in a non-exhaustive manner, focusing on those issues that tighten the relationship between the state and local governments, thus limiting the financial autonomy of the latter.

2 The birth of local government: the concept of the Constitution

It is worth pointing out that, in 1990, a broad national consensus gave birth to the system of local government, which was an indispensable step in the democratic transition. Today, this system is subject of frequent criticisms in terms of its functioning, and many legal experts deem that the entire system of local government established in 1990 was mistaken. Generally speaking, the 1990 LG Act created a modern and liberal system of local government (see Siket, 2021, 208–215). These modern attributes manifest themselves in the specificity of the system, allowing room for self-regulation and in the fact that the 1990 LG Act has applied the general requirements of the European Charter of Local Self-Government (hereinafter referred to as the Charter) as a benchmark.[2] The liberal character, on the other hand, is hallmarked by the fact that the legislation created the conditions for the democratic exercise of local power.

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[1] 67/1991 (XII. 21.) decision of the Constitutional Court of Hungary.

[2] The Convention was formally promulgated in Hungary by Act XV of 1997.

The Charter was drafted in 1985 to protect the autonomy of local governments, and it was a compilation of European best practices, intended to be a point of reference for the development of the European systems of local government. Article 9 of the Charter furnishes a system of guarantees for the economic autonomy of local governments, including:

- local governments are entitled to adequate financial resources of their own, within the framework of national economic policy,
- local governments' financial resources must be commensurate with their functions as defined in the constitution and legislation;
- at least part of the financial resources of local governments shall derive from local taxes and charges, the level of which these bodies have the power to set, within the limits of the law;
- the need to develop diverse and flexible financial systems based on the financial resources of local governments;
- the protection of financially weaker local governments requires the institutionalization of certain financial equalization procedures;
- local governments should be consulted in an appropriate manner when determining their share of the resources;
- the granting of subsidies must not restrict the autonomous decision-making powers of local governments within their jurisdiction
- local governments shall have access to the national capital market to borrow for investment purposes, within the limits set by law.[3]

As such, the 1990 LG Act vested an array of responsibilities in the newly emerging local government system, and to commensurate with this, a high degree of autonomy as well. However, subsequent legislation put local governments in a difficult position: the parliament steadily imposed new compulsory tasks on local governments, but failing to keep the level of funding at pace with the volume of these new tasks (Gasparics et. al., 2015, 612). This trend has essentially coded financial dependency into the local government system, with the risk of a perpetuation of deficits (i.e. indebtedness) in the longer term. The initial experience of this phenomenon, even in the early stages of local government, made it difficult for local governments to achieve effective management. The emergence in recent years of emergency ordinance governance, which has become increasingly steady, has further reduced local governments' room for maneuver in terms of finances (see Hoffman, 2023).

The situation was further aggravated by a direct consequence of this practice, which led to management and financial anomalies: as the decentralization of public tasks was not followed by the decentralization of central resources, local governments were forced to 'plug' the holes in their budgets. A popular solution among local governments has been to use the funds allocated for development under various legal titles to finance their operations (see Lentner, 2015). What is more, in the case of several municipalities, similar consequences have been associated with some of the 'callable' tenders for EU membership from 2004 onwards, when some local governments started to take out foreign currency loans and then issue bonds in order to secure the co-financing that was a condition for participation in these tenders.[4]

[3] European Charter of Local Self-Government. Strasbourg, 15 October 1985. Online: https://tinyurl.com/2f7p83st

[4] It should be noted that the situation of local governments has been made even more precarious – from a management point of view – by the legislator's constant attempts to reform and restructure local taxation options. For a more detailed discussion of these, see Szilovics (2008).

The trends outlined above have reinforced each other, with the result that the majority of local governments have been constantly 'struggling to survive'. Given that the number of compulsory tasks imposed on local governments far exceeded the available revenues, we have essentially witnessed the central budget imposing its deficit on local governments. These systemic trends have led to a number of anomalies and problems, which has been a subject of many professional forums and empirical research on local governments. It is well-illustrated by the fact that budget support for tasks to be performed has never covered the financial needs of those tasks, that the levying of local taxes varies enormously from one local government to another, and that the system of earmarked subsidies has on more than one occasion led to political tension, thus making the stable and economic operation of local governments a subject of political fiction (see Csefkó, 1997, 101).

3 Redressing the local government system: conceptual change of the 2011 LG Act

In light of almost two decades of experience gained through the operation of local governments, the Government, having won a sufficient majority in the 2010 parliamentary elections, decided to resolve a thorough reform of Hungarian public administration through systemic changes in the system of local government. And this was initiated by the adaptation of a cardinal act, the 2011 LG Act. According to its preamble, the 2011 LG Act was adopted in order to "fulfil the rights of local government as defined in the Fundamental Law, create the necessary conditions for local self-government, strengthen national cooperation, promote the self-sustainability of settlements and strengthen the local community's capacity for self-care" (taking into account the principles of the European Charter of Local Self-Government) (cf. the Preamble of the 2011 LG Act). On the whole, the text of the 2011 LG Act is in tune with the provisions of the Charter, though, certain provisions (e.g. the powers of the head of the government office to replace the head of the local government) and some other Hungarian laws (e.g. the National Property Act, the Stability Act), have the potential of infringing either the Charter itself or certain international investment protection and competition rules (see Horváth M., 2014, 9).

Without going into details, there are two comments to be made on the context of evaluating the 1990 LG Act. First, both the preamble to the 1990 LG Act and the explanatory memorandum to the 2011 LG Act reveal the legislative objective, namely to create a modern, cost-effective, task-oriented system of local government which, however, sets a stricter framework for the autonomy of local government than the system of the 1990 LG Act (see Rixer, 2013, 95). This legislative decision can be linked to a phenomenon which, as the State Audit Office has pointed out on several occasions, has led to a significant imbalance in the finances of local governments.

Second, there is a continuing pattern of stronger central government control over the functioning of local governments. Almost two thirds of local public services have been centralized and the administrative competences of the state within the local government organization are radically increased (cf. Rixer, 2013, 96). Nevertheless, it is also worth pointing out that the systematic changes outlined above, carried out under the aegis of a consistent alignment with the state administrative order, have resulted in societal 'damage' in devaluing the dignity of the mayor's office by way of reducing its tasks and powers (see Hegedüs & Péteri, 2015, 96).

In what follows, I discuss the system of task financing and the restriction on borrowing which are the most closely related innovations introduced by the 2011 LG Act.

3.1 Introduction to the task funding system

The system of task financing introduced by the 2011 LG Act is undeniably an innovation in the context of the economic foundations of the operation of local governments which, in many respects, has ushered in a new era for local governments. Generally speaking, it can be said that the basically free, non-binding funding system of the 1990 LG Act has been replaced by a fixed, task-financing regime (see Hoffman & Nagy, 2012, 409). The entry into force of the 2011 LG Act has reshaped the basic framework of the system of resource funding which has led to a radical reduction in central budget support. In this changed situation, local government management must operate within a different framework as well. The changed legal environment has not only made it necessary to fine-tune the financial regulations, but has also forced local governments to rethink their previous management practices, to restructure local taxation and to reorganize their various expenditure streams.

With regard to the task financing of local governments, the 2011 LG Act provides that "in the framework of the task financing system, Parliament shall, in the manner specified in the Act on the Central Budget, provide task-based funding for the performance of certain tasks of local governments, which are to be compulsorily performed and prescribed by law, with a utilization obligation, in accordance with the public service level specified in the legislation defining the task, or provide funding for their performance on the basis of the task, the indicators based on local needs or the number of inhabitants"(2011 LG Act, Art. 117(1)). The legislative intention behind the creation of the abovementioned provision is to ensure that local governments have the operating expenditure necessary to carry out the compulsory tasks of local government under the conditions stipulated.

I believe, two comments are due. First, it may be noted that in line with Article 117(2) of the 2011 LG Act the legislature is required to take certain criteria into account when determining the amount of aid, such as sound financial management, a given local government's expected and actual own revenue. It follows that the calculation of specific budgetary support is based on the definition of expenditure needs.[5] On the other hand, the specific nature of task financing is also to be defined as an obligation to use budgetary support exclusively for the operating expenditure of the local government, and therefore such support cannot be used to cover, for example, development or investment costs. This specificity is also reflected in the provision of the 2011 LG Act stating that the aid in question "may be used by the local government exclusively for the expenditure relating to the tasks it is required to perform on an annual basis. In the event of any other use, the local government is obliged to repay the amount of the subsidy to the central budget, together with interest as provided for in the Public Finance Act" (2011 LG Act, Art. 118(1)). This financial sanction guaranteeing the obligation to use the funds is mitigated by the wording: 'on an annual basis'. This does not mean that the amount received by the municipality under the task-based funding can only be used for the task in question, but rather that all task-based funding must be used annually to ensure the performance of compulsory municipal tasks and that the municipality must account for the amount used (cf. Hoffman & Nagy, 2012, 416).

[5] Without going into the details, it should be noted that the content of the central budget laws reflects the legislative intention to set the amount of aid for the following year according to the share of motor vehicle tax revenue and other local tax revenue of the local government concerned.

Within the context of the regulation, it is necessary to mention two provisions that will ease the above tension. Article 117(1)(b) allows, in addition to the obligation to finance compulsory tasks by means of normative funding, the granting of aid with or without a commitment to use the aid for the performance of voluntary tasks which are not considered compulsory and which are assessed as priorities (e.g., support to performing arts organisations can be considered as such a voluntary task eligible for public support) And an extension, according to which "[i]n exceptional cases, additional aid may be granted in a manner provided for by law in order to maintain the viability of the local government" (2011 LG Act, Art. 118(2)). It should be noted that, before the entry into force of the 2011 LG Act, local governments were entitled to receive additional aid under a number of legal titles, whereas the current legislation essentially leaves the decision on additional state aid to discretionary powers, and in this context the (current) Budget Law merely refers back to the elements of the 2011 LG Act (see Hoffman & Nagy, 2012, 417).

The introduction of this task-based financing has somewhat shifted from the forced reaction to the actual practice of the previous two decades, which can be seen in the fundamental withdrawal of resources and the repositioning of local government. There are voices, though, that make a more strident assessment, arguing that "[t]he political slogan of task funding has never been backed by a clearly defined financial mechanism" (see Hegedüs & Péteri, 2015, 100), as is illustrated by the sometimes subjective and abstract nature of the criteria to be taken into account for task funding. However, the post-2010 funding system has doubtless increased the dependence on the central government.

3.2 Limitations on municipal borrowings

The peculiar history of the development of local government management had its anomalies in disfunction, unique management solutions and, in several cases, the indebtedness of certain local governments. Hence, it was a principal objective of the legal reforms to prevent any increase of indebtedness of local governments. I cannot simply pass, however, over underfunding which is as much to blame for creating the precarious economic situation as indebtedness. And, in my opinion, the extent of debt was by no means of such a scale or so unmanageable to have justified a drastic reallocation of responsibilities (cf. Horváth M., 2012, 6).

In order to achieve this goal, the Fundamental Law of Hungary addresses certain issues of the financial and economic autonomy of local governments in two places. Article N(1) states that "Hungary shall observe the principle of balanced, transparent and sustainable budget management". This provision emphasizes balance, transparency and sustainability as the basic principles of (budgetary) management, while remaining essentially at the level of the Declaration (see Petrétei, 2013, 239). However, given that all the provisions of the Fundamental Law can be interpreted as normative commands, the question of who is responsible for implementing this principle is of particular importance. In order to make this more specific, the text stipulates that the National Assembly and the Government "shall have primary responsibility for the observance" of this principle and that "[i]n performing their duties, the Constitutional Court, courts, local governments and other state organs shall be obliged to respect" this principle (Fundamental Law, Art. N(2)–(3)).[6]

[6] For a systemic analysis of this provision in relation to the principle of balanced and sustainable management, see Ercsey (2016), 83.

The provision of Article 34(5) of the Fundamental Law, according to which "[i]n order to preserve a balanced budget, an Act may provide that, for any borrowing or for other undertaking of commitments by local governments to the extent determined in an Act, certain conditions and the consent of the Government shall be required", is of particular importance for the institutionalization of the so-called debt brake in the operating system of local governments. In essence, the legislator has established a system based on actively controlling local government borrowing (see Kecső, 2016, 118–122).

In the context of the provision of the Fundamental Law, the following comments should be made. The 'Act' clause in the text of the norm defines the legal source level for the creation of a debt brake. This may take the form of simple majority, as it is not a constitutional requirement to pass a cardinal act by qualified majority. The purpose of introducing the debt brake is defined in the text of the norm as the preservation of budgetary equilibrium, which can be generally understood as the requirement that local government revenues and expenditures be in balance in a given fiscal year. One criticism made is that the provision of the Fundamental Law does not link this mandate to the above-mentioned provision declaring the principle of sustainable budget management, even though the balance in any given financial year may be unsustainable in the longer term.

The phrase 'borrowing or for other undertaking of commitments', which is essentially the subject of the debt brake, may raise questions of interpretation. According to the linguistic interpretation, any declaration or decision on the use of local government revenue could be subject to the restriction laid down in the Fundamental Law, but this would severely restrict the financial autonomy of local governments and could paralyze economic activity. Therefore, an interpretation according to which borrowing and 'other similar' commitments are covered by the power addressed to the legislature is the dominant interpretation.[7] It should also be pointed out that the constitutional provision in question allows for the application of two types of limits: the normative limit and the requirement of prior consent of central government as a condition of validity.[8]

The Fundamental Law of Hungary has, thus, essentially opened up the possibility for enacting a law that makes the validity of certain debt-generating transactions of local governments subject to legal conditions, or the prior consent of the government. And, indeed, the Parliament adopted Act CXCIV of 2011 on the Economic Stability of Hungary (hereinafter: Stability Act), followed by Government Decree 353/2011 (XII. 30.) on the detailed rules for the consent to debt-creating transactions, which sets out further detailed rules (hereinafter: Stability Decree).[9] According to the main rule of the legislation, the local government may validly assume sureties and guarantees under the Civil Code and enter into debt-generating transactions only with the prior consent of central government (Stability Act, Art. 10(1)).[10] It should be pointed out, though, that the law itself eases the general clause by stipulating that "the consent of the Government is

[7] Act CXCIV of 2011 on the Economic Stability of Hungary.

[8] It also follows that the intention of the drafters was to restrict borrowing in order to ensure smooth government monitoring, not to prohibit borrowing outright.

[9] It should be noted that the philosophy of the regulation has undergone some metamorphosis, as the initial idea was that local governments were only entitled to enter into these transactions with the prior consent of central government. However, the Stability Decree has relaxed this concept, as a result of which the original wording of the Stability Act has been amended to allow (for the first time) in 2012 the option for the municipalities concerned to take out operating loans with a maturity of more than one year.

[10] Article 10 § (1) of the Stability Act

not required for the transactions of the municipality which create specific liabilities" (Stability Act, Art. 10(3)). The system of legal exceptions can be seen as differentiated: the legislator grants exemptions from the general rule on the basis of the types of commitments on the one hand and their extent on the other.[11]

Based on the early practice of application, it is safe to say that the central government does not perform formal monitoring, which would require the central government to have insight into the development of the municipal debt, but rather it wants to actively shape the amount of room each municipality has to maneuver. This is borne out by the individual decisions taken following the introduction of the legal instrument, which have sometimes given the green light to certain debt-generating transactions, and sometimes put obstacles in the way of the planned acts.[12] On the basis of the practice that has since become established, it can be concluded that the legal regulation of credit authorization, although indispensable and of a guaranteeing nature, does not exclude the possibility of individual decisions taken on the basis of political considerations. Obviously, this raises questions in terms of the nature of government acts as well, but these are beyond the scope of this study (see Fazekas, 2023, 49–57).

4 Concluding thoughts

In this paper, I have given a brief overview of the financial-economic foundations of local governments, and I have also examined the financial scope of local governments and their redress in Hungary. The trends that emerge clearly point in the direction of the state (legislator) holding the financial 'reins' more tightly than before, and building up a more intensive system of relations with local government administration. According to the prevailing view, the reorganization of public administration has led to a reduction in municipal autonomy and the elimination of the role of the county as a public service provider (cf. Hegedüs & Péteri, 2015, 97). According to Horváth (2012, 5), the amendments resulted in reduced protections for municipal property, thus breaking down the walls between the economic basis of local governments' autonomy and the central government's right to dispose of it (Horváth M., 2012, 5).

This reassessment of the relationship between central and local government manifests itself in the changes in the allocation of tasks and competences, the creation of district offices (as of 1 January 2013), the centralization of a significant part of local public services, the mandatory 'profiling' of county governments, and the redesign of the financial and economic framework. Despite assurances of objectivity and predictability, both legislative instruments contain a number of subjective elements which, contrary to declared objectives, could create a precarious

[11] Accordingly, the prior consent of central government is not required if the debt-creating transaction is intended to secure the pre-financing of development aid obtained by the local government from the central budget of the European Union or another international organisation, if it relates to a reorganisation loan used in the debt settlement procedure for the conclusion of a creditors' agreement, and, among other things, it serves a development purpose and does not exceed HUF 100 million in the case of the municipality of Budapest and the local government of a city with county status, HUF 20 million in the case of a national minority government; and 20% of its own revenues in the given year, but not more than HUF 10 million in the case of other local governments.

[12] In June 2012, the Government gave a contribution to 21 local governments (e.g. Veresegyház, Sopron, Hódmezővásárhely, Lánycsók), while it did not contribute to refinancing the debts of Köblény and Vékény and to the development loan agreement of the Local Government of Budapest District XI.

situation for local governments. The question arises as to the extent of the normative support for a given compulsory task in one or another municipality, or the conditions under which central government may grant prior approval for a debt-creating commitment. The institutionalization of the system of task financing was linked to the process of debt consolidation in a way that was easily foreseeable and clearly planned (see Bordás, 2019, 153–158). This has been done, although it is beyond the scope of this study, on the basis of the concept of 'I own the debt, I own the task and I own the assets', which suggests an extremely close link between the imposition of relatively few compulsory tasks and trends in the implementation of task financing.

Within a unitary public administration, it is inevitable, and in some respects even justified, to establish links between the central power (the state) and the local power (the municipalities), the only (inevitable) limitation being the guarantee of the autonomy of the municipalities (cf. Ercsey, 2016, 104). As Zoltán Magyary (1942, 116) put it: "[t]he basic idea of self-government is that if we want something to be good, we must do it ourselves". But this quest can only be achieved by guaranteeing the integrity of autonomy which is the essence of self-government. It is especially important as the ideal of self-government in general appears to be devalued in the process of Hungary's reorganization (cf. Horváth M., 2012, 9).

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The Use of Mother Tongue in Public Administration

A Case Study of Serbia

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Abstract

Citizens are primarily in contact with the state through public administration, and due to the changing and expanding role of the state, this contact is becoming more and more frequent and complex. An important element of the regulation of the citizen–state relationship is the definition of the language of their communication, respecting, on the one hand, the freedom of language use and the prohibition of discrimination, and on the other hand, the identity of the state-forming nation and the principle of efficiency. Thanks to its decades-long tradition of multilingual public administration, Serbia ensures relatively broad rights to use mother tongue before public administration bodies. However, practice does not catch up with the law. The paper's goal is to present the discrepancies between the *de iure* and *de facto* situation in the field of official language use in Serbia's multilevel public administration, and to suggest a paradigm shift for further improvement.

Keywords

language rights, public administration, Serbia, national minority

1 Introduction

In the last century, but especially in recent decades, the role of the state in the lives of citizens has changed significantly. It no longer only embodies the power that legitimately exercises violence, but it has also developed into the largest service provider (Indahsari & Raharja, 2020). Due to this, the information and communication links between the state and citizens have become more intense and complex. Citizens turn to various administrative bodies on a daily basis, and they do this in the language they know and which they are allowed and required to use. Because in the age of free movement, creating ethnically homogenous nation-states, speaking a single common language is more like a utopia (Salzborn, 2021, 76), the state must create rules and provide conditions for the new multilingual reality.

