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The PUBLIC ADMINISTRATION ISSUES journal has been published at the National Research University Higher School of Economics (HSE) in Moscow, Russian Federation since 2007.

The mission of the journal is to create a modern platform of full value for discussion, exchange of international and national experience and specific knowledge among professionals in the field of Public Administration; for working out and further correcting the development strategy of public and municipal administration.

The editorial policy is to provide a very clear emphasis on the specific subject along with a focus on the interconnection of the proper public administration problems with the relative economic, legal, political science and managerial problems, including the interaction of the state and civil society.

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INTRODUCTION OF GUEST EDITOR

The articles of the *Issue* reflect the current research directions in the area of public administration and public policy. Three waves of research have intersected recently and, in future can overlap and create some cumulative effects:

1. **Research of governance in the age of Covid-19.** Covid-19 has changed substantially the conditions and priorities of governance. Its impact on national legislations, on the sets of administrative measures, on economic, social and cultural behavior of people (described as the country case in the *Issue* in the article from Vietnam), should be analyzed comparatively and implemented into theoretic frame of innovative governance. The agile governance, flexibility and localization of decision-making, evaluation of the quality of restrictive measures and their impact on economics, creation of aid packages for most affected by Covid-19 groups of people and businesses, targeted re-shaping of national systems of healthcare, social protection and education, have become the new reality of governance. The new approaches toward risk governance based on data and objective trends description instead of a deliberative approach should be developed. Definitely, this is a challenge for existing theories of governance, especially for NPM and NPG paradigms.
2. **Research of digitalization of governance through the scope of existed theories.** The second wave of research is concentrated around more traditional for public administration and public policy theories, namely, organizational theory in its public organizations aspects, administrative reforms, motivation theories including PSM and commitment constructions, budgetary theories, etc. It is presented in the articles of *Issue* that are dedicated to administrative reforms in Indonesia, organizational commitment in China, specificity of PSM in Ghana, and fiscal “fine tuning” in Russia. In comparison with previous conditions of named theories one can see the shift of focus in these theories towards the new instruments of research, such as data analysis, and strong attention to digital instruments of governance that create new possibilities of its improvement. For the *Issue*, the research of governance digitalization is reflected in some subjects that show

the specificity of governance digitalization in the countries of the region from Asia and Africa to Eurasia, and Eastern and Central Europe.

3. **Research of sectoral and local governance.** In the *Issue* such a research is embracing the cases from Central and Western Europe that show the new trends in sectoral governance (time-terminated contracts for teachers in public universities, Slovakia) and in regional governance (public spaces as the role of public sector in provision of welfare services, Spain; specificity of administrative silence as not fulfillment of administrative duties by officials of local administrations in Poland). The articles, presented in the *Issue*, have a clear orientation to the usage of qualitative methods (data, surveys analysis, interviews), and general awareness of all authors about an improper situation and worsened conditions of governance, that are reflected in a low quality of existing administrative procedures, the improper relationships with other actors, and of weak legislation and regulatory rules.

The interference of the research waves, that are described here, can be named as the next step for public administration and public policy science: for example, the national governance cannot be aimed at pandemic risks downsizing without using the digital instruments of analysis, and it is especially vital for sectoral policies in social sphere for local initiatives evaluation. It is a new frontier for researchers who work in an extraordinary condition of governance that have become right now much more dependent on different kinds of threats, risks, on new digital instruments of decision-making, on governance that is now less sustainable and more fragmentary in its regional and sectoral aspects.

Guest editor – Alexey G. Barabashev

WEATHERING THE STORM: VIET NAM'S LEGAL AND POLICY MEASURES IN THE TIME OF COVID-19

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Abstract

The novel coronavirus has shaken the entire world to its roots. Yet, governments' responses have taken many forms. Some countries were able to flatten the curve, while others struggled to pick up the pieces. This article provides governance implications drawn from Viet Nam's COVID-19 experience. Accordingly, the country's key features of its COVID-19 responses include resolute leadership, information transparency, central – local government coordination, public participation, and adequate preparedness. Besides, this article also highlights some of Viet Nam's key legislative and policy initiatives in a bid to cautiously keep the pandemic under control and the economy rolling. By doing so, it makes a practical contribution to the discourse on public governance in the time of a public health emergency.

Keywords: COVID-19; public health emergency; effective COVID-19 responses; Viet Nam's experience.

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Introduction

At this juncture, let us reaffirm that COVID-19 is in no way a “regular flu”. As of early October 2020, it has claimed more than 1 million lives worldwide and shown disinterest in slowing down regardless of borders or temperature (Johns Hopkins Coronavirus Resource Center (CDC), 2020a). Its catastrophic impacts are

far from predictable as the world economy witnessed a steep downturn, and millions of jobs were tossed out of the window in less than a year. Moreover, the pandemic affected populations unevenly and unequally insofar as it may be deemed *de facto* discriminatory because individuals' private capacity, especially those of vulnerable groups, to resist and adapt to the austerity situation differs greatly (Dang et al., 2020). The COVID-19 pandemic also poses a wide range of legal and policy conundrums since many divergent approaches were devised to address the situation of exception.

As of October 2020, Viet Nam has earned high praise from the international community and its people for its effective COVID-19 responses (Era et al., 2020; Adam, 2020). Bordering China did not expose its Achilles heel. Quite the contrary, it learned lessons from its northern neighbor and quickly converted them into laws and policies to keep up with the pandemic's development (Le & Nguyen, 2020). Harsh measures and restrictions, such as face masks requirement, mass quarantine, closure of borders, schools and non-essential shops, and prohibition of public gatherings, were inevitable for flattening the curve given the limited resources and underdeveloped healthcare infrastructure. As of the time of writing this paper, the COVID-19 pandemic has claimed only 35 fatalities with 1,099 infection cases, of which there were 401 imported (CDC, 2020b). These numbers might seem bizarre to observers unfamiliar with Viet Nam considering its geography and population density. So what has made Viet Nam stand out in the struggle against this invisible enemy?

The structure of this paper comprises three parts with an introduction. The next section will provide a glance at the development of the COVID-19 pandemic in Viet Nam, in which critical junctures are highlighted. It serves as a conduit to explain the features of Viet Nam's emergency governance in keeping the virus at bay, as expounded in section 3. Accordingly, five implications can be drawn from Viet Nam's experience, including resolute leadership, information transparency, central – local government coordination, public participation, and adequate preparedness. Section 4 will highlight some of Viet Nam's key legislative and policy initiatives in a bid to keep the pandemic under control and the economy rolling. Finally, concluding remarks will be provided to recap the main points of the paper.

The covid-19 pandemic in Viet Nam – a timeline

Prior to the first cases of COVID-19 in Viet Nam, the government focused on the assessment of the threat of the unknown pneumonia virus. On 3 January 2020, a few days after China confirmed the outbreak of the new coronavirus, the Ministry of Health issued a directive on tightening the Viet Nam – China border and warned about the new pneumonia-like illness with its first case in China as reported in the media. From 10 January, Viet Nam started health checks of passengers departing from Wuhan (China). Between 16 and 20 January, the MOH issued the Decision 125/QĐ-BYT and the Decision 156/QĐ-BYT to provide guidelines and plans to prevent the spread of the virus. On 21 January, the MOH directed hospitals and clinics to prepare isolation areas in anticipation of COVID-19 patients.