One or more languages used by the government in legislation, judiciary, and administration to conduct official, day-to-day business are usually referred to as official language(s); unlike

national language that is a bearer of collective cultural-national identity, shared in common among the people (Choudhry & Houlihan, 2021, 6). In an ideal situation, the official and national languages are the same, i.e. the state operates in the language of the citizens who make up the national majority of the country's population. But, as we mentioned, such a 'clear ethnic/linguistic situation' does not really exist today. It is a completely viable formula for ethnic communities different from the national majority to form the majority at the local and regional level, and as a result, they can make a legitimate claim to the country that they use their own minority language in communication with the state. However, "the existence of a »real need« is to be assessed by the State on the basis of objective criteria" (Council of Europe, 1995, Point 65).

The Republic of Serbia, the narrower subject of the present study, is a good research topic for several reasons: (1) multilingual public administration has decades of tradition, which was already established in socialist Yugoslavia (Hock, 1972, 65–69); (2) after the dissolution of the federal state the former Yugoslav nations have become national minorities, but their mother tongue is very similar to the first official language of the country, the Serbian language, and this raises not a single practical problem in everyday administration; (3) 20% of the population is not of Serbian ethnicity, and 10% did not indicate Serbian as mother tongue at the last census (2022); (4) the country's administration is divided into three levels (state administration, administration of the Autonomous Province of Vojvodina and local administration), each with different language rules; (5) and as a country on the path of European integration, Serbia is doing everything to comply with recommendations of monitoring bodies to improve its international reputation, however, as a result, it has to face more and more challenges in practice.

The goal of this paper is to provide a comprehensive picture of the linguistic rights in the public administration of Serbia, from a critical perspective. Namely, the public administration operating in minority languages, especially at the local level, is not the result of much-welcomed legislation (Committee of Experts, 2023, Point 41), but rather the consequence of factual circumstances such as the territorial concentration and size of a minority community, the traditions of institutional multilingualism, the use of e-administration services, the local political conditions and the influence of minority politicians etc. Also, different rules apply to different levels of public administration, which makes the already complex system even more 'opaque'.

After briefly presenting the functioning of the multilevel public administration in Serbia, the study describes, in details, the linguistic rights of national minorities in the country, from the international undertakings through the national laws to local rules, pointing out both legal deficiencies and practical difficulties. Finally, in the concluding remarks the paper wishes to contribute to the harmonization of the *de jure* and *de facto* situation with legal, organizational, and technical reform proposals.

2 Multilevel governance in Serbia: a short overview

The Republic of Serbia as the state of the Serbian people and all citizens who live in it[1] is unitary, its legal order is unified, but the state power is limited by the right of citizens to provincial autonomy and local self-government (Constitution of the Republic of Serbia, Art. 12,

[1] Constitution of the Republic of Serbia [Ustav Republike Srbije], Official Gazette of the RS, No. 98/2006, modified in No. 115/2021, Art. 1.

Para. 1). Although in its opinion on the Serbian Constitution the Venice Commission welcome the establishment of the right to provincial autonomy and local self-government, and used it in several cases in a human rights context (Venice Commission, 2007, Point 13), according to the decision of the Serbian Constitutional Court on the constitutionality of the Vojvodina Competence Act[2] the right to provincial autonomy is not a human right, but a constitutional principle which, in the most general way, obliges the legislator to enact laws strengthening and developing territorial decentralization. It is an expression of citizens' sovereignty that citizens realize directly or indirectly, through the bodies of the autonomous province.[3] The right to local self-government has similar content.[4]

According to the Serbian Constitution currently there are two autonomous provinces in the country: the Autonomous Province of Vojvodina, and the Autonomous Province of Kosovo and Metohija which enjoys substantial autonomy in accordance with special constitutional law (Constitution of the Republic of Serbia, Art. 182, Para. 2). However, in the light of the relationship between Kosovo and Serbia, the parts of this paper concerning autonomous provinces (or regional administration) refer only to the AP Vojvodina. The Constitution does not exclude the creation of new provinces, but so far, no such political will has been shown.

Vojvodina has its directly elected Provincial Assembly, as a quasi-legislative body, and a Provincial Government, as an executive body and administration composed of provincial secretaries for various social fields. There are no provincial courts, as there were in the former Yugoslavia, nor does Vojvodina participate in any way in the administration of justice, which is uniform in the country. Although the autonomous province does not have legislative power, it may enact its own rules (Provincial Assembly decisions as bylaws) on matters of special provincial interests, detailed by the Vojvodina Competence Act, in fields enumerated by the Constitution (Art. 183). At first sight this normative competence may seem sufficient for a territorial autonomy, but the Provincial Assembly is certainly limited by sectoral laws of the state which almost completely empty the meaning of provincial autonomy. Instead of norm-making the province primarily deals with implementation and execution of state laws, distributes funds, and manages its own public services and other organizations (like, agencies, companies) (Korhecz & Beretka, 2018, 113). Due to the lack of competences, especially in conducting various proceedings, the 'client turnover' is also low as a result of which communication with citizens, and the language of this communication, is a secondary issue.

Vojvodina's only authority, which is more or less independent of state laws, concerns the creation and operation of its own organization, even though it does not include regulation of labor rights of provincial officials[5] and the system of power sharing (namely, the relevant constitutional provisions indicate system of unified power at both local and regional levels).[6] Also, Vojvodina may regulate languages that are official in the work of provincial bodies and organizations

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[2] The full title of the law in English and Serbian: Law on Determining the Jurisdiction of the Autonomous Province of Vojvodina [Zakon o utvrđivanju nadležnosti Autonomne pokrajine Vojvodine], Official Gazette of the RS, No. 99/2009, modified in Nos. 67/2012 – CC decision, 18/2020, 111/2021.

[3] Decision of the Constitutional Court of Serbia, No. IUz-353/2009 of July 10, 2012, Official Gazette of the RS, No. 67/12.

[4] Law on Local Self-Government [Zakon o lokalnoj samoupravi], Official Gazette of the RS, No. 129/2007, modified in Nos. 83/2014, 101/2016, 47/2018, 111/2021, Art. 2.

[5] Decision of the Constitutional Court of Serbia, No. IUa-2/2009 of June 13, 2012.

[6] Constitution of the Republic of Serbia, Art. 180, Para. 1.

established by the autonomous province, and that are besides Serbian, the Hungarian, Croatian, Romanian, Ruthenian and Slovakian language;[7] but this authorization does not mean independent regulation of various aspects of official language use outside the provincial institutional system.[8] The province cannot create new rights or obligations, nor regulate certain dimensions of official language use in more detail. The provincial bodies are obliged to apply the Law on the Official Use of Languages and Scripts in the above mentioned languages.

Although it is called an autonomous region, in practice it does not operate autonomously at all. This determination was once justified by its specific multiethnic population, multilingualism and religious traditions, which appear as special values of Vojvodina in its statute up today,[9] but nowadays it functions as a kind of asymmetrical administrative middle level and not as an independent political entity. It is true that the Constitution of Serbia guarantees power to regulate additional rights to national minorities living in the territory of the province (Art. 79, Para. 2) but according to the interpretation of the Constitutional Court this competence does not apply to language rights that can be exercised in the field of official communication, which is otherwise one of the crucial elements of territorial autonomy (Benedikter, 2009, 46).

As far as the local level is concerned, Serbia is divided into 145 municipalities (*opština*) and 29 cities (*grad*), including the capital city of Belgrade, which form the basic units of local self-government.[10] The territory of a local self-government is composed of a town (that is the seat of the municipality) and surrounding villages, and usually bears the name of the seat town. Cities and municipalities have a similar (almost the same) internal organization (local assembly, local council, local administration and major), competences and means of finances. There is no hierarchical relationship between them, they are monotype and single-tier (Vlatković & Golić, 2021, 193).

Serbia ratified the European Charter of Local Self-Government on 6 September 2007, and ten years after ratification the Congress of Local and Regional Authorities (2017) noted with satisfaction "the existing good practices in terms of responding to the specific needs of a culturally diverse population and of protecting minority languages". However, this statement primarily refers to the municipalities in the AP Vojvodina (Advisory Committee, 2019, 1). Although in Serbia the regional (provincial) and local levels are independent of each other, the local governments are not subordinate to the autonomous province in any sense, they have to adopt their acts in accordance with state laws, and not with provincial rules, the positive impact of the multiethnic and multilingual Vojvodina is undoubtedly felt in those municipalities that are located on the territory of the province.

The bodies of state administration, ministries, bodies within the ministries (e.g. Tax Administration, Customs Administration, Republic Water Directorate, Military Intelligence Agency, Labor Inspectorate) and special organizations (e.g. Statistical Office of the Republic of Serbia, Institute for Social Insurance, Republic Geodetic Authority),[11] operate throughout Serbia

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[7] Statute of the AP Vojvodina [Statut Autonomne pokrajine Vojvodine], Official List of the AP Vojvodina, No. 20/2014, Art. 24, Para. 1.

[8] Decision of the Constitutional Court of Serbia, No. IUo-360/2009 of December 5, 2013, Official Gazette of the RS, No. 61/14.

[9] Statute of the AP Vojvodina, Art. 7.

[10] Law on Territorial Organization of the Republic of Serbia [Zakon o teritorijalnoj organizaciji Republike Srbije], Official Gazette of the RS, No. 129/2007, modified in Nos. 18/2016, 47/2018, 9/2020.

[11] Law on Ministries [Zakon o ministarstvima], Official Gazette of the RS, No. 128/2020, modified in Nos. 116/2022, 92/2023.

and are headquartered in Belgrade. A significant part of their tasks, however, cannot be performed efficiently and qualitatively in a centralized manner. In addition to administrative decentralization, which means the delegation of administrative tasks to lower levels (local, regional), tasks of state administration are performed in Serbia by organizational units of state administrative bodies, as well, located in the so-called administrative districts (regional/local centers of state administration). This kind of administrative deconcentration does not mean establishment of new entities; each state administrative body decides for itself whether it wants to create an organizational unit outside its seat (Belgrade) or not. These units do not have any special status or independence, they remain part of the state administrative body in all respects (control, financing, instructions) (Korhecz & Beretka, 2013, 19–20). On the other hand, although we are still talking about central bodies, they must respect the linguistic legal rules of the municipalities in whose area they perform their work as 'outsourced departments'. In this regard, there is no difference between local bodies and organizations, and organizational units of state administrative bodies located in municipalities when it comes to the use of minority languages in official communication.

3 Language rights in the Serbian public administration

3.1 Legal-political-social context

The Serbian Constitution designates the Serbian language together with the Cyrillic script as the official language (language in official use) in Serbia. Official use of other languages and scripts (including the use of the Latin script along Serbian) is subject to law (Art. 10). Therefore, there is no first or national language in Serbia, and, although the Serbian language is the number one official language as a constitutional value, i.e. 'as a means and common good of national culture',[12] other languages can also be used officially. By 'other languages', the lawmaker primarily means languages of national minorities, considering that the Law on the Official Use of Languages and Scripts ensures special rights for national minorities, regarding the official use of their mother tongue, and not for any linguistic/ethnic communities in Serbia.

However, Serbian legislation does not regulate which community is considered a national minority by name (Đurić, 2014b, 19). In fact, any community that meets the very broad legal definition of national minorities[13] can become a national minority in Serbia and enjoy both individual and collective rights. The latter means the establishment of their own ethnic self-government, national minority council that exercises public authorizations in certain cultural fields.[14] Based on this, it logically follows that those communities that could elect their own national minority councils are considered national minorities in the country.[15] As of today,

[12] The Law on the Use of the Serbian Language in Public Life and the Protection and Preservation of the Cyrillic Script [Zakon o upotrebi srpskog jezika u javnom životu i zaštiti i očuvanju ćiriličkog pisma], Official Gazette of the RS, No. 89/2021, Art. 2.

[13] Law on the Protection of Rights and Freedoms of National Minorities [Zakon o zaštiti prava i sloboda nacionalnih manjina], Official List of the Federal Republic of Yugoslavia, No. 11/2002, modified in Official List of SCG, No. 1/2003, and Official Gazette of the RS, Nos. 72/2009, 97/2013, 47/2018, Art. 2, Para. 1.

[14] Constitution of the Republic of Serbia, Art. 75, Para. 3.

[15] Ministry of Human and Minority Rights, and Social Dialogue, Registry of national councils of national minorities, online: https://tinyurl.com/radk4k7w

these are as follows: Albanians, Ashkalis, Bosniaks, Bulgarians, Bunjevacs, Czechs, Croatians, Egyptians, Germans, Gorani, Greeks, Hungarians, Macedonians, Montenegrins, Polish, Romas, Romanians, Ruthenians, Russians, Slovakians, Slovenians, Ukrainians and Vlachs.[16] At the last census, most of the country's citizens (80.64%) indicated being of Serbian nationality. This group is followed by Hungarians (2.77%), Bosniaks (2.31%), and the Roma (1.98%). Five percent is shared by other ethnic groups, including national minorities and others (Republički zavod za statistiku, 2023).

Although ethnic proportions are particularly important in terms of language rights, data on the mother tongue must also be taken into account when creating language strategies and rules (Vukašinović, 2013, 55). This is even more true in the case of Serbia where often happens that linguistic and ethnic identity do not necessarily correspond to each other (Đurić, 2014a, 107). Besides ethnically mixed marriages or linguistic assimilation the reason for this is also the kinship/similarity of South Slavic languages (recognized as national minority languages in Serbia) and the Serbian, as the first official language. E.g. 88% of Montenegrins, 58,7% of Slovenians and 52% of Croatians indicated Serbian as their mother tongue.[17]

Table 1: Statistical data on ethnicity and mother tongue in Serbia[18]

	Ethnicity			Mother tongue	
	No.	%		No.	%
Serbian	5,360,239	80.64	Serbian	5,607,558	84.36
Albanian	61,687	0.92	Albanian	65,475	0.98
Ashkali	1,307	0.02	Ashkali	No data	
Bosniak	153,801	2.31	Bosniak	145,329	2.18
Bulgarian	12,918	0.19	Bulgarian	7,939	0.12
Bunjevac	11,104	0.16	Bunjevac	3,319	0.05
Croatian	39,107	0.58	Croatian	12,048	1.80

[16] According to one opinion, the Ashkalis and the Balkan Egyptians are descendants of the Albanianized Roma from Kosovo, but Serbia recognized them as separate national minorities of Islamic religion and Albanian mother tongue, who live(d) primarily in the southern regions of the country, primarily in Kosovo. The Gorani are a Slavic ethnic group inhabiting the Gora region located between Kosovo, Albania, and North Macedonia. They speak a transitional South Slavic dialect, called Goranski, and most of them are Sunni Islam. The Vlachs are a national minority living in eastern Serbia, mainly within the Timok Valley. Their culture has preserved archaic and ancient elements in matters such as language or customs. Although the standardization of the Vlach language is still in progress, they cannot be considered a Romanian-speaking group, regardless of the many similarities between the two peoples and their languages.

[17] An ongoing question both in politics and linguistics is whether Bosniaks, Croats, Serbs and Montenegrins speak one common language or several different languages. According to one view, the common language was associated with the creation of the common state of Yugoslavia, and it was in some way imposed in it. So, after the dissolution of the common state, Bosniaks, Croats, Serbs and Montenegrins that now constitute different nations all deserve their own language. On the other hand, from a linguistic point of view, in this special case there is only one common polycentric standard language (a language spoken by several peoples and within which there are differences, so one can recognize where the speaker comes from) (Kordić, 2016).

[18] In addition to the Serbian nation, the table contains data on those national minorities that have elected a national minority council in Serbia.

Czech	1,317	0.02	Czech	No data	
Egyptian	1,484	0.02	Egyptian	No data	
German	2,573	0.03	German	1,389	0.02
Goran	7,700	0.11	Goran	No data	
Greek	690	0.01	Greek	No data	
Hungarian	184,442	2.77	Hungarian	170,875	2.57
Macedonian	14,767	0.22	Macedonian	8,375	0.12
Montenegrin	20,238	0.30	Montenegrin	1,981	0.03
Polish	615	0.009	Polish	No data	
Roma	131,936	1.98	Roma	79,687	1.20
Romanian	23,044	0.34	Romanian	21,477	0.32
Russian	10,486	0.15	Russian	11,255	0.17
Ruthenian	11,483	0.17	Ruthenian	8,725	0.13
Slovakian	41,730	0.62	Slovakian	38,584	0.58
Slovenian	2,829	0.04	Slovenian	1,302	0.02
Ukrainian	3,969	0.05	Ukrainian	1,527	0.02
Vlach	21,013	0.31	Vlach	23,216	0.35
Total population	6,647,003	100	Total population	6,647,003	100

Source: The table was compiled by the author based on data from the Statistical Office of Serbia and the Republican Electoral Commission

Just as national minorities do not have an officially accepted list, neither do national minority languages; but in the case of most national minorities in Serbia, there is also a separate minority language. The problem is primarily caused by South Slavic languages and their variations: for which it logically arises whether, for example, translation is necessary or even available (Đorđević, 2022, 163).

The Constitution guarantees to persons belonging to national minorities right to use their language and script, in accordance with law. Whether this right refers to private, public or even official use of mother tongue, is not clear; even though it can be assumed that all three dimensions of language use are provided, as far as the same constitutional provision ensures the highest standard of language rights in official communication, the right to conduct official proceedings in one's own language. "In areas where national minorities make up a significant population, state authorities, organizations entrusted with public powers, authorities of autonomous provinces and municipalities conduct proceedings in their language as well," in accordance with law.[19] The relevant framework law is the Law on the Official Use of Languages and Scripts that apart from the rights enshrined in the Constitution grants additional rights in this field.

The official use of languages (Serbian and national minority languages) means the use of languages in the work of administrative and judicial state authorities, authorities of autonomous provinces, cities and municipalities, public institutions, companies and public services, and other organizations when exercising public powers,[20] especially (1) in oral and written communication between authorities, as well as with parties (citizens); (2) conducting official

[19] Constitution of the Republic of Serbia, Art. 79, Para. 1.

[20] Law on the Official Use of Languages and Scripts [Zakon o službenoj upotrebi jezika i pisama], Official Gazette of the RS, No. 45/91, modified in Nos. 53/93, 67/93, 48/94, 101/2005, 30/2010, 47/2018, 48/2018, Art. 2.

proceedings; (3) keeping public records; (4) issuance of public documents, as well as other documents that are of interest for the realization of the rights of citizens established by law; (5) and when writing public inscriptions (name of places, public organizations, streets, publication of public information etc.).[21] Also, the law guarantees limited language rights to those persons belonging to national minorities whose languages have not been introduced into official use at all, or whose language has not been recognized as language of the given official procedure. This kind of linking of ethnic and collective linguistic identity can cause problems, given the already mentioned situation: belonging to a national minority does not necessarily mean that the given person's mother tongue is also the language of the respective national minority.

Persons who do not belong to a national minority (or to the Serbian nation) can use their mother tongue before public authorities, in the public administration, as well, because "unfamiliarity with the language of the proceedings may not be an impediment for the exercise and protection of human and minority rights."[22] However, this constitutional provision requires assistance of a translator, which, of course, does not correspond to the equal official use of national minority languages. It is not clear whether this includes procedures before provincial and local public administrations (Pajvančić, 2009, 259), and whether the translation must be done at the party's expense, given that other provisions of the Constitution guarantee the right to free translation only in court proceedings (Art. 32, Para. 2).

If a national minority makes up at least 15% of the local population according to the most recent census, then its language is introduced into equal official use by the given local government in its statute; however, this equality does not extend to all areas of official language use (Beretka, 2016, 512–513). Since local municipalities did not accomplish this obligation in all cases, the last amendment of the law added a deadline of 90 days from the fulfillment of the conditions.[23] But there is no effective control mechanism or sanctioning system that can be used to put pressure on municipalities that do not respect the law, except perhaps political pressure.

In the Republic of Serbia, in addition to the Serbian language, 12 other languages of national minorities (Albanian, Bosniak, Bulgarian, Bunjevac, Hungarian, Macedonian, Romanian, Ruthenian, Slovak, Croatian, Montenegrin and Czech) are in official use throughout the territory of 42 municipalities and/or cities. In addition, the Vlach and Romani languages are in official use in some settlements (Ministry of Human and Minority Rights and Social Dialogue, 2024). The latter does not mean, however, equal official use of these languages, just posting of public signs (toponyms, public information, instructions etc.) in the given minority language.[24]

It should also be mentioned that in certain places not only one minority language is in official use, but several. In the city of Plandište, for example, four minority languages (Hungarian, Macedonian, Slovakian, and Romanian) are introduced into equal official use. This poses a serious challenge to the public administration (but also to the courts), since there is no hierarchical difference between the languages of national minorities; they all have the same rights after their mother tongue has been introduced into official use. Another example is Subotica, where the Bunjevac language was introduced into official use in addition to the Hungarian and Croatian languages a few years ago. In Hungary and Croatia, however, it is considered one of the dialects of the Croatian language (Dobos & Tóth, 2011, 4), and as such

[21] Law on the Official Use of Languages and Scripts, Art. 3.

[22] Constitution of the Republic of Serbia, Art. 199, Para. 2.

[23] Law on the Official Use of Languages and Scripts, Art. 11, Para. 2.

[24] Law on the Official Use of Languages and Scripts, Art. 11, Para. 5.

is a serious element of the identity debates between Croats and Bunyevacs. In the municipality of Mali Iđoš, the Montenegrin language is officially used, even though a part of the Serbian academic community judged that the separation of the Montenegrin and Serbian languages was primarily the result of a political decision.[25] I could cite even more examples, but these are enough to show that Serbia's relatively permissive attitude towards national minority rights, including minority linguistic rights raises serious questions that also affect the practical use of the given languages.

3.2 International undertakings

International law primarily deals with language rights within the judicial system, as part of the right to a fair trial or as a special right of the accused (Mowbray, 2022, 40–41). But in the case of public administration, the state still enjoys wide autonomy to determine the language in which clients can contact it. The two main documents of the Council of Europe in this field, the Framework Convention for the Protection of National Minorities (henceforth: Framework Convention)[26] and the European Charter on Regional or Minority Languages (henceforth: European Charter),[27] provide a framework for these national/domestic rules, but, regardless of their treaty-nature, this context is more of a guidance, just like the Oslo Recommendations of the OSCE regarding the linguistic rights of national minorities. As the latter states, the Recommendations "provide a *useful reference for the development of State policies and laws* [author's emphasis] which will contribute to an effective implementation of the language rights of persons belonging to national minorities, especially in the public sphere."[28]

The Framework Convention mainly contains program-type provisions, the implementation of which in national legislation largely depends on the discretionary assessment of the contracting state; that is, it allows for a fairly flexible interpretation of what members of national minorities are entitled to and how those rights should be implemented by national governments. As Article 10 states, every person belonging to a national minority should have right to use freely and without interference his or her minority language, in private and in public, orally and in writing, that would, among others, include the use of minority language in relations with the administrative authorities. But the practical realization of this provision can be linked to several conditions: if those persons so request and where such a request corresponds to a real need; as far as possible; in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers (Art. 10 Para. 2). "Authorities must thus seek to strike an appropriate balance between the protection of the official language(s) and the linguistic rights of persons belonging to national minorities." (Advisory Committee, 2012, Point 53) Although the Framework Convention does not specify which level of public administration bodies fall under the scope of the Article 10, the Thematic Commentary refers primarily to local bodies.

Serbia joined the Framework Convention on May 11, 2001. According to the recommendations in the final monitoring cycle, regarding the realization of Article 10 in Serbia, the country was required to take concrete, practical steps in order to "ensure that in all municipalities where the legal requirements are met minority languages are effectively in official use" (Committee

[25] Decision of the Committee on Standardization of the Serbia Language, No. 32 of April 30, 2003.

[26] Framework Convention for the Protection of National Minorities, ETS 157, February 1, 1995.

[27] European Charter on Regional or Minority Languages, ETS 148, November 5, 1992.

[28] Oslo Recommendations of the OSCE regarding the linguistic rights of national minorities, Introduction, 1998.

of Ministers, 2021). It means, among others, setting up and operating a data collection on the number of minority languages spoken by civil servants in the state, provincial and local administrations, and obtaining a clear view on the representation of national minorities in the public administration. Although Serbia adopted the law on the register of employees in the public sector and at the users of public funds back in 2015, the register is still incomplete and not being fully applied. Otherwise, it contains data on ethnicity and language skills of employees,[29] which would once significantly facilitate cadre policy planning and management in ethnically mixed areas, especially from the perspective of minority language use.

Regardless of the law, the Provincial Secretariat for Education, Regulations, Administration and National Minorities – National Communities has been collecting similar data for decades. In 2022, the Provincial Secretariat last published data on the language use of local public administration on its territory, including the ethnicity and mother tongue of employees, language skills as an employment criterion, the number of documents issued in minority languages, the number of administrative proceedings in minority languages, etc.[30] Without reviewing the table in details, it can generally be concluded that the linguistic and ethnic proportions of local public officials almost nowhere correspond to the linguistic and ethnic proportions in the local population, in the autonomous province.

Unlike the Framework Convention, the European Charter does not protect national minorities themselves, but regional or minority languages as part of the common European cultural heritage. Although they have different goals that are achieved by different methods, it is indisputable that the approaches of the aforementioned acts to minority rights and languages complement each other, which justifies the inclusion of the European Charter in the group of international – regional documents for the protection of minority rights (Woehrling, 2005, 34). Instead of emphasizing what persons belonging to national minorities are entitled to, the European Charter emphasizes the positive obligations of the contracting states and contains much more detailed actions than the Framework Convention itself. The specificity is its *à la carte* character, which allows states to freely choose their obligations from several options offered and apply a different legal regime for each selected language "according to the situation of each language" (Kardos, 2019, 267). Regardless of this opportunity, Serbia has still decided to apply the selected provisions of the European Charter for certain minority languages, specifically for: Albanian, Bosniak, Bulgarian, Croatian, Hungarian, Roma, Romanian, Ruthenian, Slovak and Ukrainian languages, uniformly,[31] without taking into account the individual situation of these languages in the country (number and territorial concentration of speakers, development of educational and cultural infrastructure, traditions of official use of the language, professional staff in the specific language, etc.). This was the reason why Serbia was slightly criticized in the first state report (2008). Namely, according to the Committee, with respect to the Albanian and Hungarian languages, more ambitious obligations from the Charter should be applied, and the fulfillment of some of the undertakings from the aspect of these two languages was

[29] Law on the Register of Employees, Elected, Appointed and Engaged Persons at Users of Public Funds [Zakon o Registru zaposlenih, izabranih, imenovanih, postavljenih i angažovanih lica kod korisnika javnih sredstava] Official Gazette of the RS, No. 68/2015, modified in No. 79/2015.

[30] Official Use of Languages and Scripts in the AP Vojvodina, https://www.puma.vojvodina.gov.rs/etext.php?ID_mat=207

[31] Law on the Ratification of the European Charter for Regional or Minority Languages [Zakon o ratifikaciji Evropske povelje o regionalnim ili manjinskim jezicima], Official list of SCG – International Treaties, No. 18/2005.

not the result of Serbia's successful implementation of the Charter, but rather the relatively good previous status of these languages in the country (before the ratification) (Committee of Experts, 2009, 62–63). In the end, Serbia did not change its approach. Instead, the situation has been developing at the local level, with the help of so-called 'local charters'. The municipality of Kanjiža adopted a decision to apply additional or stronger pledges within its competences to Hungarian; the municipality of Kula followed this pattern, but to more languages (Hungarian, Ruthenian, Ukrainian and German) (Committee of Experts, 2023, Point 7).

In the field of public administration (Art. 10, called *Administrative authorities and public services*) the European Charter contains couple of undertakings in respect of the use of minority languages within the administrative districts of the state, in the local and regional administrative authorities, public services, and in respect of the use of traditional place-names and family names in minority languages. Studying the Serbian legislation, it is striking that the national legislation recognizes a much higher level of rights in the public administration than what Serbia undertook for itself based on the Charter, especially regarding conduct of entire first instance administrative proceedings in official minority languages.[32] On the other hand, in the last country report the Committee of Experts noted that even though the use of minority languages in the field of administration had improved in specific fields compared to the previous monitoring cycle (good cooperation between users of minority languages and local administration, capacity building in municipalities, raising awareness in general, multilingual signs), there is still room for improvement. "The national authorities need to provide more examples of documents available in relevant minority languages. Furthermore, with the partial exception of Hungarian, minority languages have not been used in oral or written submissions to local branches of the national authorities" (Committee of Experts, 2023, Point 39). This last comment was, otherwise, already published in the very first recommendation (Committee of Ministers, 2009), but apparently it is still relevant. Furthermore, Serbia is required to improve its human capacities (train translators, identify and/or recruit staff who is able to work in minority languages, work on staff mobility procedure, train bilingual staff etc.), and prepare translated forms of official documents.

Serbia guarantees the protection of the Bunjevac, Czech, German, Macedonian and Vlach languages, but only under Article 7. Namely, the goals and principles under Article 7 form the necessary legal-institutional-financial framework for the preservation of the mentioned minority languages, but do not provide precise rules regarding the implementation (Ramallo, 2018, 33). The need to re-evaluate the undertaken obligations in the context of the marked languages is unequivocal, especially given the fact that the Bunyevac and Czech languages only receive general protection under Article 7, while both are in official use in a municipality. On the other side, regarding Romani and Ukrainian, the undertakings from Part II of the Charther cannot even be considered formally fulfilled as they need to be introduced into official use in municipalities (Committee of Experts, 2023, Point 39).

3.3 Domestic legal framework with practice

Once again, if a minority language is recognized as official by the given municipality, it will affect almost all levels of public administration: all signage must be posted in that language;

[32] Serbia has committed to Para. 1 Item a (iv), (v); Para. 2 Item b, c, d, g; Para. 3 Item c; Para. 4 Item c; and Para. 5 in the Article 10.

customers can communicate with the bodies in this language; they can request official procedures, forms, certificates, public documents in this language, etc. The provisions of the Law on the Official Use of Languages and Scripts apply to all bodies performing public tasks, including public administrative authorities at all levels, on the condition that they perform their work in the territory of a municipality that has introduced the national minority language into official use. Therefore, it uniformly regulates court proceedings, administrative proceedings, but also all other proceedings in which the rights of the parties can be decided (e.g. labor, disciplinary disputes).

According to the law, proceedings must be conducted in Serbian until the language of the proceedings is agreed upon. In the case of one-party procedures, the party himself can request the procedure in the minority language introduced into official use. In the case of multi-party procedures, parties must agree, but if one of them requests a procedure in Serbian, the procedure is automatically in Serbian. In such cases, parties belonging to national minority may continue to use their mother tongues, but this is no longer considered a procedure in a minority language. The minutes are kept only in the Serbian language, and the decision is made only in Serbian, as well. However, in the case of proceedings in a minority language, the minutes are kept in parallel in Serbian and in the minority language, and decisions are made authentically in both languages.[33]

Second instance proceedings are always in Serbian. In such cases, the first instance body takes care of the translation of the materials, at its own expense.

In contrast to court proceedings, administrative proceedings are less formalized, most administrative acts are passed automatically on predetermined forms, most often in abbreviated proceedings, without holding an oral hearing. "In practice, oral hearings are relatively rare because, unlike in court proceedings, in administrative proceedings parties rarely participate with conflicting claims […], and the facts are often established using documents (which generally do not require oral hearings)." (Korhecz & Teofilović, 2018, 192) In such cases, the language of the proceedings is usually determined based on the language of the party's submission by which the proceeding was initiated. Those procedures cause problem that should be initiated on the basis of standardized forms, and whose translation into the languages in official use is not available (usually before local organizational units of the state administration). As follows, it is impossible to conduct proceedings in official languages other than Serbian from the very beginning. Of course, the question is justified, whether a party can translate the official form on its own initiative and use it before the competent authority. If the form is published in the Official Gazette of the Republic of Serbia (e.g. tax documents), the answer should be negative, but the authority is still obliged to ensure both oral and written use of languages being official in its work. On the other hand, in the conditions of digitization of the entire process, some requests can only be submitted in electronic form which is currently also available exclusively in the Serbian language. With appropriate software development, the multilingualization of e-public administration could be easily implemented; however, this goal is not included in the relevant strategic documents on the reform of the public administration in Serbia.

If the procedure is not conducted in minority language, the party belonging to national minority still has the right to (1) use his language in the proceedings; (2) to submit petitions, appeals, proposals, etc. in his own language; (3) to get copies of decisions and other acts decide on his rights and obligations, minutes or its parts translated on his own language; and (4) to

[33] Law on the Official Use of Languages and Scripts, Art. 12–14.

ask for the testimonies and other statements to be translated.[34] In such cases the help of an interpreter is necessary only if the official conducting the procedure does not have sufficient knowledge of the national minority language. Because according to the law the acting body pays the translation costs, it is a more effective solution to ask for help within the authority, from colleagues who know the national minority language properly than hiring an external translator. Although the Law on Employees in Autonomous Provinces and Municipalities provides the possibility for mobility not just within, but between authorities,[35] this is not a typical practice in the case of special need for realization of minority language rights.

Most administrative procedures not only start on a standardized administrative form but also end with decisions on such forms, which means that competence in minority languages is not even required on the part of the official to be able to draft such simpler administrative acts. Apart from personal data, the text of the act is rarely changed. The situation is even simpler when decisions are composed through automatic computer data processing when the human factor is completely absent, or it is reduced to technical tasks and signing. In such circumstances, it would also be easy to carry out more procedures in minority languages with the help of appropriate software developments, compilation of multilingual registers (of addresses, names, personal data) and IT training of employees.

Although the Law on the Official Use of Languages and Scripts provides a general framework for minority language use before public bodies, each procedural law may contain different solutions. According to the Law on General Administrative Procedure, if the procedure is not conducted in the language of the party or another participant, and they do not understand the Serbian language, at their request, the course of the procedure is translated for them to their language and script, i.e. the language and script they understand.[36] This means that the right to translation depends on the condition whether the party knows Serbian, and the translation is performed in one of the languages that the party understands which may or may not necessarily be his native language. This legislative model, however, much more restrictive than the provisions of the Law on the Official Use of Languages and Scripts which do not bind the use of own language to any conditions.

The Law on General Administrative Procedure does not regulate the personality of translators; but if we proceed from the solutions of other procedural laws, in administrative proceedings the translation should be performed by court translators who are the only ones competent in Serbia to carry out official translations both in writing and orally. On the other side, according to the relevant court practice, the administrative body is obliged to allow the party to choose an interpreter himself through whom he will follow the procedure, if he is unable to understand the interpreter provided by the administrative body conducting the procedure.[37] This situation mainly arises when dialects of certain foreign languages are used, and this issue is less relevant for ‘traditional’ minority languages.

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[34] Law on the Official Use of Languages and Scripts, Art. 16–17.

[35] Law on Employees in Autonomous Provinces and Municipalities [Zakon o zaposlenima u autonomnim pokrajinama i jedinicama lokalne samouprave], Official Gazette of the RS, No. 21/2016, modified in Nos. 113/2017, 95/2018, 114/2021, 92/2023, 113/2017, 95/2018, 86/2019, 157/2020, 123/2021, Art. 112.

[36] Law on General Administrative Procedure [Zakona o opštem upravnom postupku], Official Gazette of the RS, No. 18/2016, modified in Nos. 95/2018, 2/2023, Art. 55.

[37] Judgement of the Administrative Court of Serbia, No. 9U 17468/2012 of February 13, 2013.

The Law on General Administrative Procedure is an umbrella law, and it is applied as *lex generalis* in relation to special administrative procedures, such as customs procedure, tax procedure, procedure before the real estate cadaster, etc. According to the Law on Tax Procedure and Tax Administration if the taxpayer submits a document in a language and script that are not in official use by the tax authority, the tax authority will set a deadline that cannot be shorter than five days in which the taxpayer will submit a certified translation into Serbian.[38] However, it is not clear why the taxpayer cannot submit a certified translation into one of the languages in official use, but only into Serbian.

Another example refers to the public procurement procedures which should always be conducted in the Serbian language, but the tenderer may also prepare procurement documentation in a foreign language, and the economic operators may also submit the offer in a foreign language.[39] The law only mentions foreign languages and not languages in official use, which is just another example of the fact that national minority languages in official use are not equal to the Serbian language; moreover, in this concrete case they have been reduced to the status of foreign languages. Furthermore, the Administrative Court has found that the legal exception of bilingualism only applies to the preparation of tender documents and the submission of offers, but not to the language in which the authority conducts the public procurement procedure, which is always exclusively Serbian.[40]

The above rules apply only to the local organizational units of the state administration (in addition to other public organizations operating in the territory of the municipality), not to the state administrative bodies operating in Belgrade. This means that the proceedings before them are always in Serbian, but "members of national minorities whose number in the total population of the Republic of Serbia reaches at least 2% according to the latest population census can address the state authorities in their own language and have the right to receive an answer in that language."[41] Smaller national communities can address in their native languages the state administrative bodies through the municipality where their mother tongue is in official use.[42] However, we emphasize once again that this is not the conduct of a procedure, only informal communication with a state body. Otherwise, persons belonging to a national minority can freely contact orally, in writing, and electronically all bodies operating in the municipality in the language that is in official use and have the right to get an answer in that language. But the realization of this right in practice depends to a large extent on the territorial concentration of the given minority, the reputation of the language, the position of minority politicians, etc.

[38] Law on Tax Procedure and Tax Administration [Zakon o poreskom postupku i poreskoj administraciji] Official Gazette of the RS, No. 80/2002, modified in Nos. 84/2002, 23/2003, 70/2003, 55/2004, 61/2005, 85/2005, 62/2006, 63/2006, 61/2007, 20/2009, 72/2009, 53/2010, 101/2011, 2/2012, 93/2012, 47/2013, 108/2013, 68/2014, 105/2014, 91/2015, 112/2015, 15/2016, 108/2016, 30/2018, 95/2018, 86/2019, 144/2020, 96/2021, Art. 10, Para. 8.

[39] Law on Public Procurement Procedures [Zakon o javnim nabavkama], Official Gazette of the RS, No. 91/2019, modified in No. 92/2023, Art. 42.

[40] Judgement of the Administrative Court of Serbia, No. U 5437/2014 of October 17, 2014.

[41] Law on the Official Use of Languages and Scripts, Art. 11, Para. 9.

[42] Law on the Official Use of Languages and Scripts, Art. 11, Para. 10.

4 Concluding Remarks

A detailed examination of the legislation allows us to conclude that even a generally minority-friendly legislation of Serbia consists of many inconsistencies, gaps, and provisions that cannot be (fully) implemented in practice. Also, positive example of places where public administration operates in multiple languages is actually not due to the laws, but to the local political power of the given minority, its size, and the institutional traditions of the given language use.

Since national minorities are not exempt from negative demographic trends either, there are fewer and fewer people who communicate with the state in the minority language. In many places, the use of the minority language is only symbolic, and no more than multilingual nameplates indicate that a minority language is in official use there. On the other hand, there are still municipalities in which the entire public (local) administration runs in parallel in two (in rare cases even more) languages. For this reason, a complete paradigm shift in the official use of minority languages would be necessary, and instead of a general 15% threshold, municipalities should be classified into different categories, given that the basis of the country's language legislation is the demographic reality in municipalities. Depending on the capacities of a national minority, equality of minority languages in official use should still be maintained in some cities, while in others minority language use should be reduced to certain working days and activities. With the help of today's highly developed translation programs and translation tools, means of electronic administration, many public administration tasks could be made multilingual, with little investment over a short time. However, this does not mean, of course, the replacement of civil servants belonging to national minorities and speaking national minority languages, but rather an opportunity to rationally group the limited and dwindling human resources.