– **The first wave:** First cases of domestic transmission

On 23 January, two men from Wuhan (China), who arrived in Nha Trang city, were reported as the first confirmed cases of coronavirus. On 25 January, Viet Nam applied a compulsory health declaration and strict screening on passengers from China. As early as 30 January, Viet Nam established the National Steering Committee to coordinate COVID-19 policy measures. At the same time, specialized task forces were set up at 31 central hospitals and all provincial hospitals. The next day it closed overland borders with China and suspended all flights from and to China. The government also halted visa issuance to tourists from COVID-19-affected areas and limited public gatherings and festivals.

Moreover, the government started a proactive containment strategy: ramping up the testing capacity, applying four-tiered contact tracing based on the degree of contact with the infected, testing in areas with community-transmitted cases, and quarantining suspected cases based on their epidemiological risk of infection. The reason being that for SARS, identifying and isolating symptomatic people worked because it was infectious only after symptoms occurred. COVID-19, however, can spread even when its host is asymptomatic, thus the SARS-related strategy would be deemed inadequate (Pollack et al., 2020). In addition, mass gathering, travel, mobility restrictions, and targeted lockdowns in suspected clusters were implemented based on evolving epidemiological evidence over this time. The combination of these measures explains why Viet Nam has carried out more tests per confirmed cases despite relatively low tests per capita (Pollack et al., 2020).

On 1 February, the government declared the COVID-19 outbreak an epidemic in Viet Nam, and the Prime Minister affirmed COVID-19 containment as the top priority. Mobility restriction began on 3 February according to the government's order on testing and 14-day quarantine in designated medical establishments for travelers from COVID-19-affected areas. Also, a new decree was enacted to sanction against those spreading fake news and rumors on social media amid a deluge of online misinformation on COVID-19. On 13 February, lockdown measures were imposed at Son Loi Commune (Vinh Phuc Province) upon the report of six coronavirus cases. More than ten thousand people were placed in quarantine camps for at least 14 days. There were 16 cases in the first phase, and all recovered on 25 February.

– **The second wave:** Imported virus shook the country.

On 6 March, patient zero was patient No. 17 returning from Europe, marking the new phase against the Covid-19 pandemic. Patient No. 17 failed to report her European itinerary to the authorities as she had visited Italy for a fashion event. She was then allegedly a super-spreader as she was the probable source of infection of several people on her flight, the driver who picked her up from the airport, her housekeeper, and her aunt. Her neighborhood was immediately placed under isolation after the news spilled out. From 12 March onwards, the urgency prompted the government to impose stricter mobility restriction measures: suspension of the visa waiver program for citizens from

eight European countries, suspension of entry from the UK and EU (15 March), temporary suspension of visa insurance to all foreigners for 30 days effective (17 March), automatic 14-day quarantine in designated centers to all overseas arrivals (20 March), and the border closed to all foreigners (22 March). Simultaneously, the government announced community mitigation measures: a ban on entertainment services (14 March), face masks required at public areas (16 March), and compulsory health declaration for all domestic travelers (21 March).

As the number of COVID-19 cases surpassed two hundred, the Prime Minister declared the COVID-19 outbreak as a nationwide pandemic, and nationwide social distancing for 15 days started from 01 April. Every household, village, commune, district, and province would go into self-isolation; meanwhile, incoming flights to Viet Nam were halted, and traveling within the country was also restricted. After 15 April, the lockdown was still kept in place according to the level of risks. On 22 April, the nationwide lockdown was removed; however, gatherings of more than 20 people were prohibited, while closure of schools and the halting of flights remained in effect.

There were more than 400 cases reported in this phase, with zero deaths. From 4 May, universities and schools reopened with spacing and safety measures. Viet Nam's airlines resumed a full normal schedule of domestic flights from 1 June, but international flights remained suspended. Until 25 July, Viet Nam recorded 99 days of no community transmission cases.

- **The third wave:** Unknown community transmission caught the country off guard.

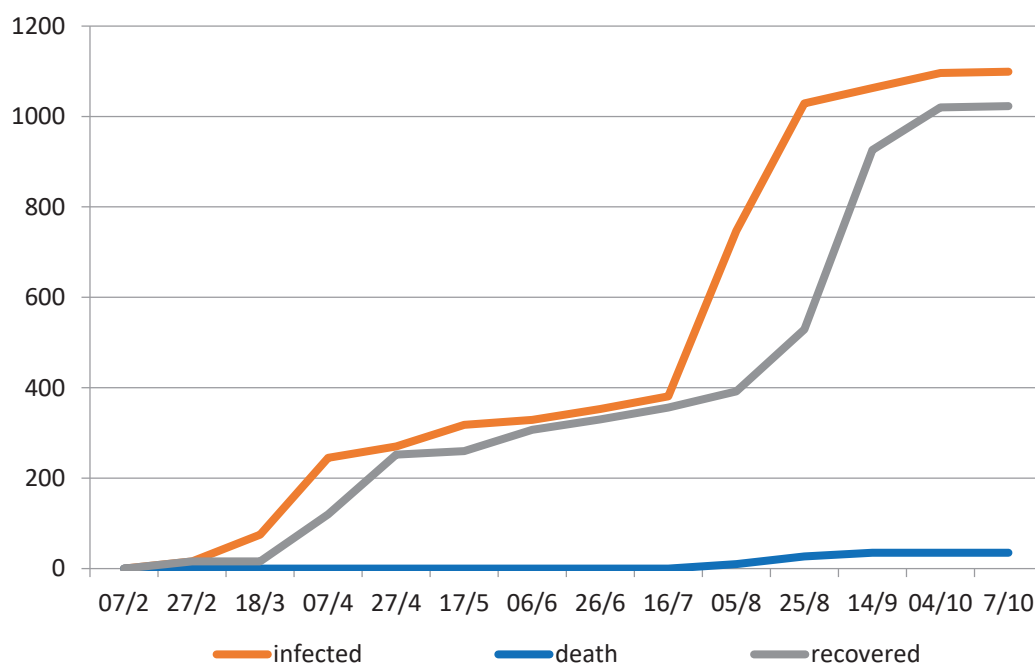
On 25 July, community-transmitted cases were confirmed at Da Nang hospitals and spread to other localities, including Ha Noi and Ho Chi Minh city. So far, the source of infection has remained unknown. Yet harsh local measures were applied swiftly. All domestic flights to and from Da Nang were halted to contain the spread of COVID-19 to other regions, and Da Nang started to undergo a 15-day lockdown from 28 July. In this phase, Viet Nam reported the first deaths related to COVID-19, mainly elderly or those with severe underlying diseases. Due to a large number of visitors to Da Nang and to three hospitals in the city, mass testing was applied to detect infected individuals. As of 1 August, Da Nang and Ha Noi conducted 8,247 and 49,000 tests respectively (Nguyen & Vu, 2020). In addition, The Prime Minister called on citizens to use the Bluezone app for keeping track of the infection cases. Mobility restriction was reintroduced to certain COVID-19 hotspots.

This phase also witnessed a change in the government's strategy to contain the pandemic. Unlike the second wave, the government and people coped with the third wave with more calmness and composure. The Prime Minister ordered local leaders to take initiatives under the framework set out earlier by the central government. Accordingly, Da Nang and other localities affected by COVID-19 went into lockdowns while the country sidestepped a total nationwide lockdown, making room to jumpstart the economy, especially Ha Noi and Ho Chi Minh city, which had been hard hit since the second phase.

In September, Viet Nam planned to resume commercial flights to selected destinations; however, only Vietnamese nationals, experts, business managers, foreign investors, and high-tech workers of businesses involved in important projects as provided by the government and their family members could enter Viet Nam. They also had to present a certificate of a negative COVID-19 RT-PCR testing report issued within 3 days before departure and conduct a follow-up RT-PCR test after landing.

As of 7 October, Viet Nam has recorded 1,099 confirmed cases and 35 COVID-19-related deaths (Ministry of Health, 2020).

Picture 1: Viet Nam's COVID-19 infections and deaths



Source: "Vietnamnet", 2020.

Key features of Viet Nam's COVID-19 responses

Resolute Leadership

The resolute leadership is reflected in the very early responses of the government. Upon the news about the unknown virus, Viet Nam immediately launched risk assessments and issued guidance on disease prevention, control, and detection. A national response plan was set up together with a National Steering Committee for Disease Control and Prevention to coordinate actions and communication among stakeholders at all levels.

The government and political elites have also displayed great attention and respect for scientific opinions and recognized the novel virus's imminent threat. Therefore, in the early stages of the COVID-19 pandemic, Viet Nam took the

precautionary initiatives more rapidly and stringently than were recommended by the World Health Organization. At that point, concerns arose about whether the government had overreacted. In response, to quote Dr. Anthony Fauci, a COVID-19 task force member of the U.S. White House, “if it looks like you’re overreacting, you’re probably doing the right thing” (Bump, 2020). Aggressive control measures such as the closure of the border with China, suspension of overseas entry, extensive contact tracing, and zoning COVID-19 infection, helped to promptly detect and isolate suspected COVID-19 cases to prevent community transmission.

The resolute direction of the government to localities with high-level commitments was loud and clear from the start of the pandemic. It bears noting that the government has promoted the war rhetoric in fighting the COVID-19 with the slogan “fighting against the epidemic is like fighting against the enemy” in an attempt to call for the people’s unification and solidarity and also shown a willingness to protect public health at the expense of the economy. Overall, prioritizing people’s lives and romanticizing the struggle have helped a great deal to bolster the legitimacy of the government’s actions and induce popular compliance.

As a nationwide lockdown was looming large, the government acted quickly to control any sudden spikes in essential goods prices, thus effectively stemming price speculation and hoarding. Initially, there were waves of panic buying of essential goods. Notwithstanding, within two days, the government met with suppliers and logistical companies to ascertain the supply chain was not decoupled, thus stabilizing the domestic market and reassuring the public (La et. al, 2020). Comparatively, as observed by La et al. (2020), Viet Nam’s consumer price situation was kept relatively more under control than in other countries.

Transparency

Information disclosure and transparency are also very important factors in Viet Nam’s COVID-19 success. It has learned a hard lesson from China’s dealings with the novel virus. The urge for political stability prompted hardline crack-downs on disclosure of disease information and statistics and those who sounded the alarm about a potential epidemic (Yuan, 2020; Pei, 2020). The Vietnamese government quickly discerned that Chinese-style information control exacerbated rather than alleviated the situation, thus undermining people’s trust in the government’s actions.

Hence, a clear message and warning about the epidemic were issued by the Government even before the first cases were recorded, contributing to the effectiveness of propaganda and communication to the public. During the early stage of the outbreak, rumor had it that the Vietnamese authorities were hiding information about the novel pneumonia-like illness, which stirred public confusion and anxiety (“Dan tri”, 2020). In response, the authorities and mainstream media went to some lengths to dispel the concern by reassuring the public that transparency is the cornerstone in combating the spread of the novel coronavirus. The Ministry of Health affirmed that data and information from four Public Health

Emergency Operation Centers of Viet Nam were directly connected to the Centers for Disease Control and Prevention of the U.S. and, therefore, shared openly with the global database (“ZingNews”, 2020b).

Disease information and statistics were updated daily on official portals and popular media and newspapers. Communication contents include risks of the epidemic, government’s prevention strategies, ways to prevent and self-protect, details of symptoms, testing sites, and hotlines to report health issues. Also, modes of communication are diversified. Websites, hotlines and smartphone apps are set up to update news of the pandemic and medical advice. Other means of propaganda such as loudspeakers, signboards, posters in hospitals, offices, residential blocks and public areas are used to raise public awareness of the pandemic. Viet Nam has effectively taken advantage of the high number of people using mobile phones, access to the Internet, mainstream information channels, and social media in sharing information. The Ministry of Health regularly sends reminder messages to the public. As of 21 March, mobile network operators had sent more than 13 billion propaganda messages about simple precautions such as wearing masks, cleaning hands and physical distancing to mobile subscribers (“Tuyen giao”, 2020). Perhaps, the most impressive communication campaign was the rewriting of the song “Ghen” into “Ghen Co Vy” to encourage hand washing and general hygiene, which later became a phenomenon on social media worldwide.

In addition, the government remained highly cautious of the spread of fake news related to COVID-19 that may cause anxiety among people and make it more difficult to take preventive actions against the coronavirus. Anyone spreading false information on social media to generate likes, news, and shares shall be subjected to fines up to \$1,000 and jail terms up to seven years in the case of causing serious damage. Moreover, the proactive participation of mainstream newspapers helps to limit the spread of fake news. According to Project Syndicate, from 9 January to 15 March, on average, there were 127 articles on the COVID-19 topic published every day on 13 of the most popular websites in Viet Nam (“Tuyen giao”, 2020).

However, transparency seemed to get out of hand as regulations on infected people’s privacy were severely compromised. Identities and itineraries of some patients were inadvertently leaked to the press and public. In mid-March 2020, due to the authority’s negligence, the list of second-tier (F2) COVID-19 cases was shared widely on social media with personal information including names, workplaces, home addresses, mobile numbers, and other information. This seriously affected the lives of those on the list and generated a wave of stigma and discrimination against them. For example, a private hospital in Ha Noi allegedly refused treatment to a pregnant woman because she came from a COVID-19 hotspot (“ZingNews”, 2020b). It was highly problematic since reckless dealings with personal data could cause bewilderment among the public, thus discouraging potential patients from seeking medical help and making credible health declarations. Subsequently, identities and epidemiological history of COVID-19 patients were abbreviated and numerically denoted as Patient No. 1, 2, etc. The disclosure of personal data was taken with greater care.

Central – Local Government Coordination

In some countries, for example Italy, fragmented COVID-19 responses had in part resulted from the decentralization of health, police, and emergency services to local governments in the face of the exponential spread of the virus from one province to another (Rajadhyaksha, 2020).

Meanwhile, leaders in many localities found themselves alone in the struggle without adequate guidance and support from the central or federal level, as happened in New York (U.S.), Rio de Janeiro, and Sao Paulo (Brazil), and Kerala (India). According to Rajadhyaksha (2020) and Cha (2020), West Africa's Ebola outbreak taught us lessons about the critical involvement of community leaders (village chiefs, women and youth leaders) in enforcing rigorous measures. From observations of previous outbreaks, they also conclude that national governments' overarching crisis-response strategies are crucial as they set out guidelines and protocols with which local governments align their course of action.

The case of Hanoi offers a key window into this dynamic. As a main hub into Viet Nam, Hanoi has recorded far more COVID-19 cases than other localities. So far, its success has relied on both reaching downward and upward by strengthening coordination with lower administrative levels and effectively utilizing centralized resources, including the Vietnamese army and specialized units led by healthcare experts (Nguyen & Malesky, 2020). As in the case of patient No. 17, after the news spilled out, the military at the request of the People's Committee of Ha Noi moved swiftly and placed the neighborhood under quarantine.