Given the narrow scope of competences of the autonomous province, substantive change can be hoped for primarily at the level of municipalities, which, even though bound by the law, have power to adapt the not always perfect legal provisions to local conditions. It would also be important to establish more cooperation between local administration and local organizational units of the state administration for the purpose of full implementation of language rules in official communication. However, the past decades show that Serbia continues to stagnate in terms of developing minority language rights. The system corrections are so slow and gradual that it is feared that there will be too few people left who would use the given minority language in the public administration before the innovations and reform ideas would bring the expected results.

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Participatory Communication for Sustainable Rural Livelihoods

Insights from Matatiele Local Municipality

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Abstract

Traditional top-down approaches exclude communities from participating in policy design and decision-making, while existing communication models are inadequate in addressing communication and service delivery challenges in rural municipalities. And Matatiele Local Municipality (MLM) is no exception. This study is focusing on Matatiele Local Municipality's use of participatory communication (PC) processes in line with democratic principles and their impact on service delivery. It explores the communication practices, the nexus between good governance and participatory communication and identifies approaches towards participatory communication in rural Matatiele. From an interpretivism paradigm, the study employed a qualitative research method that permit a focused examination of nineteen purposively selected participants. Data retrieved from the semi-structured interview and from secondary sources was analysed thematically and narratively. Findings indicate that participatory communication is not uniformly applied across all areas within MLM jurisdiction. Infrastructure deficits, service delivery challenges and issues related to decentralisation are also identified. The study concludes that traditional authorities play a significant yet overlooked role in democratic development at the local level. Recommendations include an emphasis on the reassessment of the role citizens play in the decision-making process to enhance their meaningful involvement and empowerment in the governance process beyond participation by consultation. Therefore, participatory communication practices beyond establishing clear feedback mechanisms, enhancing responsiveness to community concerns, and improving citizens' influence on final decisions can promote mutual understanding and cocreation of content that could enhance citizens' livelihoods.

Keywords

participatory communication, sustainable rural livelihoods, good governance, local responsiveness

1 Introduction

Before South Africa transitioned to democracy, the citizens were excluded from decision-making to identify their needs, act and determine their development priorities. According to Lieberman (2022), decisions affecting their lives were made entirely by others, leaving them without a voice. However, with the adoption of the 1996 Constitution (Act 108 of 1996), South Africa fundamentally transformed its governance approach. This new model emphasised responsiveness, transparency and accountability, demanding that the government actively listen and respond to the development and needs of its citizens. Furthermore, the Constitution highlighted the importance of localised community participation. It mandated aligning existing administrative structures to prioritise grassroots involvement in policy development (Molale, 2019; Piper & Deacon, 2008). This shift prioritised participation to uplift the living standards of the poor and previously marginalised populations.

Participatory communication (PC) places focus on engaging people at every phase of a communication development project, contrasting with practices where projects are mostly executed with external assistance and beneficiaries play a passive role as recipients of the final product (Bénit-Gbaffou, 2008). This innovative approach lays the foundation for a theory centred on commitment, information and knowledge sharing, and trust in development projects. By prioritising people's participatory involvement, it unveils a realm where communities can shape their destinies, addressing their distinct needs, devising solutions and effecting desired changes. South Africa's governance model decentralises power, assigning municipalities as the primary drivers of economic and social development at the local level. This structure aims to strengthen the participatory process to achieve sustainable outcomes (Molale, 2019; Tshabalala & Lombard, 2009; Dlamini & Reddy, 2018). Municipalities must, therefore, prioritise participatory communication strategies to guide development initiatives. This approach allows for direct community input and stimulates transparency and accountability to ensure projects align with local needs.

Limited participation in public service delivery plagues rural communities like Matatiele, stemming from several crucial issues. The core obstacle is related to social governance breakdowns including communication inefficiencies, unclear boundaries, slow service delivery and lack of responsiveness (Mubangizi, 2019; Ntombana & Khowa, 2020; Mubangizi, 2010). Despite its importance, rural communities frequently face barriers to meaningful participation in the programs that directly affect them. To counteract this exclusion, various participatory practices emerge. Integrated Development Planning (IDP) sessions, outreaches, community gatherings and ward meetings aim to bridge the gap by engaging communities to enhance their livelihoods (Maphazi et al., 2013; Mbuyisa, 2013). Engaging the public in decision-making processes is considered crucial for fostering transparent and accountable governance according to Gorwa (2019). However, implementing successful public participation initiative engagements hinges on several key factors. These include utilising effective communication strategies, addressing financial constraints, as well as ensuring both the willingness and ability of individuals to participate. Public willingness to participate is challenged with language discrepancies, geographic remoteness and limitations in resources (Horan, 2019). Some individuals may be able but unwilling to participate due to disinterest in politics, priorities on other commitments, distrust in the government's consideration of their input and perceived lack of personal gain.

Despite the legislative frameworks, achieving effective and meaningful community participation in IDP processes remains a significant challenge for municipalities. According

to Molale (2019), local government participation practices often suffer from a lack of public accountability, imbalanced power dynamics between officials and citizens, and cases of self-serving behaviour that lead to conflicts. In addition, there are tendencies for municipalities to expect passive endorsement of government plans from the public with no genuine engagement. This communication issue relates to the perception of community participation as a one-way dissemination of information about pre-determined plans. Molale (2019) further indicated that there is no evidence of community empowerment and involvement in decision-making and project implementation. Additionally, actual practices in IDP processes are non-participatory and disempowering. Like many other rural municipalities, Matatiele experiences challenges in delivering public services due to the constrained capacity of its government agencies and issues in social governance (Makalela & Asha, 2019). This lack of service quality has led to public dissatisfaction, prompting residents to express their grievances through protests and strikes. Additionally, an information unevenness exists, where citizens lack access to comprehensive information, while public officials often face limitations in both accessing and disseminating information effectively (Matyana & Mthethwa, 2022; Ntombana & Khowa, 2020). This study explores the practicability of participatory communication in a selected rural municipality. It identifies the diverse modes of communication and the community's perception of the effectiveness of the municipality's efforts at realising participatory communication towards citizens' engagement and empowerment.

2 Conceptualising participatory communication

According to the Food and Agriculture Organisation of the United Nations (FAO), communication in development is characterised as a social process with the objective of establishing an authentic and enduring dialogue among stakeholders to achieve mutual success (Servaes & Servaes, 2021). In the realm of development, communication serves as a catalyst for social change and progress, playing a crucial role in fostering collaboration among individuals (Adeola, 2022). Communication holds various essential roles in development efforts, facilitating meaningful engagement between change proponents and the local populace, understanding their context and tailoring interventions based on local realities. Communication strategies contribute to enhanced collaboration and coordination in projects and fosters teamwork. Enabling individuals to communicate at all levels empowers them to identify crucial issues, find common ground for action and cultivate a sense of identity and participation necessary for decision-making (Gebeyehu & Jira, 2023).

Participatory communication has evolved within the field of development communication to emphasise a people-centred approach that involves the active participation of community members in decision-making processes. This approach emerged in 1970 as a critical response to the limitations of earlier development communication paradigms such as the dependency and modernisation paradigms (such as the Latin American School and Bretton Woods School) that were criticised for employing a top-down approach and neglecting the needs and voices of local community. Participatory communication, inspired by other schools (such as the Post-Freire School and Los Banos School), emphasises participation for empowerment and liberation, and communication for rural development with the importance of local knowledge and participation. This approach fosters a bottom-up approach that recognises that sustainable development requires the involvement of the people it aims to benefit. However, challenges

remain in how to ensure participation is inclusive and integrate technology in resource-limited contexts (Manyozo, 2006; Daya, 2019).

Critics argue that participatory communication's emphasis on idealistic and inclusive dialogue overlooks the complexities and power dynamics that are inherent in real-world contexts. This critique is rooted in the many participatory communication implementations, which reflect a top-down perspective where specific role-players control development processes. This approach contradicts the Latin American school's view of consensus-building engagement. Several scholars have sought to rescue participatory communication from criticisms by suggesting more grounded theoretical foundations. Critical theory provides a valuable lens for these efforts by emphasising the importance of reflexivity, power dynamics and social structures in communication processes. Chitnis (2005) advocates for a reflexive approach that acknowledges that complete equality is often unattainable in participatory communication, but to enhance participatory communication's effectiveness, greater inclusivity and responsiveness to local contexts must be established. Waldt (2014) suggests the adoption of more dialogical models that emphasise ongoing two-way communication rather than one-off participatory events. This aligns with Freire's notion of using dialogue to empower marginalised groups and ensure communication that fosters genuine understanding and collaboration. Also, Otto and Fourie (2009; 2016) propose the integration of critical pedagogy into participatory communication, which involves educating communities about the broader social and political contexts to enable more meaningful participation. This approach, therefore, moves beyond superficial participation to promoting deep, transformative engagement. Molale (2019) provides empirical evidence for the theoretical foundations through case studies to demonstrate successful participatory communication interventions. The studies highlight the importance of adapting participatory communication to specific cultural and social contexts with a focus on capacity building and local leadership to overcome practical challenges. Molale stresses the need to be flexible and avoid rigid adherence to idealistic principles that could hinder the effectiveness of participatory communication. The debate over participatory communication is usually centres on its conceptualisation as either an instrumental action or a dialogic engagement. Proponents of the Latin America school advocate for participatory communication as a dialogic engagement that empowers collective action. In contrast, critics (Carpentier, 2012; Carpentier, 2018) argue for a more pragmatic approach that integrates both perspectives with participation as a means for administration actions and for grassroots engagement.

Raelin (2012) describes participatory communication as a dialogical approach that is focused on two-way communication and exchanging information, perspectives and ideas to empower stakeholders. It transcends mere information exchange; it involves actively exploring and creating new insights to address improvement needs. Although commonly linked with community-driven development, participatory communication is applicable at any decision-making level, irrespective of the involved group diversity. PC revolves around prioritising the public, identifying community needs, fostering self-reliance and community involvement that encourages dialogue, embraces numerous issues and leads to a mutual understanding (Melkote & Steeves, 2015). PC facilitates a more inclusive approach to detect specific problems and afterwards formulate and execute a corresponding program for development purposes. This collaborative process allows for broader dissemination of knowledge and fosters the exchange of ideas across all societal levels (Zikargae et al., 2022).

This study supports that participatory communication is a people-centred approach that addresses the diverse needs of identifying community needs, engaging the community, fostering self-reliance, facilitating dialogue, allowing both communicators adequate space and

time, and ultimately leading to shared understanding. Genuine participatory communication requires considerable public involvement in shaping the discourse itself (Gebeyehu & Jira, 2023). South Africa's local governance framework enshrines participatory principles, drawing inspiration from the Constitution (Act 108 of 1996) and the Municipal Systems Act (2000). These foundational documents stress democratic governance and community engagement, encouraging stakeholders to contribute from the earliest stages of development initiatives to secure broader buy-in. Indeed, effective participation fosters ownership and strengthens sustainability. Genuine participatory communication requires inclusive interaction among all affected parties throughout the entirety of a project (Servaes & Servaes, 2021).

Van Ruler (2020) underscores the shift towards a fundamentally two-way, interactive and participatory nature of communication. In this framework, information dissemination is based on identified needs rather than attempting to create a need. Participatory communication prioritises cultural identity and seeks democratised participation at every stage. Communities become the focal point for discussions on living conditions and interactions with other communities (Mbuyisa, 2013). When used effectively, participatory communication within decision-making processes yields benefits like commitment, transparent information, shared knowledge, positive attitudes and trust. It fosters a mindset shift that combats harmful stereotypes and promotes understanding across a diverse populace, upholding dignity and equality (Gebeyehu & Jira, 2023). Balancing inclusiveness involves considering stakeholders' resources, interests, knowledge, and time. While stakeholders might not be burdened with intricate implementation details, it is vital to include their voices in decision-making that concerns them. The priority lies in ensuring stakeholders' input is heard during deliberations about the themes of a campaign and its implementation strategies (Mbuyisa, 2013).

2.1 Theoretical framework

This study is underpinned by the critical theory, which challenges political and social inequalities and encourages social transformation. Notably, the research builds upon the principle of empowerment, where citizens are not merely passive recipients of information but actively participate in the decision-making process (Myeni & Mvuyana, 2018). This aligns with the study's exploration, which ultimately aims to enhance citizen engagement and influence local governance. Empirical studies (Cornwall & Gaventa, 2000; Rasila & Mudau, 2013) demonstrate how participatory approaches grounded in critical theory can empower marginalised communities and foster social change. In Matatiele, studies suggest that limited participation exists, potentially reflecting the legacy of past authoritarian regimes and highlighting the need for critical engagement to empower citizens and challenge inequalities in local governance.

The sustainable livelihood framework emphasises the importance of diverse assets (financial, social, human, natural and physical) for individuals and communities to meet their basic needs and achieve well-being. According to Gebeyehu & Jira (2023), participatory communication practices are crucial for sustainable development as they can uncover individuals' underlying views. It could help in the adaptation of people's opinions and acquisition of new skills and knowledge for improved source of living. Moreover, rural society could be mobilised for specific development programs through appropriate communication (Gebeyehu & Jira, 2023). Nelimarkka et al. (2014) opine that the goal of participatory communication is to move beyond information sharing to empowerment for citizens.

The study focuses on how participatory communication can contribute to the sustainable livelihoods in Matatiele, noting that when community members are involved, their needs are

better identified and met (Maphazi et al., 2013). Research by Ellis (2000) demonstrates the framework's effectiveness in assessing factors influencing livelihoods. With this framework, by exploring how communication methods impact service delivery, a crucial aspect of sustainable livelihoods is revealed. It is revealed that limited participation and a lack of feedback hinder the community's ability to address community needs effectively, potentially impacting their ability to achieve sustainable livelihoods (Myeni & Mvuyana, 2018).

The participatory approach and the sustainable livelihood framework exhibit a symbiotic relationship, underpinned by their mutual emphasis on empowering communities and augmenting resilience. The participatory approach prioritizes the engagement of local communities in the decision-making processes, thereby ensuring that development initiatives are meticulously aligned with their unique needs and contextual realities. This methodological orientation is congruent with the sustainable livelihood framework, which aims to enhance the well-being of communities by improving their access to resources, capabilities, and opportunities. Research conducted by Cavalleri et al. (2022) elucidates that participatory methodologies can substantially advance sustainable livelihoods through the promotion of community engagement and ownership over developmental initiatives. Such involvement guarantees that interventions are not only more pertinent but also sustainable, as they are firmly rooted in local contexts and indigenous knowledge (Cavalleri et al., 2022). Similarly, Odoom et al. (2022) demonstrate how participatory methodologies in agricultural development have resulted in superior resource management and heightened resilience among farming communities, which are critical elements of sustainable livelihoods. Furthermore, Mathetsa et al.'s investigation furnishes empirical evidence that participatory strategies can enhance resource management and environmental conservation, which are integral to sustainable livelihoods. By incorporating communities into the stewardship of natural resources, there exists an augmented probability of attaining enduring sustainability and resilience in the face of external pressures (Mathetsa et al., 2023). Specifically, as highlighted by Odoom et al. (2022), participatory communication mechanisms can bolster community resilience by cultivating social capital and fortifying networks. This aspect is vital within the sustainable livelihood framework, which underscores the significance of social assets in effectively navigating shocks and stresses.

Correspondingly, the participatory communication approach ensures that these assets and vulnerabilities are accurately identified and addressed through solutions that are community-driven (Peters et al., 2009). Therefore, engaging local community members in decision-making, planning and implementation makes the SLF more relevant and responsive to local needs. Furthermore, the participatory approach strengthens the sustainability of livelihood initiatives. When individuals are actively engaged in the design and execution of projects, they are likely to develop a sense of ownership over the process and its outcomes. This also fosters dedication and sustained efforts. Participatory approaches contribute to the development of social capital and trust within communities, which are essential for collective action and resilience against challenges and pressures (Gebeyehu & Jira, 2023; Peters et al., 2009). By employing both critical theory and the sustainable livelihoods framework, the study provides a multifaceted lens to examine participatory communication in Matatiele. Analysing communication practices within the context of South African rural communities offers valuable insights into the connection between these practices, citizen empowerment and, ultimately, the achievement of sustainable livelihoods in the rural South African context.

2.2 Participatory communication and good governance: The nexus

Good governance hinges on citizens actively participating in decisions that impact their lives, experiencing empowerment, and receiving respect for the rule of law and human rights. Core principles associated with good governance include the rule of law, legitimacy, respect for human rights, participation and accountability (Kelechi, 2019). While various definitions exist, the emphasis on good governance centres on realising fundamental values like democracy, human rights, the rule of law and social justice. It embodies the process through which decisions are made in societies or organisations, voices are allocated, participation is facilitated, and accountability is established. It aligns closely with democracy and emphasises citizens' central role in any effective governance system (Kelechi, 2019; Gisselquist, 2012). According to Kamei (2019), participatory communication is a dynamic, interactional and transformative process of dialogue between institutions, groups and individuals to seek solutions to common concerns. This reflects its role in the community and the nation's development. Mayekiso et al. (2013) emphasised that participation is vital for any democratic country to realise good governance.

The South African legislative framework specifically aims to integrate citizens into the core of policymaking, reflecting a deliberate approach. This approach emphasises that democracy extends beyond mere institutional design, procedures, and rules; it is an ongoing process in which citizens progressively exert greater control over decisions. Nevertheless, academic debates increasingly question whether participatory communication should be considered an indispensable mechanism for achieving democracy or simply a means to achieve other objectives (Maphazi et al., 2013; Sant, 2019; Mbuyisa, 2013).

Despite government recognition of the importance of participation, significant challenges remain. These include limited understanding of policy processes, resource scarcity, reliance on volunteers, poor representation of rural communities, strained relations between government and these communities, restricted access to information, and time and policy timeline constraints that require immediate attention. The South African Constitution (Act 108 of 1996) enshrines participation as a fundamental component of democracy, adopting a deliberative approach (Section 118). This provision clarifies that public participation in government matters is permitted, allowing the public and relevant institutions to exercise their constitutionally guaranteed rights to information and participation. Public participation, therefore, aims to ensure that stakeholders directly impacted by a public authority's decision have the right to be consulted and contribute to those decisions. The chosen theory of participation and the way the public participation process is communicated to participants are critical factors determining its success in the South African context (Maphazi et al., 2013; Mbuyisa, 2013).

2.3 Challenges and Opportunities in participatory communication: A rural South African Perspective

Participatory communication is challenged in guaranteeing an individual's level of participation and primary interest. It also faces difficulties in both informing citizens and encouraging their engagement if not well adopted (Akbar et al., 2021). Using communication tools ineffectively hinders information dissemination and renders the public insufficient, presenting a legislative hurdle. The process of implementing participatory communication is time-consuming and requires a significant level of finance and resources, which could hinder its proposed goal. Also, language and demographic barriers continue to make participatory communication a complex venture. Aside from institutional challenges like a lack of skilled participatory communicators,

the dearth of participatory communication could lead to misinformation and conflict (Chin, 2020; Kamei, 2019; Gebeyehu & Jira, 2023). A major barrier identified is the lack of readily available information regarding significant government activities. While communication serves as a valuable tool for promoting participation, navigating the complex and often contentious political landscape can be challenging (Akbar et al., 2021). Public communication regarding policy issues is frequently perceived as a one-way flow of information from politicians to the public, rather than a two-way dialogue (Arwidson, 2020) between the legislature and the public.

The manner of communication significantly impacts how seriously citizens consider calls for legislative participation. Effective communication and participation foster government responsiveness by enhancing citizens' understanding of their rights and empowering them to engage in public discourse. Additionally, it improves government performance by providing citizens with direct information and equipping them to hold the government accountable (Kamei, 2019; Chin, 2020; Gebeyehu & Jira, 2023). Participatory communication fosters social capital by facilitating the creation of networks and social movements centred around specific issues. It is considered essential for good governance as it impacts all aspects (Capability, Responsiveness and Accountability) of the DFID framework, playing a critical role in promoting citizen capacity to identify their needs, articulate them clearly and evaluate government's performance (Molale & Fourie, 2023).