While the police barricaded the streets and set up stations around the infected area, they also provided daily check-ins, disinfectants, and free food to quarantined locals. Following a protocol drafted by the Ministry of Health in early February, Ha Noi's Health Department called emergency meetings with the heads of hospitals and local health departments within Hanoi for coordination. It requested the six major hospitals to work on scenarios for a possible surge, including plans to increase the capacity of up to 1,000 beds. The Hanoi authorities issued an order extending school closures, by then already shut for a month and due to open in just two days.

In a similar vein, in the face of the third wave, Da Nang city established local task forces and mobilized socio-political organizations and other units, including the military, to enforce quarantine measures. For the first time, the Health Ministry dispatched hundreds of doctors and medical staff from different parts of the country to support Da Nang's struggle against the COVID-19 pandemic. A specialized task force led by Deputy Minister of Health, Nguyen Truong Son, was dispatched to Da Nang to help the local authority detect, quarantine, and treat COVID-19 patients, zone infected areas, and coordinate actions. The city also moved quickly to set up a 500-bed field hospital to ease the local health-care system's burden as three of its medical facilities were under lockdown because of the virus. Doctors mobilized from other cities and provinces, alongside 400 student volunteers, were in charge of managing the hospital and caring for the patients ("VnExpress", 2020d).

Public Participation

The SARS and Ebola experiences show that popular awareness and public responses to a pandemic help mitigate its impact. Public participation mechanisms (resident welfare associations or village development committees) can be mobilized to work with local agencies (Rajadhyaksha, 2020). Religious leaders and trusted and credible third parties play important roles in the local communities, and their support is needed to spread awareness, particularly in remote and vulnerable communities (Ibid).

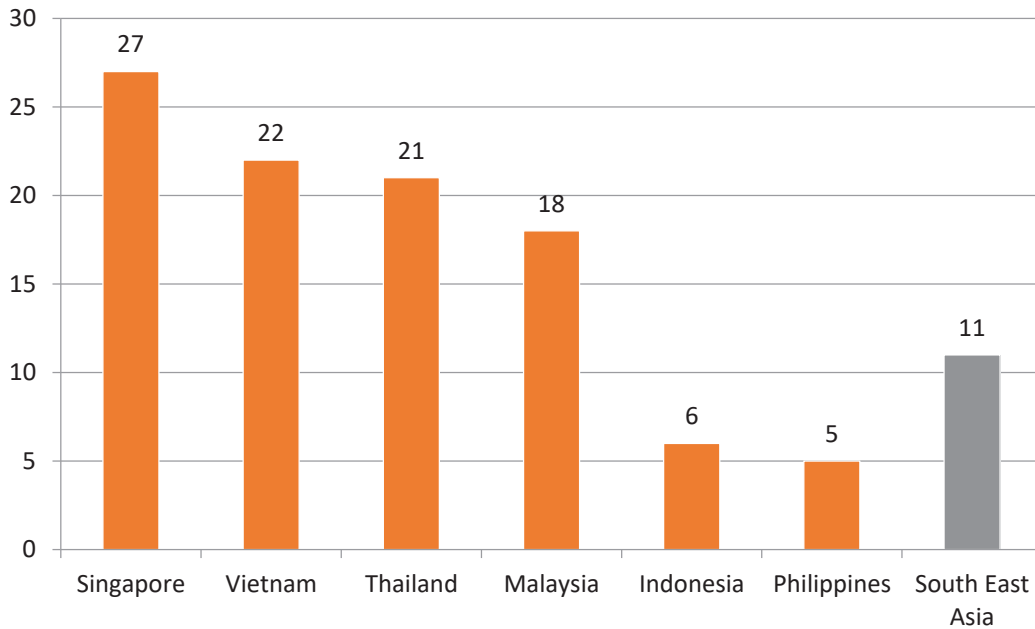
Public participation could be witnessed through various groups' voluntary activities, including those of residential, work-related, and informal groups. Since the first phase, residential groups have played a vital role in disseminating information widely to citizens by means of public announcements, leaflets, posters or banners ("Bao Tai nguyen moi truong", 2020). Many apartment and office buildings took initiatives by regularly checking incomers' temperature, disinfecting areas and setting up self-sanitizing booths and stations to stem the spread of the virus ("Hanoimoi", 2020). Despite business difficulties, many enterprises also went the extra mile to do their share by donating masks, essential goods, cash, or proposing their premises for isolation camps ("EnterNews", 2020). Concerned about the risk disadvantaged people faced while lining up on the street for free food, Hoang Tuan Anh, an entrepreneur in Ho Chi Minh City, invented an automatic machine – called rice ATM – that dispenses rice to students, workers, and the disabled at the touch of a button ("VnExpress", 2020c).

Besides, socio-political organizations have an important role in mobilizing human resources, launching charitable and voluntary initiatives to support vulnerable people facing the coronavirus. In response to Prime Minister Nguyen Xuan Phuc's call for joint efforts, Viet Nam Fatherland Front founded charity funds and received donations from citizens to help the country cope with the pandemic. The Youth Union also took a proactive role, such as providing free food for lonely elderly people and disadvantaged people in some provinces and disseminating information on preventive measures to local households to heighten popular awareness. In addition, The Viet Nam Women's Union gives essential foods to lonely elderly women in society.

Adequate Preparedness

A part of Viet Nam's COVID-19 lesson can be traced to persevering healthcare preparedness. During the SARS outbreak in 2003–2004, dozens of Vietnamese healthcare workers were infected; apart from the index patient, everyone in Viet Nam who died from SARS was a doctor or a nurse due to poor resources (Reilley et al., 2003). Since then, Viet Nam has made continuous efforts to strengthen its national capacity for infectious disease control by investing in organizational systems, building physical facilities, buying equipment and supplies, and training health workers (Pollack et al., 2020). Between 2000 and 2016, public health spending per capita was increased at an average of 9 percent annually (Teo et al., 2019). As a result, Viet Nam's healthcare capacity has been gradually improved, given its lower economic status in comparison with its South East Asian counterparts (Pic. 2).

Picture 2: Public hospital beds per 10,000 population, 2005–2012



Source: Gaskill & Nguyen, 2015.

In terms of infectious disease threats, Viet Nam has made incremental progress in building up its health response capacity. It was one of the first countries to formally join the Global Health Security Agenda in February 2014 (Centers for Disease Control and Prevention, n.d.). The national emergency operations center was established in 2013, followed by the opening of four regional centers in 2016 (WHO, 2017). An almost real-time, web-based system to collect and aggregate data from public health entities was launched in 2009 (Pollack et al., 2020). Since 2016, all hospitals are required to report notifiable diseases within 24 hours to a central database so as to track epidemiological developments nationwide in real time (Balajee et al., 2017). As of 2019, the software for infectious diseases information management system has been set up in 1,761 communes and wards of 33 provinces and cities (“Dai bieu nhan dan”, 2020). Regarding detection capacity, there are around 900 public health diagnostics and reference laboratories, plus clinical laboratories working on human infectious diseases at different levels of the healthcare system (World Health Organization (WHO), 2017). According to the WHO’s evaluation (2020), Viet Nam was able to develop advanced molecular testing, which is required for COVID-19 detection.

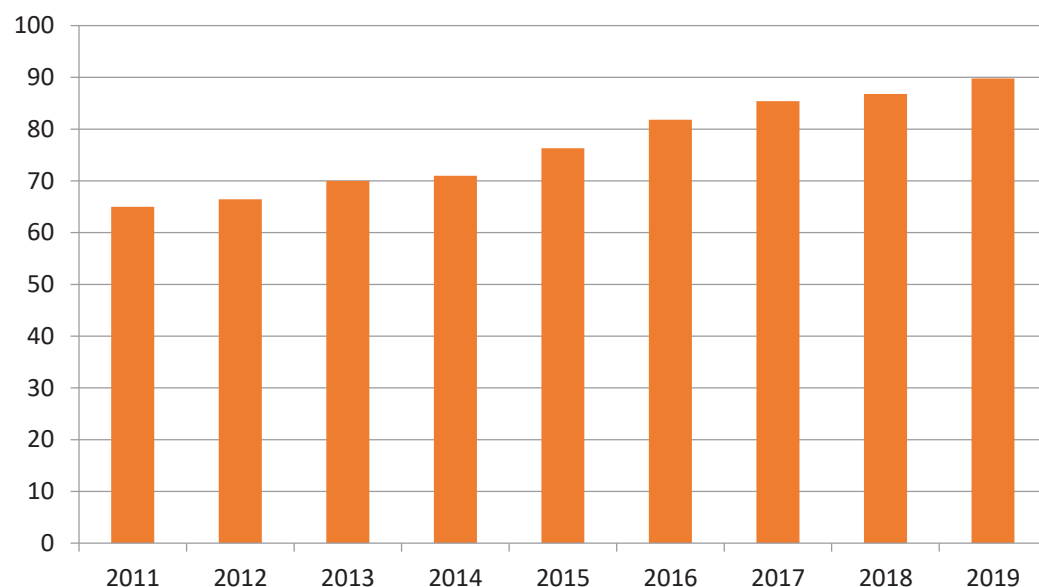
Many donors have also provided strenuous support and assistance in building up Viet Nam’s disease prevention capacity (Le, 2020). The Viet Nam Field Epidemiology Training Programme run by the Ministry of Health’s Department of Preventive Medicine with support from the WHO and the United States Centers for Diseases Control and Prevention since 2007, aims to train skilled staff working at emergency operations centers (WHO, n.d.). Between 2005 and 2014, the World Bank financed

the project “Avian and Human Influenza Control and Preparedness” to enhance national disease surveillance, diagnostic and response capacity (Le, 2020).

Despite patchy leadership at the time, the Ministry of Health and its network of centers of disease control and prevention all over the country have played an instrumental role in the government’s effort to crush COVID-19. In preparation for the COVID-19 pandemic, Viet Nam further strengthened hospital procedures to prevent infection in health care settings. On 19 February 2020, the Ministry of Health issued national Guidelines for Infection Prevention and Control for COVID-19 Acute Respiratory Disease in Healthcare Establishments to provide extensive guidance to hospitals on preventive measures.

Besides, access to health insurance has proliferated over time, now covering 90% of Vietnamese citizens. Healthcare quality has improved steadily, while demands for hospital bribes have witnessed a 10-year low (Nguyen & Malesky, 2020). Coupled with the government’s free-of-charge quarantine policy, free from the worry about – whether formal or informal – costs from COVID-19 tests, mandatory hospitalization, and isolation, Vietnamese citizens are more likely and willing to abide by extensive contact tracing and strict quarantine measures (Nguyen & Malesky, 2020).

Picture 3: The Percentage of Vietnamese citizens with health insurance



Source: Ministry of Health, 2017, 2018; “Nhan dan”, 2019.

It is worth noting that the free-of-charge quarantine policy has been limited to a great extent because the state budget has been under strain. The government has now run a pilot scheme requiring travelers from abroad, whether foreign or Vietnamese, to pay for their quarantine. Several hotels and guesthouses have signed up to the scheme as quarantine places, although the costs are yet to be made public. Recently,

tension mounted around 158 Vietnamese returnees from an airline company as the authorities could not decide unanimously on quarantine expenses, causing confusion and disruption at Tan Son Nhat airport (Ho Chi Minh city) (“Tuoi tre”, 2020a).

Viet Nam’s key legal and policy actions through the COVID-19 period

Emergency Laws

The COVID-19 pandemic in 2020 has put a spotlight on the law of emergency in Viet Nam. In the interest of clarity, the country has never declared a state of public emergency since the COVID-19 pandemic started to break out in Wuhan (China) at the end of 2019. The introduction of harsh measures raised some questions about its legality as human rights were severely restricted, including mandatory health declarations and quarantine, travel restrictions, public gathering bans, and fake news suppression.

The Constitution of 2013 does not detail the state of emergency. The term “emergency” is mentioned seven times in the 2013 Constitution, including two times for limiting property rights and for the State’s acquisition of land, under Article 32(3) and Article 54(4) respectively. Article 70(13) of the Constitution empowers the National Assembly (NA) to prescribe measures in the face of a state of emergency, meanwhile, the NA’s Standing Committee has the authority to proclaim a state of emergency throughout the country or in a particular region. If the Standing Committee cannot convene, the State President may declare a state of emergency nationwide or in a particular locality. The government is responsible for enforcing decisions. The term “emergency” and its procedures nonetheless are anything but well defined (Bui, 2020). It bears noting that while Article 14(2) of the Constitution deals with rights limitations, a clause on the derogation of human rights in a time of public emergency is absent.

In April, according to Art. 38 of the 2007 Law on Prevention and Control of Infectious Diseases, the Prime Minister declared the epidemic of a new coronavirus, which quickly spread from one province to another and seriously affected human life and health. This is different from the declaration of a state of emergency provided under Art. 42 of the 2007 Law. Article 42 clarifies that “when an epidemic rapidly spreads on a wide area, seriously threatening human health and life and the national socio-economic situation, a state of emergency shall be declared.” Meanwhile, as per Art. 38, the Prime Minister will declare epidemics at the request of the Minister of Health for class-A infectious diseases, which quickly spread from one province to another and seriously affect human life and health. Measures applicable in times of an epidemic and epidemic-related emergency resemble those provided under Arts. 46-56. The only notable difference is that while the term “restriction of public gatherings” is used for the case of an epidemic, a state of emergency allows the prohibition of public gatherings in the disease-infected areas, which was in fact resorted to by the authority in phases 2 and 3 of the pandemic. Interestingly, in the eye of the authorities, actions taken to crush the virus were characterized as “pre-emergency measures” (Prime Minister Nguyen Xuan Phuc, March 31, 2020, as cited in A. C. Nguyen, 2020), which were deemed necessary to address an urgent – but not imminent – threat as in the emergency case (Bui, 2020).

Whether the State acknowledged the situation or not, the legal nature of its measures amounted to rights derogations provided under Art. 4 of the International Covenant on Civil and Political Rights. In our view, the situation Viet Nam faced should have been regarded as an “unofficial” or quasi- emergency. In general, those definitions and authorized measures under the 2007 Law on Prevention and Control of Infectious Diseases are unclear in regards to delineating the boundary between the two states. Therefore, the legality of prevention measures is somewhat debatable.

However, we also contend that an overemphasis on legal aspects of the emergency power may fail to appreciate its legitimacy. The existing literature, especially on constitutional liberalism, is often preoccupied with the question of legality, and thus conflates the strands of legality and legitimacy despite its greater theoretical roots (Fatovic & Kleinerman, 2010, 10). In this respect, Fallon (2005) provides an excellent elaboration of the tripartite framework of legal, moral and sociological legitimacy. Notwithstanding the lack of a sound legal basis, the Viet Nam government’s measures were legitimate and authoritative. The extra-legality does not strip away the sociological legitimacy of such measures, as empirical evidence suggested that the State’s actions still garnered broad public support.