Participatory communication emphasises active citizen involvement at all stages of project development (Molale, 2019). The participatory communication approach advocates for information sharing, commitment and trust, leading to more successful development projects. Molale and Fourie (2023) argue that community involvement empowers individuals to take ownership of their development, identify their unique needs, and devise solutions that reflect preferences, ultimately leading to self-empowerment and positive change. Molale and Fourie (2023) assert that communication tools and their effective utilisation are key to maximising public participation in the South African legislative context. Olorunnisola et al. (2020) and Twinomurinzi et al. (2012) argue that while younger generations favour modern technologies, like different social media platforms, the government lag behind in adopting them, creating a significant accessibility barrier for rural communities with limited infrastructure.

3 Research study site and methodology

The research investigation took place within the rural confines of Mafube, located under the jurisdiction of the Matatiele Local Municipality (MLM), situated within the Alfred Nzo District Municipality. Matatiele has a population of approximately 203, 843, with 10 deeply rural areas. The majority of the village inhabitants fall between 18 and 64 years old, with a female population of 55% female and a male population of 45% (Stats SA Census, 2011). Economically, MLM primarily focuses on agriculture and commerce. The region is predominantly rural, characterised by scattered rural settlements and subsistence farming practices. Mafube was selected as the study's focal point due to its distinctive nature: it remains largely undeveloped compared to the surrounding townships and is governed by a traditional ruler authority. Like many South African rural municipalities, Mafube has witnessed a demographic shift marked by an increase in its under-18 population and a decline in residents over the age of 18. The shift is attributed to a surge in teenage pregnancy and migration to urban areas for education and employment (MLM IDP, 2018). In Mafube village, the local authorities prefer addressing issues through community gatherings to mitigate disruptions. The area, known as the Mafube mission is characterised by

Catholic schools, residential areas, churches and facilities associated with providing peaceful services rooted in faith.

This study used a qualitative method within an interpretivist paradigm, perceiving reality as socially constructed. Recognising that exploring the effectiveness of participatory communication processes in MLM necessitated a profound comprehension of the citizens and administrators' perception of forms of participatory communication employed. The qualitative case study strategy was used as an apt approach that focuses on the lived experiences of the citizens. The study gathered data from both secondary sources and semi-structured interviews to glean insights on the communication models to deliver service delivery in the rural community. Interviews were employed as the primary research technique to gain a deeper understanding of communication models suitable for rural municipalities. Research respondents were purposively selected to include municipal employees from the IDP and communications units. The selection criteria were based on identifying respondents involved in the development of IDP outreaches and knowledgeable about the communication Strategy 2016/2021.

The target population comprise rural residents with the ability to address the study's central questions and who have been personally impacted by the issues relating to community involvement. A purposive sampling strategy was used, selecting community members and amakhosi (chiefs) for their extensive local knowledge. Ward committee members, holding dual roles as municipal employees and political leaders within the community, also participated in the study. 19 informants were selected, taking into account demographics. Participants ranged in age from 18 to 55 and had lived in Matatiele for a minimum of 10 years with permanent residency. The participants include 15 community members, 1 village head (Amakhosi/ tribal authority member), 1 ward committee member, and 2 municipal employees overseeing communications and IDP directorates. Permission was obtained from gatekeepers, namely MLM and Community heads (chiefs) to ensure ethical conduct.

4 Findings and Discussion

The findings revealed the respondents' perspectives, experiences, and assessments on existing communication practices that seeks to promote participatory communication in MLM.

4.1 Communication modes within the Municipality and its challenges

This analysis explores how the municipality disseminates information to community members. Findings reveal that community gatherings, often referred to as imbizo are the most prevalent communication method, followed by ward meetings facilitated by designated ward committees. Notably, only 30% of respondents mentioned public participation platforms such as the Integrated Development Plan (IDP) as a source of information. In addition, the study highlights the continued use of traditional communication channels, primarily ward meetings and community gatherings organised by local leaders (amakhosi). This aligns with the observation of Fourie and Van der Waldt (2021), who emphasise the role of traditional communication methods such as word-of-mouth and meetings in information dissemination. This finding suggests a persistent reliance on word-of-mouth communication within the municipality. Participants who are community members expressed trust in the ward committee and amakhosi. One of the community members noted that: "I trust the Amakhosi or anyone from the ward committee to relay information to me. Just that often time the Amakhosi claim not to have vital information."

One of the traditional chiefs expressed community members' sentiments of feeling used by the municipality during elections, alleging that officials prioritised self-interest and withheld vital information. The traditional leader emphasised the discrepancy between promises made during elections and subsequent disappearances. The limited experience of participatory communication among community members was predominantly confined to public gatherings *(izimbizo)*.

The findings reveal different communication activities employed within the municipality to engage with its populace.

4.1.1 Direct Interactions/ meetings

These occur quarterly through the public participation and communication units, using the speaker and mayor's office, to facilitate the dissemination of government information, encourage public participation and provide public education. The 'talk to your councillor' program, for instance, was introduced to enable direct interaction between councillors and constituents to address concerns (State of the Ward Address) promptly. Although some of the participants agree that this medium allows for participation and feedback, it was observed that conflict may arise if the audience is dissatisfied with the disseminated information.

Some community members observed that NGOs sometimes organise interventions as independent organisations. However, information available to them and disseminated to the community is limited and sometimes imposed. In addition, issues of the absence of immediate feedback were raised about meeting with the chiefs or traditional leaders. According to Mamokhere and Meyer (2022), public meetings are not always prioritised, and the medium does not guarantee the communities' involvement in governance.

4.1.2 Roadshow Program/ IDP Community Outreach

This is held biannually to present and assess current projects, service delivery backlogs, wards' progress, and infrastructure needs priorities by each ward. While such methods facilitate public input before the IDP document and Budget are adopted, exploring alternative and potentially more comprehensive communication strategies might be beneficial. It was noted that roadshows are not frequent and, therefore, not reliable as a platform for prompt action. Fourie and Van der Waldt (2021) also attest to roadshows as a mechanism employed for local community engagement.

4.1.3 Community Radio

Through a partnership with two local radio stations, the municipality communicates twice a week, using dedicated time slots for municipal message drivers to share information, educate the public and create awareness. Mamokhere and Meyer (2022) referenced the use of community radio in facilitating participatory communication in the IDP process, particularly during the COVID-19 pandemic. However, three community members noted that the elderly listened more to radio programs aside from entertainment that is enjoyed by the youth. Regardless of its advantages of reaching a large audience, there are chances of misinformation, varying preferences of participants.

4.1.4 Local Newspaper

Advertorials are published monthly in community newspapers to convey messages, annual reports, municipal budgets, public notices and vacancies. Newspapers are one of the platforms for participating in the IDP process but for principally used for sharing information (Fourie & Van der Waldt, 2021). Although, this communication strategy is considered easily accessible, the preference for other native languages aside from English language, which is often used and the deficient avenue for community input and feedback are its limitations.

4.1.5 Social media

The municipality actively uses Facebook to engage with the young population, reaching over 13,000 followers. This platform is used to post updates on job opportunities and municipal events. According to Adeola (2022), calls for inclusive development are driven by ongoing technological innovation, globalisation and the adoption of social media platforms. The findings from Fourie & Van der Waldt (2021) reveal that social media is perceived as the least effective participatory communication mode.

4.1.6 Pamphlets/ Posters

Simplified information sheets in three languages (English, Sesotho and Isixhosa) are distributed through various channels, including local churches post office boxes, taxi or bus ranks, ward offices, retail shops, and tribal authorities' offices. This mode is effective in disseminating information but falls short in actively involving communities or eliciting their feedback during the important stages of the IDP (Fourie & Van der Waldt, 2021). Moreover, some of the participants noted that they easily discard the pamphlets and dispose them without reading.

4.1.7 Loud Hailing

Traditional communication methods, including loud hailing, are employed in rural areas to effectively reach all villages (Fourie & Van der Waldt, 2021). This was more effective especially during lockdown when gathering was restricted. However, it was noted as a channel to pass information and not effective for feedback.

Regarding demographic factors, a respondent acknowledged the municipality's awareness of diverse communication methods tailored to citizens based on demographics, considering factors like literacy levels. One of the participants emphasised that:

> I can say the municipality tries to be committed to having communication that is participatory through measures like attendance registers at community outreach meetings. Public education engagements, such as community dialogues, are a way to educate citizens about the importance of participating in government programs and provide feedback on raised issues. Notably, Facebook serves as a significant platform for feedback so that we are aware of matters affecting our daily lives. (Community member)

Perspectives from the given extract raises questions on efforts at involving the community in IDP forums and its translation to their active participation in decision-making. This suggests a

possible feeling of marginalisation of some community members when the ward councillor is, for instance, viewed as having significant authority in the IDP process. This could resultantly cause discomfort and highlight power dynamics and key role players in the IDP process that confirm that citizens' participation may not necessarily guarantee their active participation in decision-making processes. Therefore, citizens' power in decision-making can be limited to dialogic opportunities for community input.

5 The effectiveness of employed participatory communication modes on governance: Municipality's perspectives

Approximately 80% of the participants, when assessing the impact of IDP outreaches, mentioned its role in fostering good governance within communities. It was noted the IDP helped raise awareness about the municipality's plans and provided a platform for submitting their community's needs. However, a concerning number of participants expressed a lack of awareness regarding their participatory rights within the IDP process.

Some of the community members note the absence of participation in many of the organised meetings and attributed the limited participation during IDP outreaches to a lack of understanding and insufficient feedback from the municipality. They noted delays or non-execution of requested changes without adequate communication. Ward committees were perceived as undervalued compared to other government structures. Lack of feedback and progress on proposed changes led to scepticism among community members, who often learned about new developments through word of mouth.

Inquiries about the contribution of participatory communication on service delivery reveal an acknowledgment that participatory communication, if effectively implemented, plays a substantial role in enhancing service delivery. This perception aligns with the White Paper on Local Government (1998) adoption of an integrated approach to planning municipal services. Some of the community members expressed willingness to engage in the planning and development processes to improve their community's well-being. However, participants raised concerns about low participation during IDP outreaches and inadequate communication between the municipality and the community. Participants attributed these issues to a lack of knowledge, limited feedback, late feedback or no information from the municipality. Ward committees were identified as reliable sources during such engagements, although they felt undervalued, especially during IDP processes. The municipality's failure to provide timely feedback on requested or presented information contributed to a perception of neglect and self-interest. Participants also noted a lack of awareness regarding new developments or projects within the community, except sometimes through verbalised conversations with community members on an informal basis. This suggests a possible disconnect between the municipality officials and some of the community members. Bogopane's (2012) qualitative study on democratic participatory development cautions against excluding community members from crucial activities including project planning, execution and monitoring, to capture the community's yearnings. According to the study, improving democratic participatory development highlights accountability, sustainability and positive outcomes.

Interviews with employees from the IDP and the communication unit highlighted the IDP process's role in guiding municipal management decisions. While the municipality employs its communication methods, reaching all individuals is hindered by factors like infrastructure limitations, tokenism and demographics. However, as mandated by Legislation,

the municipality conducts consultation sessions with stakeholders (both internal and external) to establish effective communication objectives. The municipality undertakes annual reviews of its five-year communication strategy to evaluate performance, assess progress on objectives, gauge effectiveness, examine external perceptions and addressing identified shortcomings (Communication Channels Strategy 2016/2021 for MLM in Alfred Nzo District, 2016).

The head of communications development emphasised the municipality's commitment to providing platforms for voicing complaints and concerns through its five-year communication strategy, action plan, and ward stakeholder engagement. Recognising communication as fundamental to government work and effectiveness, the municipality aims to keep the public informed about developments in their areas. MLM takes responsibility for regular communication to prevent uninformed citizens, and reduce the likelihood of service delivery protests.

Given the recurring community protests during election years, the municipality appears deficient in effective participatory communication. Protests are staged due to non-functional ward structures or communities' dissatisfaction with services received from the municipality or the national government. This finding aligns with a communication environmental scan conducted by the municipality, which revealed a general perception of the government and the municipality's failure to deliver essential services, leading to suspicions of corruption. To counter these public perceptions, the municipality has proactively initiated efforts to strengthen public education and community consultation programs across its 26 wards.

A participant noted that: "People do not always participate in meetings. Only about 30% are present at meetings due to a lack of empowerment and education among rural residents. This hinders their confidence to raise their points in front of a sizable audience." (Community member)

Acknowledging public concerns, the municipality is enhancing its public education and consultation initiatives across the wards. This suggests that the perception of participation is limited to citizens' consultation and dialogue, and does not completely embrace citizens' empowerment.

6 Preferred approaches for promoting participatory communication in delivering services towards sustainable livelihood

6.1 Collaboration with role players and municipal stakeholders

Participants highlighted the implementation of a communication approach in the municipality to actively contribute to encouraging citizen involvement in service delivery. A municipal employee explained that "the municipality uses a communication strategy that is the 'war room', which has diverse professionals that ensures community development across the wards." This implies that various departments collaboratively strive to enhance service delivery comprehensively, with established communication channels that reach out to local communities. This aligns with the perspectives of Mubangizi (2021; 2022), who defines public participation as encompassing various methods for groups and individuals to express their concerns about public matters.

The second municipal employee noted that the municipality employs different strategies to engage with local communities within the framework of public participation. He noted that "despite having a framework, a dedicated public participation unit goes beyond and uses tools such as social media, councillors, internal publications, clustering of wards and traditional authorities." Such an approach underscores the importance of partnership with key

stakeholders to ensure comprehensive representation in public engagement processes. The local municipality also plays a role in fostering economic development through business initiatives. Multiple participants acknowledged the importance of traditional leadership in enhancing participation. A community member mentioned that: "engagement with traditional leadership aids in community gathering" is a common practice in Mafube, where traditional rulers are valued for their leadership and wisdom in the community.

6.2 Roadshows strategy

Roadshows are widely acknowledged by the municipality as an effective tool to improve service delivery through participatory communication. However, some participants noted that roadshows are not consistently conducted, necessitating the exploration of other approaches such as engagement through local newspapers, the use of ward committees with respect to the Municipal Structures Act, allocated radio slots and various printed media-like brochures and newsletters, to enhance public participation. A participant emphasised that although roadshows play a role in educating individuals about their rights to participate in public processes, the absence of community involvement in the IDP process continues to hinder the effectiveness of diverse communication strategies. This aligns with studies (Mamokhere, 2022; Mamokhere & Meyer, 2022) that identify a lack of resources, uncertainties about input validation, lack of information dissemination and other hindrances to effective IDP processes. A municipal employee highlighted the values of roadshows, emphasising their role in gathering information to address the community's needs and to enhance service delivery.

6.3 Ward Committees' system

The structure of ward committees is recognised for its inclusive approach at the local level. Participants affirmed the functionality and operation of ward committees within the MLM. With 26 wards in the municipality, each ward hosts 10 ward committees, making ward committees the predominant communication structure. A municipal employee highlighted the committees' role in providing feedback on ward-level issues and government operations, particularly those related to service delivery.

This aligns with the perspective of Mayekiso et al. (2013) who posit that ward-based planning equips committees with a structured approach to fulfilling their responsibilities within the municipality. Implementing the ward committee system aligns with the municipality's commitment to upholding democratic principles of public participation as outlined in the Constitution and the Municipal Structure Act. However, a community member observed that the ward committee needs to be strengthened, well-informed and empowered. This corroborates with the emphasis by Mayekiso et al. (2013) that ward committees need to be nurtured and strengthened to effectively influence the policy-making process. This echoes the essentiality of citizens' empowerment for realistic participatory communication (Fadipe & Molale, 2024). Another community member stated that ward committees, representing various sectors, collaborate with the municipality through district and provincial government and provide the platform for public participation and for the municipality to consult with the people.

Some community members observed that the ward committees address local service delivery by appropriating responses to community needs related to electricity or water. They collaborate with community-based organisations like clinics, NGOs and schools to enhance social services and service delivery.

7 Conclusion

This study illustrates the profound significance of participatory communication on local governance. It considered the strategies for promoting participatory communication processes for improved service delivery to foster sustainable livelihoods. Participation encompasses a variety of involvement that ranges from passive information sharing, (where citizens are merely informed about decisions) to consultative participation (which allows feedback but maintains external control), and empowered participation (which grants citizens equal decision-making power). Indeed, active participation is an interactive process that unfolds continuously and could be through strategic planning. It thrives on open dialogue and promotes collaboration and shared responsibility among stakeholders in decision-making. Therefore, while participation refers to the involvement of individuals or communities in various stages of development programs through their local insights and indigenous knowledge, participatory communication prioritises dialogue and empowerment and ensures that all voices are valued in the decision-making process. It underscores two-way communication and collaboration that empowers the citizens to influence outcomes directly.

While the studied municipality (MLM) demonstrated the potential of this approach, it fell short of fully realising the potential of implementing it. The Municipal's efforts suggest a continuing commitment to developing citizen participation in the IDP formulation. Despite various mechanisms established by municipalities to encourage community participation in the IDP process, the study revealed limitations, particularly regarding the influence of marginalised rural-based citizens. The municipal communication strategy's effectiveness was evaluated through responses received during IDP outreaches and the opportunities for citizens to comment and provide input before the adoption of the IDP document and Budget.

Despite identified challenges, the IDP process utilising participatory communication yielded positive outcomes, including increased accessibility to government, mechanisms for holding them accountable, and some degree of stakeholders' influence. However, low public engagement and limited real power to impact decisions through the participatory approach used in the IDP process highlight the need for strengthening public participation efforts within the MLM.

The study concludes that a participatory communication approach that is citizen-centric is a pivotal tool for rural community development and the realisation of sustainable livelihoods through effective service delivery. The nature of communication channels in participatory communication should align with basic participatory principle of citizens' empowerment and be attuned to community needs.

8 Recommendations

This section outlines key recommendations to strengthen participatory communication and focus on crucial aspects to enhance the IDP process.

8.1 Education and empowerment for all

The municipality needs to educate citizens and officials about participatory communication, to provide a clear understanding of everyone's roles in local governance. This shared understanding will pave the way for wilful and meaningful public participation. This will also

help in identifying, developing and implementing effective structures and communication channels that resonate with diverse demographics in the community.

8.2 Addressing challenges with ward committees

Strengthening the voice of communities is as important as strengthening the role of ward committees as channels for community input. This can involve capacity building for committee members and ensuring their concerns are effectively conveyed during the IDP process.

8.3 Intentional promotion of participation from all stakeholders

It is important to recognise the multifaceted realities of community residents and accommodate their diverse needs. The municipality needs to establish participation mechanisms that are inclusive and accessible to all. This requires tailoring communication methods and addressing existing disparities to ensure no one is excluded. To address the underrepresentation of marginalised groups, partnerships with NGOs are considered an enabling platform to encourage meaningful participation and counter any bias towards specific interests.

8.4 Resolute municipal's commitment

Active involvement of community members should be encouraged in shaping decisions that impact their lives. Moreover, citizens' participation should not be limited to identifying issues but in all stages of problem-solving. This fosters a sense of ownership and accountability, leading to more sustainable solutions. Therefore, respecting community input and demonstrating a genuine commitment to participatory communication are essential. This can be achieved through collaborations with communities within the IDP process. The co-development of a comprehensive strategy with various stakeholders, including NGOs, faith-based organisations, and traditional leaders in the community, will enhance service provision with participatory communication as a key facilitating factor. Collaborative planning should be encouraged during budget planning to foster transparency in decision-making.

By implementing these recommendations, Matatiele can significantly participatory communication and its effectiveness, leading to improved service delivery and enhanced livelihoods for the rural residents.