In March, Dalia (2020), a Germany-based market research company, conducted an international survey, supposedly the single largest global public research on COVID-19 so far, focusing on people’s perceptions of their governments’ reactions. Between 24–26 March (Phase 1), the firm asked 32,631 people in 45 countries, with at least 500 respondents from each, to think about their government’s reaction to COVID-19 and answer whether they believe the measures taken were “too much or too little.” The results showed that 62 percent of the Vietnamese respondents believed their government was doing the “right amount” to fight the pandemic, the highest percentage among the 45 countries, followed by Argentina (61 percent), Austria (58 percent), Singapore (57 percent), and South Africa (56 percent). In a similar vein, a survey by the British market research and data analytics firm YouGov, which polled people in 26 countries and territories between 5–13 May (Phase 2), found that 97 percent of Vietnamese placed their trust in their government’s handling of the epidemic, and 88 percent believed that the pandemic situation was improving (“VnExpress”, 2020a). Hence, albeit facing a legal challenge, Vietnam’s COVID-19 measures were legitimized by the people and, therefore, by no means deprived of authority.

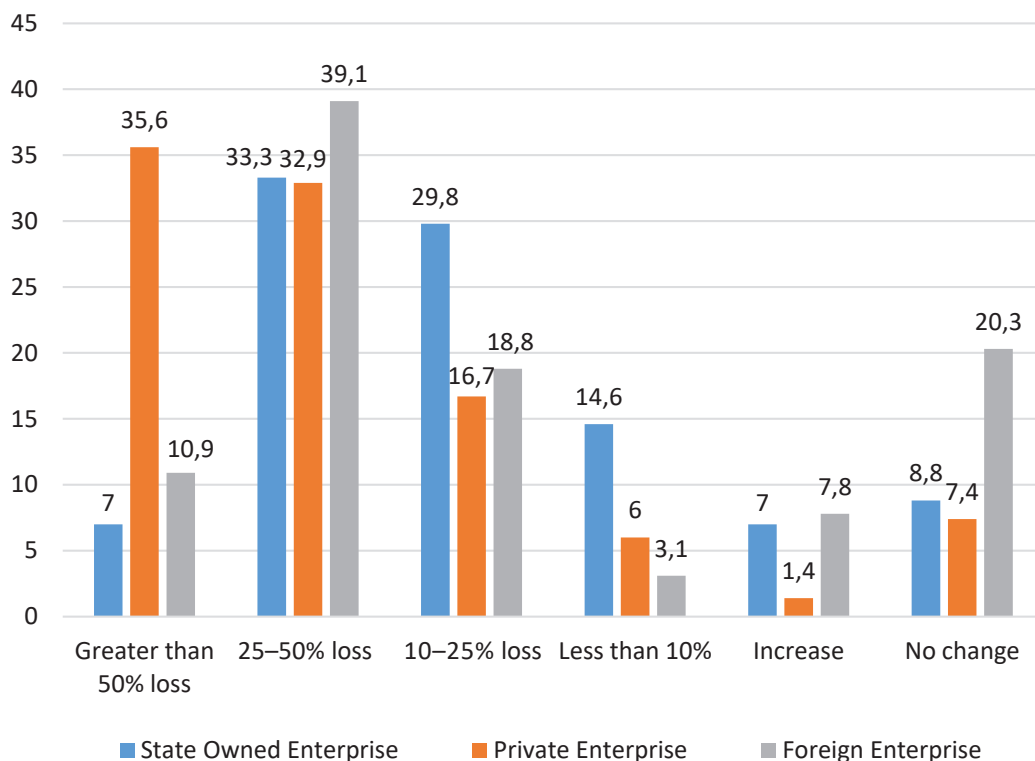
On the other hand, it is unclear why the State has not declared a state of emergency, even though it is their prerogative. There are two possible explanations. First, the situation in Viet Nam was kept under the control of the government. Thus the authority might sincerely believe that it had not amounted to an “emergency” situation under Viet Nam’s laws. Another speculation is that the State was highly wary of the impacts of COVID-19 containing measures on foreign investments. Given the harsh nature of lockdown measures, it would likely disincentivize foreign investors from investing in or even keeping their investments in the country. On top of this, the fleeing of investments resulting from the U.S. – China trade war is conceived as an opportunity for Vietnamese policy-makers to tout itself as a safe haven for foreign investors (Jamrisko, 2019; Reed & Romei, 2019; Lam & Nguyen, 2019).

As a result, a state of emergency would possibly wreak havoc on Viet Nam's economy and bulldoze the economic achievements made so far. Economic security is instrumental in sustaining the economic growth upon which the State's legitimacy relies (Pham, 2020). The timing is also critical. The COVID-19 pandemic hit just one year prior to the 13th National Congress of the Communist Party of Viet Nam at the end of 2020. Against that backdrop, any major policies shall be heeded with greater care and attention than usual since it may tip the balance of power in the election. It was a high-risk undertaking for which very few political elites wanted to sign up.

Economic and Social Security Laws and Policies

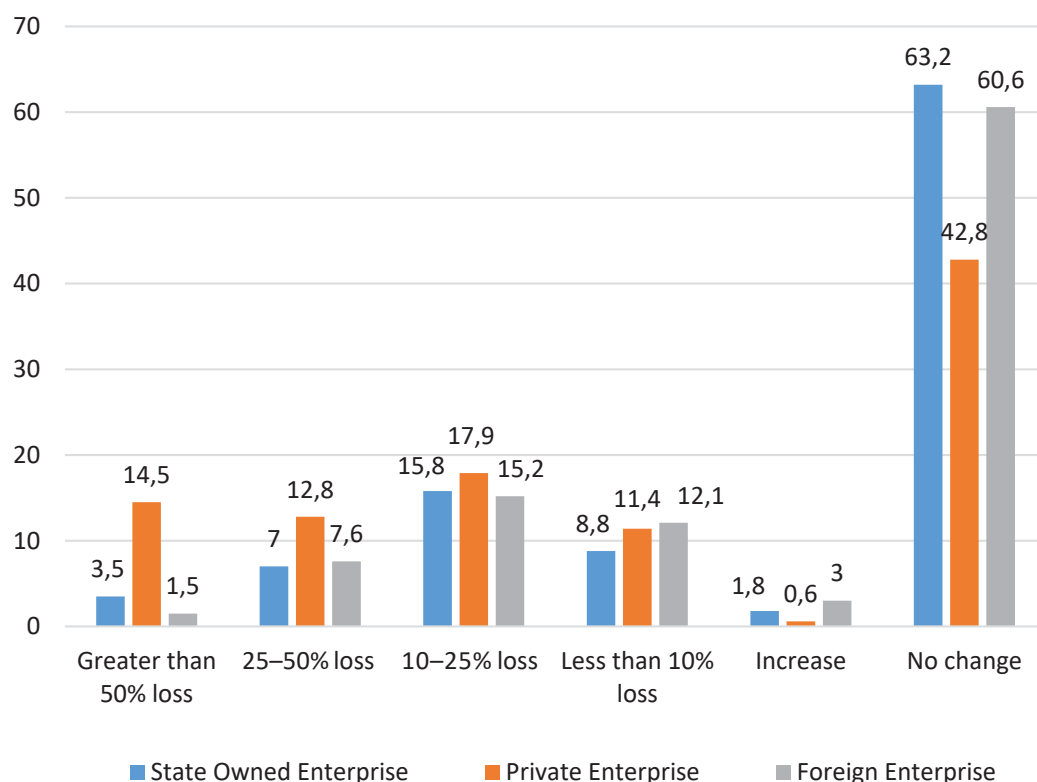
In the current climate, the economy is very much up in the air as a great depression is looming large. Against that backdrop, enterprises are prone to laying off or furloughing workers, worsening the crisis facing Viet Nam and the entire world economy. According to statistics, around 7.8 million workers in Viet Nam have lost their jobs or have been furloughed (Dezan, 2020). Therefore, it is a critical moment for an active role of the government to step in and direct its support to businesses. This is “one stone, two birds” as the government's support may help businesses weather the COVID-19-induced crisis and retain workers in employment, thus minimizing the shock of a social crisis.

**Picture 4: Expected effect of COVID-19
on business turnover for the first quarter of 2020**



Source: The Vietnam Chamber of Commerce and Industry (VCCI) Snap Survey, 2020.

**Picture 5: Expected effect of COVID-19
on employment for the first quarter of 2020**



Source: The Vietnam Chamber of Commerce and Industry (VCCI) Snap Survey, 2020.

According to Directive 11/CT-TTg dated 4 March, 2020 of the Prime Minister, the Viet Nam Social Insurance Agency is requested to assume the primary responsibility and coordinate with the concerned agencies in guiding the suspension of payment of social insurance for those who are affected by the COVID-19 pandemic until the end of June or December 2020 without any interest charge for late payment. A guideline drafted by this body is now underway.

Tax relief measures include extensions to due dates for taxpayers to pay value added tax (VAT), individual (personal) income tax, and the amounts owed for land rental if the taxpayers are considered “vulnerable” in light of the coronavirus (COVID-19) pandemic, including 30% reduction of corporate income tax payable in 2020, plus an extension of the timeline for VAT payments; extension of the timeframe for land rental payments; extension of the timeframe for VAT and personal income tax payments of business individuals, groups of business individuals and households. This plan would delay the collection of 7.6 billion US dollars worth of taxes and land rent to help businesses hit by COVID-19 (Dezan, 2020).

On 9 April, the government issued the first relief package under Resolution 42/NQ-CP to help individuals and businesses affected by the COVID-19

pandemic. This relief package is worth about 2.6 billion US dollars, aimed at affected employees and employers, small and medium enterprises, people with meritorious service to the country, poor and low-income households, and social protection beneficiaries (“VnExpress”, 2020b). Those people losing more than 14 days of employment due to the pandemic are entitled to a monthly allowance of 77 US dollars. Part-time workers who are unemployed but have not received unemployment benefits will get a monthly allowance of 43 US dollars. Poor and low-income households would receive about 10.7 US dollars per month while those with a record of meritorious services to the nation would get 21.5 US dollars monthly. Household businesses with revenues below 4,300 US dollars a year that had had their operations suspended from 1 April due to the pandemic would also be supported with 43.3 US dollars per month. For sure, the relief package is far from enough, nonetheless, it aimed to carry people and businesses through the COVID-19 pandemic while awaiting a long-term health solution.

However, it should also be noted that this policy is not easily accessible for the employees and employers as it sets out numerous “unpractical” eligibility criteria (“Nhan dan”, 2020b). The second relief package is underway and expected to address the shortcomings of the first one. It will also extend the coverage to those suffering hardship (e.g., rent payments, raising children under 6).

– *Tourism and Airlines Industry*

Since late March, with virtually no international arrivals, Viet Nam’s tourism industry has become one of the worst victims of the COVID-19 pandemic. Many travel companies witnessed a year-on-year plunge in customer numbers and revenues. However, while the situation is unprecedented, every cloud has a silver lining. After the nationwide lockdown in April, the Ministry of Culture, Sports and Tourism launched the program on “Vietnamese people travel Viet Nam” in a bid to stimulate domestic tourism (“Nhandan”, 2020a; “Chinh phu”, 2020).

The program aimed to popularize tourist destinations and tourist products through communication campaigns to attract domestic tourists. Support packages were also provided. Localities were advised to offer a range of incentives, including ticket exemption or reduction at tourism spots, thus helping to boost the industry in the period of hardship.

Besides, Viet Nam relies heavily on Chinese and South Korean tourists, which accounted for 56 percent of its international arrivals in 2019 (Samuel, 2020). In September, the transport ministry made a proposal to the government on resuming commercial flights from Hanoi and Ho Chi Minh City to mainland China (Guangzhou), Japan, South Korea, and Taiwan from 15 September, and Laos and Cambodia starting 22 September (“VnExpress”, 2020e). Those are Asian countries that have made significant progress in containing the virus. Nevertheless, the proposal has been put on hold since medical authorities are still finalizing the Covid-19 testing and quarantine protocol for individual arrivals (“VnExpress”, 2020f). Yet the prospect for a gradual and vigilant reopening for the aviation industry is within sight.

– *Protection of Vulnerable Groups*

The COVID-19 pandemic has brought about various unexpected consequences. Domestic violence against women and children while social distancing at home seemed hard to reckon and yet turned out to be ubiquitous and rampant (UN Women, 2020; Council of Europe, n.d.; Bradbury, 2020; Evans et al., 2020). Unfortunately, Viet Nam is not an outlander as the country witnessed an increase in domestic violence cases. During the lockdown, UNICEF (2020b) reported that the Peace House Hotline (a shelter run by the Viet Nam Women's Union) and the Sunshine Hotline (as supported by UNFPA in Quang Ninh province in partnership with Korea International Cooperation Agency) received twice as many calls for help on the year-to-year basis.

In tackling these adversaries, the Government of Viet Nam, the Government of Australia and UN agencies (UNFPA, UNICEF, and UN Women) jointly launched a project to address violence against women and children in Viet Nam. The project will support ongoing efforts by the Vietnamese government and civil society organizations to strengthen the national prevention and response mechanisms to address violence against women and children in the context of COVID-19. It aims to raise public awareness among different actors, especially parents, caregivers, children, and adolescents, about the growing risks of violence at home, quarantine centers, and other facilities. Increased support will be delivered for victims of violence in four major localities: Ha Noi, Quang Ninh, Da Nang, and Ho Chi Minh city – the locations most affected by the Covid-19 over the past months. It is expected to ensure survivors have access to integrated and essential services. Innovative approaches will be introduced in communications and service provision considering the exceptional circumstances of COVID-19, in partnership with supermarkets, pharmacies, and hotels.

Further, in March, TikTok in collaboration with the Ministry of Health, the Central Committee of the Viet Nam Fatherland Front, the Viet Nam Digital Media Association and the United Nations Children's Fund (UNICEF), launched the campaign #ONhaVanVui (#StayHomeIsFun), to call on Tiktok users to unite by staying home to prevent the spread of the disease (UNICEF, 2020a). In April, the Department of Child Affairs (Ministry of Labour, Invalids and Social Affairs) and its partners co-organized the campaign "Vui Online – Vui Covid" (To go online happily, to fight Covid-19) to limit children's exposure to cyber threats such as information theft, fake news, cyber fraud, cyber bullying and sexual abuse ("Da Nang Today", 2020).

Regarding the privacy rights of the COVID-19 patients, in response to the Covid-19 pandemic, the announcement of identities and epidemiological history of Covid-19 cases were abbreviated and numerically denoted as Patient No. 1, 2, etc. The Law on Cyber Security 2018 defines the infringement of personal secrets, family secrets and private life in cyberspace (Art. 17.1). The Decree No.15/2020/ND-CP (effective since 15 April 2020) provides for administrative sanctions for posting and sharing fake news, false information, slanderous information offending the honor and dignity of individuals on social media (Art. 101), and sharing, disclosing, or using personal infor-

mation without the owner's agreement (Art. 102). Offenders may face criminal liability in serious cases. According to the 2015 Criminal Code, spreading false information to harm others' honor and dignity is punishable by a fine, community sentence of up to two years, or a penalty of imprisonment from three months to seven years provided the seriousness of the crime (Art. 156). Publicizing private information without the owner's consent resulting in his/her reputational damage carries a punishment of a fine, community sentence, or three months to seven years in prison (Art. 288). As of 14 March 2020, 146 cases of COVID-19 related misinformation were charged with administrative sanctions, whereas no cases of criminal prosecution were reported ("Dang Cong san", 2020).