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Digitalization and Public Value Co-Creation in Public Sector Organizations

The Citizens as Co-Creators

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Abstract

Public value co-creation emerged as a perspective that takes public service delivery beyond effectiveness and efficiency to the services that involve different actors which meet the citizens' satisfaction and expectation. This development has necessitated the adoption of several strategies by governments aimed at achieving this goal. Arising from this understanding, this paper's objective rests upon the exploration of the correlation between digitalization and public value co-creation in public sector organizations viewing the citizens as co-creators. Utilizing secondary sources of data, the paper compellingly argues that the citizens could participate more actively and effectively in digitalization driven public value co-creation in public sector organizations. However, it is highlighted in the study that digital divide is a potential obstacle which could undermine the role of citizens towards digitalization driven public value co-creation in public sector organizations. As a panacea, the paper recommends for decentralization of digital governance so as to provide majority of the citizens (especially those at the remote areas) the opportunity to participate in the public value co-creation processes.

Keywords

digitalization, public value co-creation, public organization, service delivery

1 Introduction

The quest for public service that satisfies the people is gaining momentum across the world as citizens are no longer interested only in services delivered to them but most importantly the level to which those services meet their expectations and satisfaction. Therefore, it suffices to argue that public value co-creation perspective emerged to strongly encourage public sector management to refocus from efficient service delivery to satisfactory public service involving other relevant actors. This suggests a paradigm shift from within the boundary of organization to that of society at large and by extension explains the growing interest in public value co-creation as a way achieving the above objective. The concept of co-creation has grown significantly and is gaining attention in many fields such as public management (Ansell & Torfing, 2021; Torfing et al., 2019; Torfing & Sørensen, 2019; Bryson et al., 2017). It is a perspective originated from marketing where it was

viewed as a process whereby customers collaborate with service providers or suppliers in creating value (Vargo & Lusch, 2004). Arguably, public value co-creation goes beyond effective public service delivery to the involvement of other relevant actors (citizens and private sector) as well as the satisfaction of the people. These services should be sustainable, effective and efficient; and most importantly meet the citizens' expectation (Ofoma & Adeiza, 2023).

While the discourse on public value co-creation has continued, digitalization has arguably come to the fore as a driving force for the achievement of organizational (both public and private) objectives; thereby further exposing the failure of New Public Management reforms in meeting the expectations of the people in public service delivery. This suggests the growing concern about digital government in public value perspective (Cordella & Bonina, 2012). The wide spread of digital tools has encouraged the movement from better service delivery to public services that satisfy citizens; hence the strong basis for public value co-creation as the primary objective of digital initiatives of government. Unlike the New Public Management that considers digitalization as a tool for administrative efficiency, public value thesis has a wider coverage that goes beyond service delivery to fulfilment of societal objectives (Bannister & Connolly, 2014; Cordella & Bonina, 2012). As a result of the digital revolution, information sharing and access among citizens has changed dramatically. Providing services that meet the needs of the citizens may not be practicable without leveraging digital tools that are springing up (Ehiane et al., 2019).

However, it is argued that the adoption of digital tools in public service is not foolproof as it could pose certain challenges especially to the citizens. For instance, digital operations in Nigeria are threatened by fraudulent and criminal activities that put personal information and security under serious attack (Fatile, 2012; Kazeem, 2011). The pulling down of Mobile ID app (a digital tool) that was meant to generate digital National Identification Number of a successfully enrolled citizens by National Identity Management Commission was due to concerns bothering on security and privacy (Eke et al., 2022). Notwithstanding, it is contended that public value co-creation perspective has established a strong context within which the important role of public servants and digital reforms can be reconsidered from a value oriented point of view (Bannister & Connolly, 2014; Cordella & Bonina, 2012; Pang et al., 2014; Rose et al., 2015) that may result in scholarly investigations both within public administration and the related disciplines. Existing studies primarily center on political and administrative methods of measuring public value rather than on public value expressed by the citizens. Though, the centrality of the citizens at the concept of public value co-creation is widely accepted (Moore, 1995; Bozeman, 2007; Bozeman, 2019; Meynhardt, 2009; Nabatchi, 2012; Osborne et al., 2021). Panagiotopoulos et al. (2019) argue that a lot of relevant interrogations around public value theory have been made but understanding and ascertaining the effect of digital government measures on public value co-creation is largely underexplored. This scholarly lacuna is buttressed in the article by Criado and Gil-Garcia (2019, 439) that "the impact of technologies to foster public value creation using open data and transparency websites, crowdsourcing and participation platforms, smart city sensors, or social media technologies, among others, remains broadly unexplored from the perspective of public sector management". Furthermore, Almeida et al. (2018), Sicilia et al. (2019), and Ansell and Torfing (2021) argue that there is limited research on approaches of public service co-creation as well as its execution process leading to the desired results in the context of digitalization. Similarly, Rodriguez Muller et al. (2021) infer that there is insignificant research interrogating the processes and results of public service co-creation. These illuminate the novelty of this particular study that probes the influence of digitalization on public value co-creation in public sector organizations seeing the citizens as co-creators.

Consequently, the paper is organized as follows: The next section centers on methods followed by review of literature on digitalization and public value co-creation. The subsequent section presents an insight on the discourse while the next section of the study focuses on digital divide as a potential pitfall, ensuing concluding remarks.

2 Methods

The study made use of secondary sources of data such as newspapers, journal articles, books etc. Therefore, the information could be generated from public organizations, international organizations, highly respected journal outlets such as the ones published by Taylor & Francis, Elsevier, Sage, etc.

3 Literature review

3.1 Digitalization: Concept and issues

Concepts are foundations upon which research is built to the extent that lack of their clarification will result in ambiguity (Adcock & Collier, 2001). These (concepts) are not just components of a theory but also instruments for gathering fact and repository of data. In order words, concepts drive research (Sartori, 1970, quoted in Ejiofor, 2024). Accordingly, digitalization as a concept can be viewed as changing a model of or in an organization which results in creating new services or products, altering the actors of value creation process as well as adapting to the processes, setting, or ecosystems so as to apply digital tools (Henriette et al., 2016; Legner et al., 2017; Parviainen et al., 2017).

Digitalization is changing our environment in such a manner that new opportunities and challenges are introduced for organizations operating in this dynamic environment (Tilson et al., 2010; Brennen & Kreiss, 2016; Esposito De Falco et al., 2017; Lindgren et al., 2019). This transformation is so prevalent that it includes changes affecting individual duties, organizational models, new interactions, digitization of existing processes and cutting-edge panacea that better meet the satisfaction of the people. Digitalization is by no means a futuristic prediction rather a component of how organizations operate presently (Ford, 2015). Automation, big data analytics, connectivity and digital interfaces are just a few of the fields where solutions incorporating digitalized technologies are becoming more prevalent (Brynjolfsson & McAfee, 2014). These solutions have been demonstrated to have impacts on operations management both within and across organizations (Agrifoglio et al., 2017).

It suffices to contend that the emergence of digitalization as a prominent strategic tool for organizations is not surprising but being progressive in digital direction is rarely uncomplicated (Legner et al., 2017; Zangiacomi et al., 2020). Digitalization does not only affect the process, settings and society but also shape the players or actors in the system. Specifically, present tasks may be affected (Parviainen et al., 2017; Henriette et al., 2016), therefore, organizations must realize and analyze the importance of new technical know-how needed to fill the vacuum in the environment to fully reap the benefits of digitalization. Those with substantial organizational expertise who are not familiar with growing digital technologies and digitalized processes face a skill gap due to new individual requirements. Tensions may also arise if the IT department is not in sync with the rest of the organization (Kohli & Johnson, 2011) since it plays a crucial

role in providing the expertise required to implement a digital strategy to other organizational departments.

Building on this critical analysis suggests the indispensability of digitalization in modern organization. Arguably, digitalization provides an avenue where organizations thrive stronger to meet the needs and satisfactions of the people or citizens. While leveraging digitalization, they (organizations) must be adaptive to accommodate the alteration accompanying digitalization.

3.2 Public value co-creation

The concept of public value co-creation is becoming more significant in the design and provision of public services (Moore, 1995; Ansell & Torfing, 2021; and Soorensen et al., 2021) and it could be described as a process through which public, private sector and citizens collaborate to address a common challenge through effective exchange of information, ideas, skills and resources which improve value in public service delivery. Meanwhile, identifying the point of divergence between co-creation and co-production is often confusing which leads to the use of the concepts interchangeably. Therefore, this paper is motivated to draw the line of difference between the two concepts by arguing that co-production differs from co-creation as the former places lesser importance on value creation (Torfing et al., 2019; Voorberg et al., 2015). Furthermore, it could also be confusing to establish the difference between public value co-creation and perspectives on network governance as well as collaborative governance. Both co-creation and collaboration lays emphasis on the significance of multi-stakeholder collaboration but using distinct approaches (Torfing et al., 2019). In this context, Ansell and Gash (2008) argue that collaborative governance entails collective decision-making process aimed at executing government policies; unlike co-creation that attempts to connect collaboration to innovation to encourage metamorphic problem-solving strategy between different stakeholders (public officials, citizens and private sector) (Ansell & Torfing, 2021; Torfing et al., 2019).

Voorberg et al. (2015) infer that co-creation includes co-design, co-initiation and co-implementation between public service and other relevant stakeholders such as the citizens and private sector. The interrogation of co-creation processes fundamentally entails the consideration of several crucial factors. Usually, particular attention is paid to the participating players, their methods, the platforms on which they interact, the purposes of the co-creation activities, and the issues that influence public value propositions and results (Bryson et al., 2017). A broad spectrum of private and public players, including citizens, and civil society organizations constitutes the actors (Torfing et al., 2019; Torfing & Sørensen, 2019). Their approaches differ and are driven by their kind, duties and objectives. Previously, it was determined that certain public sector practices were crucial for the creation and co-creation of public value. These practices include policy analysis, design and evaluation, leadership, deliberation and dialogue, institutional and organizational design, formal and informal democratic processes, and strategic management (Bryson et al., 2015). Arenas could be viewed as platforms where actors get involved in collaborative problem-solving through negotiation and joint effort. These platforms are viewed as generative establishments which encourage co-creation (Ansell & Torfing, 2021). Torfing et al. (2019) argue that co-creation processes in arenas have the potential to enhance outcomes, modify the comprehension of challenges, and generate novel solutions. It is also crucial for actors to recognize and express interdependencies in co-creation projects to understand how dependent they are on one another to accomplish their own objectives (Ansell & Torfing, 2021).

Premised on the above interrogation is an inference that reveals that providing services which meet public value goes beyond the participation of public actors (public officials) to

include other relevant actors such as private sector and citizens. Consequently, the next section attempts to establish the correlation between digitalization and public value co-creation by way of pinning it down to citizens involvement.

3.3 Digitalization and public value co-creation: Bringing the citizens on board

Public value co-creation perspective essentially underscores the major function of public sector organization which is to influence organizational structures that encourage the creation of spaces for different actors to participate collectively and innovatively towards addressing public problems (Ansell & Torfing, 2021; Cordella & Paletti, 2019; Torfing et al., 2019). While interrogating the significance of co-creation, Ansell & Torfing (2021) submit that the adoption of co-creation as a fundamental tenet of governance can offer public sector organizations much-needed opportunities for mobilizing resources, particularly in light of general European trends towards reduced public spending combined with lofty goals and a bevy of complex contemporary issues and challenges (Hendricks et al., 2021; Metzger & Lindblad, 2024).

Flowing from the above deconstruction is the understanding that co-creation as a perspective is a process involving at least two actors (public, citizen or/and private, etc.) aimed at collaboratively improving the production of public value by addressing a challenge or carrying out a task through brainstorming or exchange of resources or skills.

> Public value co-creation should aim at innovating public service provision through the construction of a sustainable ecosystem in which various categories of stakeholders (especially citizens) are involved in the programming and planning of public policies, the design and delivery of public services, as well as in the processes of resource allocation, reporting, and evaluation of the use of public resources. Adopting these lenses, the responsibility for generating value no longer falls exclusively within the purview of public sector organizations (PSOs) as endorsed by the product dominant logic. Instead, such responsibility stems from multi-stakeholder collaboration, where public sector organizations and citizens co-create value through the integration of their mutual resources (Kudo et al., 2022, 2).

Hence, co-creation is predicated on the idea that value is produced not just by the random events that impact the citizens' broader life experiences but also by the dynamic and variable acts carried out by subjects, citizens, and public sector organizations (Cui & Aulton, 2023).

Strengthening this submission, Voorberg et al. (2015) argue that the degree of citizens' involvement in the design and processes of public service delivery is becoming increasingly important when developing responsive and innovative services. In fact, the citizens are seen by policy makers as sine qua non condition and foundation upon which social innovation in the bureaucracy is built. "The growth in popularity of citizen engagement initiatives, such as community development committees, citizen satisfaction surveys, public consultations, participatory planning, budget consultations and social audits, is a reflection of the crucial contribution that citizens in developing countries can make to the solution of specific problems in the delivery of public services by engaging constructively with state actors" (United Nations Development Programme, 2016, 1). This leads to a better socially-inclusive and satisfactory service delivery; as policy-making co-created platforms are workable initiative that revives the connection between citizens and government above transactional and service-oriented strategy for creating public value. The platforms are structures that enable participants (for

instance users, citizens, providers) to carry out a variety of tasks, frequently establishing de facto standards for decision-making as well as forming the whole ecosystems for cooperation (Ansell & Torfing, 2021).

Arguably, there is a growing interest in the nexus between digitalization and citizens-government interactions; changing from elderly rehabilitation robots through the use of social media platforms to citizens providing information aimed at designing and implementing public service. Accordingly, it is believed that new technological tools will be advantageous to co-creation by improving the processes as well as fundamentally changing the way the citizens influence public services (Lember, 2018). It is anticipated that digital tools will enhance the capacities of individuals and groups and significantly expand the prospects for more individualized and demand-driven public services (Noveck, 2015; Meijer, 2012) thereby strengthening the legitimacy of the government (Kornberger et al., 2017).

This paper is therefore led to posit that citizens can be mobilized using digital tools such as Facebook, Whatsapp, Instagram and Twitter among others. This submission is accentuated in the opinion of Meijer (2012) that studies have examined the extent to which digital tools such as social media could be deployed to engage the citizens more directly in crimes detection. Those findings have seemingly shown that digital instruments will certainly create more important role for citizens. For law enforcement agencies such as police, Twitter and related apps serve as alerting and correspondence tools. These can be complemented with analytical tools that interpret the vast amounts of information gathered from social media. Undoubtedly, these technologies facilitate the development of novel forms of interactions between law enforcement personnel and the citizens (Grimmelikhuijsen & Meijer, 2015). Citizens have a role in the production of public value (Campanale et al., 2021; Moore, 1995; Salemans & Budding, 2022) by striking a balance between the three types of interests which are self-interest, public interest and procedural interest. The above interest imply capturing the reason for public sector organizations to deliver quality services at affordable prices to the citizens and customers; emphasizing the social implications of public organizations by way of providing taxes and legitimacy for common good activities which enhance the citizens standard of living (and have an inherent capacity to re-distribute content); and highlighting the importance of justice and observance of procedure in the manner in which people are able to influence public decision and even individual services (Talbot, 2011). By utilizing digital technologies to the fullest, the citizens can truly become an actor and in collaboration with administrative officers, can co-create public services that meet their needs and aspirations (European Commission, 2019).

> The ability to collect relevant data on, for example, pollution or the use of public spaces can provide citizens with a strong basis for co-creating new solutions with policymakers, giving them a seat at the table. As such, sensing technologies can empower citizens and give them the opportunity to become part of the decision-making process. Data collected from or by citizens adds public value. For example, data on people's transportation and parking choices does so if joined up with mobile pollution data and if used to co-create behavioural changes (Lember et al., 2019, 1674).

Digitalization could enhance the implementation of co-creation. Unlike before, interacting or reaching out to the citizens both collectively and individually is now easier for administrators using high digital tools (Steen et al., 2018). Involving the citizens in the design and delivery of public services opens up governance space, strongly encourages transparency and makes the people more confident in the system; thereby addressing the fundamental finding made in the

study by Adeyemo (2011) and Chiemeke and Evwiekpaefe (2011) that Nigerian citizens have negative perceptions about government as a result of the antecedents of the political class and government institutions

The unprecedented global political consciousness witnessed among the citizens especially the African youths is a pointer to the impact the citizens could make on service delivery processes if digitally involved. The increasing interest among the citizens in deploying digital technologies in probing the activities of public officials also demonstrates the extent their mobilization and participation can impact on service delivery that meets their satisfaction. While corroborating this assertion, United Nations Development Programme (2016, 1) posits that "Reform-minded public officials may take advantage of citizen engagement in a variety of ways: to elicit information, ideas and other contributions directly from the citizens, support public sector innovations and entrepreneurship, defend the public interest from political clientelism, strengthen the legitimacy of the state in the eyes of citizens and bolster public sector accountability and governance". This suggests the digitalization driven significant correlation between the citizens and co-creation as the latter is widely seen as a process that adds public value by integrating the citizens in design and delivery of services (Cluely et al., 2023).

3.4 Digital divide as a potential pitfall

The above explorations paint a picture of positive outcomes of digitalization impacting on public value co-creation through the citizens' participation. However, it is contended that public value co-creation in digital context is not flawless as digital divide could constitute a major challenge. Contributing to this discourse, Xu and Tang (2020); Huang and Yu (2019) and Clark et al. (2013) submit that the application of digital technologies for public value co-creation is hampered by digital inequality. Buttressing this point, Ofoma (2021) observes the discrepancy in the use of digital technologies among Nigerian citizens linking it to gaps in education and income among others. In third world countries, the gap existing in digital access to information and communication between the wealthy and the poor is significant (Venkatesh & Sykes, 2013). However, this does not in any way rule out the existence of digital divide in developed countries as Barrantes and Cozzubo (2019), Hargittai et al. (2019), Schehl et al. (2019), and Seifert et al. (2017) unanimously assert that there is digital inequality in developed economies specifically between the old and young populations. Significant urban-rural digital inequality is one of the major challenges facing remote rural areas in European economies (European Commission, 2021). Beyond common gap in access, inequality can manifest in digital skills and competency and this is described as second-level digital divide (Friemel & Signer, 2010). Consequently, this digital divide becomes a barrier to the inclination and capacity of the citizens to participate as co-creators, thereby resulting to the dependency of a particular set of citizens as active co-creators which in turn leads to unrepresentative outcomes (Linders, 2012).

4 Conclusion

This paper is a deliberate investigation aimed at finding out the impact of digitalization on public value co-creation in public sector organizations looking at the citizens as co-creators. In an attempt to achieve this objective, the key variables of the study which are digitalization and public value co-creation were conceptualized and related issues examined critically. Putting up a comprehensive discourse on the main issue, the paper strongly established that the citizens

could participate more actively and effectively in digitalization driven public value co-creation in public sector organizations. Notwithstanding, digital divide was identified as a major challenge to the above. As a panacea, the paper therefore suggests for decentralization of digital governance which will provide majority of the citizens (especially those at the remote areas) the opportunity to participate in the public value co-creation processes.

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Taking Stock of Public-Private Partnerships (PPPs) in Uganda

Implications for Practice and Policy

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Abstract

The study investigates the stock and trends of Public private partnerships (PPPs) in Uganda. Existing studies have made effort to research PPPs in Uganda. However, a holistic synthesis of PPP industry in Uganda has not been undertaken yet, though such information would be crucial for policy and investment decisions. The objective of this paper is to carry out a holistic overview of the PPP industry in Uganda. Data was collected by a review of literature. The main findings indicate that Uganda indicate the Uganda has significantly progressed with PPPs frameworks and stakeholder management though uptake of PPP is low. Key implications for policy and practice are stakeholder mapping beyond the documented stakeholders, extension of tenure that may reduce user fees without cost to government, improve publicness and mainstream shared value lesson in future PPPs. Capacity building should be enhanced to increase awareness and knowledge on the working of all actors.

Keywords

Public-Private Partnerships, PPP policy, practice, policy making

1 Introduction

As a business and public management concept, public private partnerships (PPPs) have facilitated management of public services as well as the scaling up provision of efficient and effective public services. Considered as an innovative way of cross sector collaboration that combines synergy of the public and private actors in the delivery of public services, PPPs have continued to draw considerable attention worldwide and in Uganda in particular. PPPs bring together many and diverse stakeholders seeking to improve new ways of addressing the increasing public demand for value-added infrastructure service delivery (Tshombe et al., 2020).

For development purposes, Uganda has undertaken several large- and small-scale PPPs projects in line with achieving political manifestos and *Vision 2040*. The principal goal is to improve Uganda's critical infrastructure with a view to supporting the endeavor of the achieving middle income status by the year 2040. There are, however, both economic and social infrastructural deficits that Uganda must tackle, that is why the government of Uganda has made a deliberate effort to implement PPPs in sectors such as energy, transport, agriculture, education, water and sanitation (Nuwagaba, 2019a).

Over the years, PPPs have been adopted throughout the world under the guise of synergy benefits that arise due to the hybridity of production and delivery of public services (Brogaard, 2019; Irfan, 2021.) As a concept, PPP has a wide-ranging corpus of definitions (Baxter, 2021). Some scholars have confined their definition of PPPs to a strategic procurement method adopted for high value and complex infrastructure (Molokwane et al., 2019; Nduhura, 2019; Nuwagaba, 2019a), while others suggest that PPPs represent five different families of governance arrangements (Hodge, 2010; see also Hodge & Greve, 2017; Wang et al., 2017).

In public administration, PPPs are perceived as a New Public Management (NPM) and New Public Governance approach (Casady et al., 2019). It is quite paradoxical, however, that PPPs as a tool seeks to extend efficiency and effectiveness in a way which is deemed to be traditionally deficient in public administration (Casady et al., 2019). In the like fashion, Alam et al. (2014), view PPPs as one collaborative arrangement that exists between the private and public sector. For Nduhura (2019), the definition of PPPs varies depending on the "utility of its definition" at a point in time. According to the PPP Act of the Republic of Uganda, PPPs are commercial transactions between a Contracting Authority and a Private Party where the Private Party performs a function of the Contracting Authority on behalf of the Contracting Authority, for a specified period (Government of Uganda, 2015).

Several studies have also suggested varying synergistic benefits associated with the adoption of PPPs in public sector service delivery, such as better on-time and within-budget delivery, access to capital, improved risk allocation, better life cycle costing, and off-balance sheet financing (Verweij & Van Meerkerk, 2020; Verweij & Van Meerkerk, 2021; Nduhura et al., 2023; Nduhura et al., 2024). More broadly, Alam et al. (2014) indicate that PPPs have been adopted as means to access technical, managerial, and financial resources in line with the strategic intention of governments worldwide.

Recognizing the importance of PPPs as a vital tool in building modern infrastructure, the government of Uganda has taken over PPP-enabling initiatives (National Planning Authority,

2010). In the like fashion, this paper was designed to contribute to the global PPP body of knowledge by way of providing an in-depth analysis of PPP adoption in Uganda with special focus dedicated to the context of PPPs in Uganda and to their implications and practices.

2 Methodology

The study adopted a systematic literature review. This is justified since it helps to appraise and synthesize existing scholarship to inform decision making (Elliott et al., 2017). While studies have been undertaken to review the state of PPPs in Uganda, they have remained sector specific and lacking a holistic view with respect to Uganda. As an empirical study has not been undertaken to investigate the state of PPPs in Uganda, a review of the existing status of the adoption of PPPs provides a foundation for undertaking future empirical investigation. In accordance with the guidance of Yang et al., (2013), a three-stage process was endorsed to generate the necessary scope and synthesis of the subject summarized as follows: 1) identify academic journals, 2) select target papers, and 3) examine papers.

2.1 Identification of Papers

To identify papers, we used Google Scholar. Previous studies that have adopted this approach have used archival databases such as Emerald, Web of Science, EBSCO Business Source Premier, JSTOR, and Science Direct. While some authors indicate that Scopus provides a wider coverage of publication databases compared to Google Scholar and Web of Science (Osei-Kyei et al., 2017) on the contrary, this study selected Google Scholar as a major search engine for identification of papers and documents since it covers everything that is machine readable compared to Scopus, Emerald and other search engines that have bureaucratic procedures for inclusion. The quality of the study outcomes from input of data is validated since their works that utilize papers from Google Scholar are also cited in papers published in journals archived by Scopus (Opara & Rouse, 2019; Peda & Vinnari, 2020) and Emerald (Osei-Kyei et al., 2017; Agyenim-Boateng et al., 2017).

2.2 Select target papers

To select target papers, we started our search by searching for text strings (Yang et al., 2013). We read abstracts, introductions, and conclusions to identify trends that could exist in Uganda. This enabled us to eliminate papers without relevance to Uganda. The approach is recommended and adopted in similar studies on PPPs. For instance, in studies on PPPs by Torchia et al. (2015), as well as Andon (2012), the scholars reviewed abstracts to select papers for further review. Other studies by Xiong et al. (2019) used a parallel reviewer that targeted the papers for this study to reduce bias in the selection of targeted papers through constant comparison of findings with the authors.

This approach has been recommended by Aerts et al. (2017). The findings on Google Scholar was, then, supplemented with data from Uganda's national PPP Unit website, National Planning Authority, dissertations, seminary discussion papers and consultancy reports not indexed by Google Scholar. Similar approaches were adopted by Chenet al. (2015) for instance.

2.3 Examination of papers

Overall, ninety-nine data sources studies were selected and analyzed. The trends examined in the papers included introduction, origins, reasons for PPP adoption, legal and regulatory framework for PPPs, and institutional framework for PPPs in Uganda, key stakeholders' roles and responsibilities, existing projects with PPP characteristics, current practices relating to procurement, implementation of PPPs, procurement, monitoring, evaluation were searched.

2.4 Extension of data collection approach

The study further read government reports, independent studies, consultancy reports, seminar papers, dissertations, and conference papers. In addition, we searched The Ministry of Finance Planning and Economic Development (MFPED) and National Planning Unit and Office of the Prime Minister and the World Bank. MFPED was chosen since it is the ministry of choice for PPPs and it hosts the PPP Unit. The website of National Planning authority is searched since the entity is charged with long-term planning of the country and the originator of reports such as Vision 2040, and National Development Plans, in which PPPs are considered as a strategic route to achieving the country's long-term project of becoming a middle-income class country. Lastly the World Bank PPI database was reviewed because the bank is rated as a key promoter and stakeholder of PPPs in Uganda.

3 Results and discussion

In this section we present the results of the systematic literature review of trends in PPP adoption in Uganda

3.1 Trends of PPPs in Uganda

The history of public private partnerships in Uganda may be traced back to the 1990s, having a growing importance lately (Kabanda, 2014). Generally, PPPs are executed by the central government rather than at the local level (Mugarura & Ndevu, 2020; Nduhura et al., 2021). Unlike in other countries, where PPPs were adopted due to innovation(the private actors are deemed to possess better technology that supports the effective and effective delivery of services) in Uganda, just like in most developing and underdeveloped countries, PPPs have been adopted as a result of the need to tap into private sector finance amidst budgetary deficits characteristic of most governments in developing economies (Nuwagaba & Molokwane, 2020). Budgetary deficits have made governments fail to deliver necessary services to their citizens. For instance, studies on PPP adoption in the energy sector by Kabanda (2014) and Nduhura (2019) revealed that due to lack of budget to support energy investments, electricity deficits and associated load shedding resulted around 2006–2012. To increase the production of electricity resulted in a PPP was entered between the Government of Uganda and Bujagali Energy Limited (BEL) (a special purpose vehicle in Bujagali) under a Build Own Operate Transfer arrangement, for initially 30 years but due to renegotiations the tenure was extended to 33 years as part of strategy to reduce electricity tariffs in Uganda.

3.2 Legal and regulatory framework for PPPs

It has been argued that the success of PPPs requires the assistance of sound legal and regulatory framework for PPPs in any country (Hodge, 2010). Countries like Greece, Germany, France, the Philippines, Indonesia, Thailand, and Brazil have put in place sound PPP frameworks. In East Africa, Kenya and Uganda have developed laws and regulations for PPPs (Nuwagaba, 2019). According to Hodge (2010), a legal framework instils investors' confidence in the PPP market. In another recent study by Nduhura (2019), it has been argued that investors' trust in the PPP market helps to shield the PPP environment from political rhetoric by high level politicians that may cause scare in it. Additionally, since the legal and regulatory farmer provides for primary roles and responsibilities of PPP actors, it therefore provides to some significant extent role clarity that consequentially reduces the potential for conflicts. In line with these expectations, the Government of Uganda has made considerable effort to create and maintain a legal and regulatory framework for PPPs (Kisitu, 2018). In Uganda, PPPs are regulated by law, which is a compulsory element of developing and enabling the successful execution of a PPP program (Nuwagaba, 2019a).

Table 1. Key trends in Uganda's legal and regulatory environment

Name of	Legal and regulatory framework
2010	Uganda PPP Policy
2013	The National Policy on Public-Private Partnership in Health
2015	PPP Act
2019	PPP Regulations and guidelines
2019	PPP Feasibility assessment tool launched
2019	PPP Public Disclosure Document
2023	Guidelines for PPPs in Local Governments

Source: Authors' compilation from the Government of Uganda records for the years (PPP Unit, 2010; PPP Unit, 2015; PPP Unit, 2019a; PPP Unit, 2019b, PPP Unit, 2023) and MoH (2003)

In *Table 1,* it is indicated that the Uganda PPP legal and regulatory framework has been developed over years with policy act and regulations alongside guidelines developed (PPP Unit, 2010; PPP Unit, 2015; PPP Unit, 2019a; PPP Unit, 2019b; PPP Unit, 2023). While some concessions were signed before the framework came into force, Uganda's notable PPP concessions are governed by it. For example, the Nile Hotel that is now known as Serena Hotel under Aga Khan Development network with TPS as the special purpose vehicle. Additionally, there is the 33-years Bujagali Hydro Power Dam, or Umeme 20-year electricity distribution concessions predate the PPP regulations, and they are still falling outside of their effect, being still managed based on the original terms (Nduhura, 2019). This could have raised several problematic issues, since the endorsement of specific PPP laws generally aim at avoiding potential conflicts with other sources of legal instruments regulating the areas in which PPPs operate (Twinomuhwezi, 2018). Within the context of Uganda, effort has been made to establish a legally sound legal and regulatory framework. For instance, the PPP Policy was passed in 2010, PPP Act was enacted in 2015, PPP Regulations in 2019, Public Disclosure Document on PPP in 2019 and Guidelines for PPP Regulations for Local Government in 2023 (PPP Unit, 2024). Additionally, tools and

templates to support PPP conceptualization are now in place. The key aspects of the legal and regulatory framework are the initiation of the PPP, feasibility studies and roles of transaction advisor, procurement, implementation, monitoring evaluation and reporting (Nduhura, 2019).

3.3 Governance and Institutional framework for PPPs in Uganda

An institutional framework is considered vital for governance of PPPs in Uganda. Unlike public procurement that evolved from centralized procurement (Agaba & Shipman, 2007), PPPs are implemented in a decentralized process. PPP activities are coordinated through the Ministry of Finance Planning and Economic Development (MFPED) under the Public Private Partnerships (PPPs) Unit (Nduhura, 2019). The unit is in charge of providing technical guidance to government and MDALGs on matters of PPPs. According to the PPP Unit (2015) any entity in Uganda such as the Ministry, Agency/Authority, Commission, local government administration unit including city administration are allowed to initiate a PPP project. Most countries in Africa and like Kenya, South Africa, Botswana, Nigeria, Rwanda and Malawi have adopted a similar model of decentralized PPP practice subject to central regulation by PPP Units or Commissions (Kisitu, 2018). Even with a PPP law in place, supported by regulations, guidelines and standard bidding documentation, a feasibility tool, increasing uptake of PPPs continues to manifest as to be a formidable challenge (Nuwagaba, 2019a).

Existing literature indicates that while countries have established law, regulations and policies to guide the implementation of PPPs, capacity to initiate PPP is still lacking (Kisitu, 2018). A centralized institution such as the PPP Unit with the mandate to develop capacity, offer technical assistance, monitoring and enforcement of PPP law and regulations (Nuwagaba, 2019b). A regulator that creates impact must be known and should gain acceptance by various central government and local government entities that seek to utilize PPPs (Ndandiko, 2006). While the study by Ndandiko (2006) did not focus on how the PPP unit can gain stakeholder confidence, Agaba et al. (2007), to secure acceptance of the regulator, the unit must be equipped with staff that possess significant expertise and experience to provide technical solutions to wise ranging issues of inquiry and complaints by intending PPP implementing entities. The integration of PPP reforms such financial management, public investment, improvement of livelihoods and incomes, reduction of unemployment, a recently as part of the Covid 19 post recovery plan, are seen as crucial for the success of PPP program (Nduhura et al., 2021).

Regulating agencies are likely to be encountered with corruption tendencies (Nuwagaba, 2019a). The need to develop partnerships with Anti-Corruption agencies and civil societies can be an asset since they can help to expose corruption in PPPs while calculating and displaying the social cost of corruption that may inhibit undesirable corrupt PPP practices (World Bank, 2019). By installing such partnerships, increased awareness, sensitivity and reduced attempts to indulge in corruption tendencies during the PPP process may be reduced as society itself may implement actions and events that may make it difficult for the corrupt to think of crafting corrupt deals (Mugurura & Ndevu, 2020). Notwithstanding like in any other public reform, there is a likelihood for mistakes. Mistakes may arise due to lack of capacity to design, implement, monitor and regulate PPPs (Kisitu, 2018). This view is supported by the learning curve theory (De Schepper et al., 2015; Castrejon-Campos et al., 2022), which assumes that exposure to new events is likely to expose policy implementers and regulators to mistakes (Ladu, 2021). The implication is that past experiences should be able to inform the practices and outcomes of future negotiations. Consistent with this view Arrow (1962) opines that experience is a product of learning. Applied to initiation and implementation of PPPs at all levels of governments,

there is a likelihood for mistakes in initial attempts for PPP uptake (Nuwagaba & Molokwane, 2020). Several studies quote past experiences in implementing existing PPP concessions such as Bujagali HPP, Umeme Concession (Nduhura, 2019) where they are perceived mistakes that may have occurred during per contractual negotiation of rate of return and high off take feed in tariffs. It is important to note that some mistakes occur usually due to lack of capacity and skills to comply with PPP law, regulations and procedures (World Bank, 2019). Being keen, it's important to learn from previously PPP concessions and initial attempts therefore deemed vital (Pusok, 2016). Once mistakes are identified, they should act as opportunity to correct mistakes when engaging with future pipeline projects.

3.4 Key stakeholders, their roles and responsibilities in Uganda's PPP environment

PPPs as public initiatives are associated with stakeholders (Nuwagaba, 2019). According to CIPS (2006) stakeholders are persons or organizations that have a communal interest or are impacted by actions of an organization or individual. The examination of the PPP Policy and PPP Act has resulted in the identification of PPP stakeholders, their roles and responsibilities in Uganda (Nuwagaba, 2019). Section 4 part II of the PPP Act (PPP Unit, 2015) identifies a range of PPP stakeholders. The identified stakeholders are as follows: the Ministry of Finance Planning and Economic Development, PPP Unit, Accounting Officer, PPP Committee, Contracting Authority, Project Officer, project committee, process auditor, transaction advisor, Accountant General, and Attorney General. Though, the private sector or individual citizens are not listed, they are nonetheless indirectly mentioned as stakeholders in the PPP program (Twinomuhwezi, 2018).

The PPP Unit acts as the regulator providing technical advice and coordination of the entire PPP process, capacity building, monitoring and evaluation, and establishment of a database for PPP in the country (Government of Uganda, 2015; Nduhura, 2019). The PPP Committee is responsible for approving any PPP in Uganda. The contracting authority is in charge of initiating, undertaking feasibility studies and ensuring that the PPP is implemented in compliance with the legal and regulatory framework (KTA Advocates, 2018). The project officer is appointed by the Accounting Officer and provides overall coordination of activities with a contracting authority assisted by the project committee. A transaction advisor is an external stakeholder that provides technical consultancy advisory service to contracting authorities on matters relating to PPP from initiation through feasibility procurement and or financial closure (Mwesigwa et al., 2019). A process auditor provides extant checks on the entire PPP process while the Accountant General is in charge of coordinating monitoring and evaluation of PPP projects (World Bank, 2019). The contracting authority has a role to ensure PPP designs are in the interest of citizens and citizens must be involved in the entire PPP process using a wide spectrum of communication, from roadshows, radios among others (Nduhura, 2019).

Several studies (Alinaitwe & Ayesiga, 2013; Nduhura et al., 2020; Nuwagaba et al., 2022; Bagenda & Ndevu, 2024) on stakeholders of PPPs in Uganda's context have been undertaken. Mwesigwa et al. (2019) studied antecedents of stakeholder engagement in Uganda's PPP environment. Findings of such studies indicate that stakeholder management requires communication, engagement, commitment and trust. While three dimensions were considered important, stakeholder communication was deemed to be the most important aspect of stakeholder management (Nuwagaba, 2019). Results also show that trust and commitment are insignificantly associated with stakeholder management in PPP projects (World Bank, 2019). Perhaps this explains why PPPs have been met with some resentment in Uganda (Kabanda, 2014; Nduhura, 2019). Nuwagaba (2019) argues that communication helps to build trust and

commitment to accept PPP programs This view is in line with the need to use all forms of communication to popularize PPP programs with the objective of creating awareness, soliciting views from citizens during the initial stages of PPP design (World Bank Group, 2017).

In other studies, Uganda's PPP environment has suggested stakeholder management improvement to enable PPP success (Nuwagaba & Molokwane, 2020). For instance, Nsasira et al. (2013) opine that the success of PPPs requires clarity of the relationships between private and government actors. In another study by Twinomuhwezi (2018), the understanding of PPP policy by stakeholders is vital but seems lacking especially in the education sector. Nduhura (2019) reveals that while government entities implementing PPPs take into account resettlement plans for the PPP project affected persons, the limited co-production of services of citizens as consumers of the services usually creates a mismatch of demand and supply of the service. In furtherance of the argument of the delineation of project affected persons (PAPs) in the design of PPP programs, tends to attract resistance and unnecessary when resettling project affected persons (PAPs) due to unmet social capital needs (World Bank, 2019).

While the legal and regulatory framework identifies stakeholders, existing studies on PPPs indicate that additional key stakeholders exist (Kisitu, 2018). Kabanda (2014) and Nduhura (2019) identify civil society and environmental pressure groups as key stakeholders in energy PPPs. Notably, Save the Earth, Uganda Debt Network, Public Services International, political parties are key stakeholders for PPPs in Uganda (World Bank, 2019). For brownfield projects, when the SPV takes over existing projects, labor implications on recruitment and termination of employment tend to arise (World Bank Group, 2014). This resonates with national or sector specific labor unions or associations that seek to protect employment interests of their members (World Bank Group, 2017).

3.5 Current and pipeline PPP projects in Uganda

A range of PPPs in Uganda have been implemented (Kabanda, 2014; Twinomuhwezi, 2018; Nduhura, 2019; Settumba et al., 2022).

While some PPP projects have been implemented before the enactment of the PPP Act, policy and regulations, other PPP projects have been designed in the aftermath and across various sectors (Nduhura, 2019). In the electricity sector (Kabanda 2014; Nduhura ,2019; Nduhura et. al., 2020; Oyoiyin, 2021), some of the notable PPPs that have been illuminated are the Bujagali Hydro Power Dam, currently implemented by Bujagali Energy Limited for a period of initially 30-years, later extended to 33-years, or the 25-years Umeme electricity distributorship concession, and Eskom's Operate and Maintain Concession for Kira and Nalubaale dams, owned by the government of Uganda (Nduhura, 2019). In the education sector, there is a voucher program where the government of Uganda previously contracted private schools to participate in a PPP Universal Secondary Education is popular (Twinomuhwezi, 2018).

According to Twinomuhwezi (2018), like any other education sector based PPP, the government of Uganda under the objective of increasing universal access to secondary education contracted more or less on a coalition of the willing to participate in a program whereby the government would pay UGX 47,000 (12.5 USD) as tuition excluding boarding fees to students that would join secondary education in Uganda (Ministry of Finance, Planning and Economic Development, 2010). While most schools, especially in rural Uganda, joined the initiative, frustrations over delayed payments and misunderstanding seem to have resulted into the collapse of the PPP initiative. Today, Government of Uganda has reversed this policy and

has now focused efforts on constructing rural schools under initiative termed as "seed schools" where students are able to enroll and learn free of charge.

Other PPP projects that have been implemented include an accommodation project implemented under the Uganda Police Force (World Bank, 2019). While there could be some other projects implemented with PPP characteristics, the lack of a compendium of PPPs, a practice, implemented in countries like India, an initiative supported by the World Bank (World Bank, 2010), may render some projects dormancy in public space. In the transport sector, the Rift Valley Rail joint concession (between Uganda and Kenya) commenced in 2006 to facilitate the construction and provision of railway services between Kampala and Mombasa (World Bank, 2019). It is noted that the investors improved operational cargo transit time by 80% and delivered 60% operational efficiency (World Bank, 2019).

With respect to Rift Valley Rail, it was soon determined that restructuring, being registered and operated as a special purpose vehicle was highly warranted (World Bank, 2019). This came with additional requirements such as the payment of concessional fees, rehabilitation of infrastructure, the need to maintain conceded assets, safety targets and time operational reporting alongside meeting freight volumes that could not be met by the investors (World Bank, 2019). Hence, the concession was terminated and reverted to Uganda Railways Corporation (World Bank, 2019).

Since the enactment of the PPP Act, there have been attempts to structure and implement PPP projects (World Bank, 2019). Notably, the Kampala Entebbe Express KEE features as the most prominent PPP to be implemented after the enactment of the PPP Act (World Bank, 2020; Nuwagaba, 2019). Considerable attention has been dedicated to design additional PPP projects: some of these have been captured under the Disclosure Initiative by the PPP Unit in support of the U.K. Department for International Development and World Bank, request for expression of interest for transaction advisory services in media indicate that while some projects have not yet been filed with the PPP Unit, more are in the pipeline and will soon reach the registry of the PPP Unit. A summary of such PPP projects is shown in Table 2. For further information the Disclosure Report (PPP Unit, 2019) may be consulted.

Table 2. Existing and pipeline projects with PPP characteristics[1]

S/N	Name of Proposed PPP project	Contracting Authority	Sector	State in PPP cycle	Nature of PPP Project
1.	Gulu Logistics Hub. The project aims to promote trade in the northern part of the country and Uganda as a whole.	Gulu City	Logistics	Prefeasibility study completed	Brownfield
2	Kampala Entebbe Express (KEE) Bypass Road. The project will link Entebbe International Airport to the Greater Kampala metropolitan area.	Uganda National Roads Authority (UNRA)	Transport	Procurement of contractor to operate and Maintain the road has been completed	Brownfield
3	3-Star Hotel and Convention Centre. The project aims to build a 150 bed, 3hree-Star hotel.	Makerere University Kampala	Education	Concept stage	Greenfield
4	Design and Construction of the Ministry of Works and Transport (MoWT) Headquarters Building. Includes Office accommodation for MoWT Headquarters, Statutory Boards, Commissions and Agencies under the MoWT	Ministry of Works and Transport (MoWT)	Accommodation	Concept stage	Greenfield
5	Construction of a New Ship to replace MV Kabalega. The project will provide transport services (freight) By ship.	Ministry of Works and Transport (MoWT)	Transport & Ship Building	Concept stage	Greenfield
6	Lake Victoria Transport Program. The project will provide services between ports, to ease business transactions. It will provide access to hinterland and remote areas.	Ministry of Works and Transport (MoWT)	Transport & Logistics	Concept stage	Greenfield
7	Multipurpose Water for Production Infrastructure and Facilities' Development Project in Isingiro District. The project aims to construct a dam and multipurpose water system and facilities for irrigation of 433ha. It will also provide bulk water supply from Nsongezi Off take based on R. Kagera abstraction for livestock and irrigation of1500ha.	Ministry of Water and Environment	Water & Irrigation	Full technical feasibility study completed.	Greenfield
8	Kampala Jinja Expressway. The project will relieve congestion on the existing »Kampala Jinja Highway« by constructing a toll expressway between Kampala and Jinja.	Uganda National Roads Authority (UNRA)	Transport	Full technical feasibility study Completed.	Brownfield
9	Digital Terrestrial Television. Movement from an analogue to digital signal for terrestrial television	Uganda Broadcasting Corporation	Media and Broadcasting	Transaction advisor procured	Brownfield

[1] More PPPs are in the pipeline. The table represents some of those projects to give a picture of what is happening in the industry.

10	Source of the Nile River Project. The Ministry plans to utilize the value of having the source of River Nile in Ugandan to attract both local and international tourists. The project will comprise; development of tourism facilities, hotels, entertainment facilities, recreational facilities at the Source of River Nile through PPP arrangement.	Ministry of Tourism	Tourism	No information	Brownfield
11	Development of Logistic Hubs (Tororo, Kampala and Mbarara). The project will provide modal shift function between rail, truck and inland water way, to provide container depot function to reduce export cost and provide logistic services including warehouse distribution Centre and one stop shop.	Ministry of Works and Transport (MoWT)	Transport & Logistics	Full technical feasibility study completed	Greenfield
12	Build Own Operate Transfer (BOOT) Hydro Power for 33 years.	Uganda Electricity Generation Company (UEGCL)	Electricity/Energy	Under implementation providing 250megawatts of electricity to the national grid	Greenfield
13	Management distribution concession for 25 years to distribute electricity in approved territory above 80% of national coverage	Uganda Electricity Distribution Company Limited	Electricity/ Energy	Under implementation and terminates end of 2025	Brownfield
14	Develop soluble coffee plant	Uganda Coffee Development Authority	Agriculture	Under feasibility study	Greenfield
15	Develop university infrastructure (includes buildings and complexes)	Kyambogo University	Higher Education	Under feasibility study	Hybrid (Greenfield and brownfield)
16	Develop 5-star hotel at source of Africa's longest river in Jinja City	Ministry of Tourism, Wildlife and Antiquities	Tourism/ Hospitality	Under feasibility	Greenfield
17	Development of university infrastructure at Kyambogo University	Kyambogo University	Higher Education	Feasibility study completed	Greenfield
18	Development of soluble coffee plant	Uganda Coffee Development Authority	Agro Value Chain/ Agriculture	Feasibility study completed	Greenfield
19	Development of Mini Grids	Electricity Regulatory Authority	Energy	Feasibility studies completed & continuous	Greenfield

Source: Government of Uganda (2019; 2023) with modifications by authors

Table 2 irradiates just part of over 83 PPP projects under pipeline from a compilation of the PPP Unit in 2019. Notably sectors such as energy, housing, transport, education, water, ICT, health, culture/tourism are dominant in the list. Since 2020, there has not been significant additional projects included in the pipeline. This is mostly due to the COVID 19 outbreak and its tormenting effects on Uganda's economy. Another proposed PPP project in 2021, that became verily popular was the 223km interstate roads-construction which links Uganda with the Democratic Republic of Congo. The national newspaper reports that the road project was launched on June 16, 2020 by presidents of Uganda and DRC, and according to Kashaka (2021), a Ugandan contractor was selected to construct the roads under PPP arrangements. In line with the terms of the arrangement, the contractor contributes 20% of the expected 330 million USD costs, just like the government of Uganda provides 66 million USD, while the remaining balance of 200 million USD is going to be raised via Dot Services by the contractor.

3.6 Benefits of PPPs Concessions in Uganda

A survey of existing literature on PPPs in Uganda provides a rarity of positive impact of PPPs. Most literature points to negative outcomes (Kabanda, 2014). Notwithstanding, recent empirical studies indicate that despite the critique, PPPs have, to some extent, delivered economic and societal benefits as indicated by findings from a study by (McQuaid & Scherrer, 2010). In another study by Nduhura (2019) electricity production PPP, the BEL concession resulted in reduced blackouts that were common in 2006–2012. By adding an extra 250MWs of power on the national grid, Bujagali HPP enabled Uganda to reduce electricity blackouts.

While the BEL concession reduced power blackouts it has been critiqued for providing expensive electricity compared to government own facilities like Kira and Nalubaale dams. However, findings from an empirical study from a section in society, the Private Sector Foundation of Uganda indicates that while electricity tariffs are deemed to be high and affect the competitiveness of their products, industries prefer to have consistent power supply than lower tariffs (Nduhura, 2019), compared to domestic electricity users' preference for a lower tariff to consistent power supply (Nduhura, 2019). Similarly, an empirical study by Twinomuhwezi (2018) clearly demonstrates that through the voucher systems under PPP design the enrolment rates in secondary education are increased.

Porter and Kramer (2011) raise the issue of shared value, defining it as a value co-created in the society in which it exists. The paradigm shift of social enterprise is justified by arguing that firms create externalities that extend unnecessary costs to society such as pollution, costly accidents, and depletion of society resources. This view contradicts the economist view of capitalism against which investors engage with governments under PPPs, arguing that the role of business is to maximize profits (Nuwagaba, 2019a). The economists also believe that trade-in from profits with societal benefits compromises the objectives of firms (Crane et al., 2014). Contrary to the view of Crane et al. (2014), Friedman (2007) recognizes that through operating in a social manner, firms are able to develop relationships with society which can translate into value when the relationships move into consumption.

A review of further works by Kramer et al. (2011), Porter and Kramer (2019) suggest that to correct such ills in society, firms must operate responsibly by incorporating the shared value concept into their strategy. Their view extends on the earlier views of Friedman that champions the idea for the need for firms to operate in socially responsible ways.

For example, Umeme, a concessioned electricity distributor in Uganda was contracted under the guise of a PPP (Kabanda, 2014). The distributor manages over 95% of Uganda's electricity,

listed on the stock exchange (Umeme, 2017) where a majority of connected customer's own shares by virtue of saving with the National Social Security Fund (NSSF) (Nduhura, 2019). By implication the users that pay for electricity, benefit not only from enjoying electricity but also benefit from dividends paid out by NSSFs on an annual basis that comprises dividends at first tier from Umeme as part of NSSF investment portfolios. Other recognizable benefits that PPPs have provided in Uganda have included a reduction of power thefts, improved (Nuwagaba, 2019a).

In the education sector, studies reveal that while USE started in 2007, by 2014 USE students approximated five times of what it was at the inception of the USE program in 2007.

Table 3. Trends in Universal Secondary Education

Aspect	Period (Years)		
	2007	2011	2014
Total No. USE Schools	1.155	1.647	1.822
No. of public USE schools	791	904	945
No. of private USE schools	364	743	877
% of private USE schools total USE schools	32%	45%	48%
Total no. of USE students	161.396	689.541	873,.76
Males	92.388	377.293	469.819
Females	69.008	312.248	403.657
% of females	43%	45%	46%
% of USE students in private schools	25%	35%	45%

Source: Extract from Ministry of Education and Sports (2014)

Analysis from *Table 3* indicates that the adoption of PPPs in Uganda's universal secondary education (USE) program has delivered positive results (Twinomuhwezi, 2018).

The PPP strategy is recognized to have narrowed the gender gap in school attendance. By 2014, 46% of the total number of students enrolled were girls, and our analysis indicates that the period 2007–2014 also witnessed a steep rise from 25% to 45% in private schools. This implies that the PPP contributed to Uganda's journey towards providing universal education. This view is consistent with a similar study by Gideon and Unterhalter (2017) in Pakistan that acknowledges that PPP can improve access to education and reduce gender inequality in developing countries. What perhaps remains uncertain is the hypothesis on whether PPPs in Uganda's education have improved the quality of education and learning. More PPPs are in the roads sector such as the proposed management contract for Kampala-Entebbe express highway

and Kampala–Jinja Express highway by Uganda National Roads Authority (Nuwagaba, 2019b).

Additionally, PPPs in Uganda's water sector, like the education sector, have recorded some benefits. According to IMF (2012) a water PPP aimed at installing and distribution of water alongside metering in Busembatia in Eastern Uganda. Post implementation studies by the IFC indicate that the PPP provided water that resulted in spiral effects. For instance, it is cited that kids would not be chased from school because they had water to clean, women were able to start projects like poultry that they would not start because of lack of water. This study by the IFC combines with a study by Nduhura (2019) to suggest that PPPs enable citizens to acquire public services much earlier as governments are constrained with many priorities and some priorities may not be serviced in the short term due to limited budgets and worsening debt to GDP ratios. By implication, such confirm that the government may be able to control their debt to GDP ratios while maintaining service delivery by partnering with the private sector to coproduce and deliver services through PPPs.

3.7 Key challenges facing PPPs

Like elsewhere, PPPs in Uganda have faced several challenges (Nduhura, 2019; Nuwagaba, 2019a). Initially the legal and regulatory framework was missing (Charles, 2016) but is now in place (Nduhura, 2019; Mugarura, 2019). PPP arrangements have also been deemed to foster private rather than public interests (Nuwagaba, 2019). This challenge has been largely associated with the energy sector where public critique of unaffordable tariffs remains a challenge (Nduhura, 2019; Public Services International, 2021). Other reports indicate that tariffs remain high due the high cost of borrowing that largely affects the tariffs charged (Office of Auditor General, 2021; World Bank, 2019). They argue that the cost of borrowing is high with most debt delivered in US dollars and repayments and interest made in dollars, yet citizens pay in Uganda shillings that are usually weakening against the dollars (World Bank Group, 2017; Umeme, 2017).

Inconsistent electricity supply has been also levied as a critique for PPP arrangement in distribution and production (Public Services International, 2021). Hall (2010) in his general critique has viewed PPPs as exploitative, calling for resentment due to subsidies and rescue packages PPPs benefit from governments.

While PPPs have been acknowledged as developed partners, they have been critiqued as being saboteurs of development due to high user's fees charged. For instance, this has resulted in calls for cancellation of concessions and in some cases, entering the approved operation service territory. For instance, there is a Presidential directive to bypass Umeme and sell electricity directly to industrial plants at cheaper prices than those of Umeme. This points to a potential of breach.

At the local government level, PPPs have not achieved much appreciation (Nduhura et al., 2021). While a study on uptake of PPPs in local government in Uganda has not been undertaken, it is generally known that local government presents uniqueness and that central government legal and regulatory framework rarely address decentralization complexities that exist in local government context. Additionally, capacity in implementing PPPs is generally missing (Twinomuhwezi, 2018). This is argued to have been due to perceptions that PPPs are conceived as a central government policy where minimal consultation of officials is deemed deficient (O'Donoghueet al., 2018; Twinomuhwezi, 2018). Despite the value that PPPs provide in improving access to services, the quality of services of PPPs in Uganda has been challenged

(Kasenene, 2013). Uganda like Rwanda's King Faisal hospital have experienced stalled PPP Projects like in *Table 2*.

The environment and Information about PPP contracts have been viewed as opaque (Hall, 2020; Public Services International, 2021). This has reduced stakeholder confidence and creates unnecessary tensions, mistrust and resentment of PPP in service delivery. This has resulted in calls for non-renewal of PPP concessions.

There has been an attempt by the PPP Unit (2019) to publish the PPP Disclosure Document highlights status quos of PPPs in Uganda as part of the transparency agenda. Despite the value of the public disclosure document in increasing transparency in the PPP industry, this document is rarely updated. Perhaps this explains why in academia the number of PPPs reported tends to be slightly higher than the number of PPPs held in the database and public disclosure document of the PPP Unit (central agency for facts on PPPs). For instance, a study by Mwesigwa et al. (2020) reports a population of 141 PPP-projects in Uganda in 2020, while another study reports sample size of 103 PPP projects in Uganda (Mwesigwa et al., 2020). This implies that theoretical realities and meanings of PPPs contained in the aforesaid studies seems to slightly differ from the understanding of PPPs in practice and policy. In India PPP compendium and globally updated public disclosure documents have enabled PPP stakeholders to have clarity on what happened, what is happening and what is going to happen in national PPP markets.

The Government of Uganda has put down PPP guidelines for local government (Government of Uganda, 2023). A review of the guidelines suggests limited clarity on how well the guidelines are anchored with the dimension of political autonomy under decentralization (Smoke, 2001; Smoke, 2015).

4 Conclusion and implications for policy and practice

The study has provided an in-depth analysis of PPPs in Uganda. The paper has also provided insight on stakeholders for PPPs. The existing pipeline PPPs projects illuminate the opportunities that exist for PPP investors and researchers of the future of PPPs in Uganda whilst suggesting untapped opportunities in Uganda while comparing contexts of PPPs elsewhere. Current and pipeline projects provide not only invaluable lessons but also guidance on sectors where PPPs opportunities exist. The benefits of PPPs and critique for PPPs as discussed provide for the building capacity to design and manage PPPs, and cause improvement in evaluation criteria for new PPP investors. For example, the benefits highlighted could be designed to derive additional criteria for including in PPP solicitation documents.

Similarly, implications for the private sector actors willing to participate in the form of solicited adoption of unsolicited bids are provided. For example, the private actors could use the benefits already acknowledged in Uganda to develop attractive USPs or solicited proposals.

For policy formulation, the uniqueness of local government calls for future update of PPP guidelines to reflect political autonomy requirements of decentralization. This will support buy in, commitment to and political will for PPPs at local government.

There is also a need for governments to be clear on expectations, price versus quality or both and provide necessary processes, systems and incentives to support dual benefits of quantity and quality from PPPs. Some of the support frameworks include the setting up of PPP Fund with potential to provide loans in local currency. Breaching territory of a PPP concessionaire may expose governments to breach of non-compete clause/approved territory, unnecessary court cases, loss of PPP investor confidence and consequential financial losses.

Amicable renegotiations for reduced power tariffs for industrial parks. The justification should be the high volumes of power consumed by firms in industrial parks. The trade-off concession by the government may further include extension of the tenure of Umeme for reduction in the tariff of electricity. This builds on precedent where BEL concession was extended from 30 to 33 years to allow a reduction in the unit cost of power purchased from Bujagali Hydropower PPP.

While stakeholders are cited in the PPP legal and regulatory framework, additional stakeholders identified in scholarly studies and reports should be considered. Increasing transparency of PPPs concessions and performance is vital to reduce opaqueness. Practices such as a requirement for PPP to list after some time on the stock exchange can enable PPP concessions to acquire local equity that would boost capital and thus reduce the impact of foreign dollar debt that is attributable to high service user fees. Listing would also enable SPVs to publish their annual reports providing some form of accountability and transparency to citizens.

SPVs should consider implementing the shared value concept through granting citizens stock through floating shares on the stock exchange. This can help to create social ownership that can result in increased accountability and transparency while making consumers of PP service shareholders at the same time. This will further reduce the existing mistrust, tension and loss of public confidence in PPPs. Perhaps, the government may also support such an initiative by including listing as part of the criteria to evaluate PPP bids and or including listing as a requirement for SPVs during the tenure of the concession.

A compendium for profiling PPPs in Uganda should be developed. The compendium should indicate the information of PPPs using data from concept stage to the stage the PPP reaches or up to hand back and transition. Cui et al. (2018) opine using the lens of the knowledge management theory that knowledge held helps to reduce mistakes while improving decision making.

5 Research implications

Future studies in other sectors should focus on the quality of services offered by PPP since PPPs have been adopted partly due to innovation they are perceived to provide. Other studies should focus on the issues of hand back and transition, improving publicness of PPPs, and strategies that can be used to lower user fees without increasing costs to contracting authorities.

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