Environmental Laws

In a bid to ameliorate the airlines industry, the Ministry of Natural Resources and Environment has obtained government approval to cut the jet fuel tax from \$0.13 per liter to \$0.091 ("Thu vien phap luat", 2020). The policy is effective until the end of 2020 and expected to alleviate the aviation industry's burden, which was worst hit by the COVID-19 pandemic. It also costs the State budget \$3.76 million monthly. Budget revenue from environmental protection tax had increased steadily since 2012. In 2012 environmental tax collection for jet fuel was about \$503 million. The figure rose to \$510 million in 2013. In 2019, jet fuel environmental tax collection increased sharply to \$2.7 billion, according to the Ministry. The tax collection ratio to total state budget revenue has increased from over 1% to around 4%. The average revenue of environmental protection tax on jet fuels during the 2015–2019 period was \$126.4 million per year ("Nhip cau dau tu", 2020).

The Ministry has recently proposed government measures to relieve enterprises from onerous environmental obligations. Its proposal includes a deadline extension for wastewater monitoring, automatic and non-stop waste-gas monitoring systems, and a permit extension for licenses for processing hazardous wastes ("Thu vien phap luat", n.d.). For the time being, it is too early to speak of the environmental impacts of the proposal, but the government should remain wary as this development may induce a "race to the bottom" if transparency and accountability are off the table.

Conclusion

As we have witnessed with the development of the COVID-19 situation in Viet Nam, at first blush, the State enforced harsh measures nationwide to ensure public safety, and the economy came second. In doing so, power was concentrated in the hands of the central government. Evidently, Viet Nam is not an outlier in centralized emergency powers since it often requires resolute and harmonious actions at all levels at a time of crisis.

The entire state apparatus and socio-political organizations synchronized their objectives and uniformly mainstreamed their actions. It is worth noting that the government has promoted the war rhetoric in fighting the COVID-19

with the slogan “fighting epidemics is like fighting against the enemy” to call for public unification and solidarity. It worked out well for the first and second waves.

Nonetheless, as things started to unravel, the State found the nationwide lockdown undesirable since its economic consequences might entail impediments to foreign investments and businesses, and a ballooning unemployment rate, therefore causing an unstable business environment and social unrest in the long run.

As a result, the State decentralized and devolved emergency powers to the localities, where they found a high risk of community infection. This course of action avoided paralyzing the economic engine, including the two main drivers, Ha Noi and Ho Chi Minh city, while each locality was able to enforce prompt and harsh measures to contain the spread of COVID-19 under local conditions. More importantly, the central-local government relationship has been furthered as the central government was strenuous in providing help and resources to the localities where needed.

A point worth noting is the wartime narrative crafted by the State with the slogan “fighting epidemics is like fighting against “the enemy” with the hope to call for the people’s unity and solidarity. As astutely observed by Maya Nguyen (2020):

“The government’s messaging, which has infiltrated citizens’ everyday life via posters, slogans, mass media, and loudspeaker systems, evokes Vietnam’s past military conflicts ... [T]he Vietnamese militarization of COVID-19 messaging is only part of a wider goal to cultivate solidarity and a common identity. It demonstrates the importance of crafting a persistent and coherent narrative, understanding one’s past to shape the present, and using all means available to foster a sense of unity...”

It is not unusual to contemplate Vietnamese streets filled with propaganda-style posters, similar to those circulated in the Viet Nam War. The messaging reminds people of the wartime sentiment which is not very distant in the memory of Vietnamese people given the long war history of the country. The fight against COVID-19 is thus associated with patriotism and communitarianism, where individuals submit to the collective and national interests (Ivic, 2020). Coupled with this persistent and consistent message, tapping into recent painful but heroic memories has helped strengthen a common identity, and therefore induce higher public trust in the State. Resolute leadership, among others, is crucial in explaining Viet Nam’s COVID-19 efforts. However, given its particularity in cultivating solidarity and national identity in the face of a common enemy, it is doubtful if Viet Nam’s approach can be replicated uniformly in other countries.

In response to the pressing needs, Viet Nam has swiftly enacted some key laws and policies to remedy various situations. For the time being, the State’s support has helped businesses weather the COVID-19-induced crisis and retain workers, thus minimizing the shock of a social crisis. Yet Viet Nam is treading a tightrope to accomplish dual objectives, protecting public health and jump-starting the economy, as the novel coronavirus is still present.

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FROM PHENOMENA TO IMPLEMENTATION: LESSONS AND CHALLENGES OF ADMINISTRATIVE REFORMS IN INDONESIA

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Abstract

Administrative reform has been recognized as one of the most prominent activities of governments intending to keep up with the recent trends of dynamic societies around the world. In recent years, the discussion in the reform literature has attracted significant attention from public administration scholars. It includes various methods and discusses a series of experiences of the reform movement around the world within multiple political landscapes, economic settings, and international turbulences. This paper presents the experience of administrative reform in Indonesia as one of the developing countries in Southeast Asia with a complex history of a colonial legacy. This study analyzes the prominent works of literature discussing the reform experience in Indonesia combined with theoretical perspectives of administrative reform. It highlights three major findings; first, the phenomenon of administrative reform in Indonesia was moving against the reform trend of most other developing countries; second, institutional arrangements play a critical role in repairing the reform trajectory; and third, the current progress of administrative reform in Indonesia still indicates the minimum achievement in some institutions. The discussion of this study, bordered by the settled time frame of reform implementation in Indonesia, is comprised of past and current experiences as well as the future projection of Indonesia administrative reform.

Keywords: administrative reform; public administration; Indonesia.

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Introduction

It has been more than a half century since overwhelming discussion between continental and Anglo-Saxon policy adorned the literature of Scandinavian public administration behavior (Jorgensen, 2006). Reverting to the historical view, both of these notions are fundamentally different in terms of philosophical perspective as well as contextual approaches (Ooghe & Langhe, 2002). At least for many of the continental models with a strong orientation toward formal policy attributes such as (Kuhlmann, 2015; Warin, 2005). The Anglo-Saxon trends which have been motorized by American values promote business type management cultivated on a new public management perspective (Benouareth & Gacem, 2019). Modern states have always had a reform agenda for enhancing the efficiency of the public sector. This has seen governments worldwide experiment with a wide variety of changes under evolving theories and models of public management. The dominant New Public Management (NPM) model was dictated and shaped in the 1980s and 1990s. The growing role of market forces in privatizing and outsourcing services was one of the most important developments during this period of cooperation agreements between the private and public sectors (Siddiquee & Xavier, 2020). However, NPM has not provided cost-effective services and performance for more than 20 decades (Kisner & Vigoda-Gadot, 2017). It is also accused of causing more issues, including public service fragmentation and the deterioration of public values (Schick, 2002). In contrast, the continental movement prefers its European style of legal-based management (Breuker, Valente & Winkels, 2005). Although both Anglo-Saxon and continental supporters were fundamentally different in their perspectives, they do agree that the social system will continuously change over time. One piece of prominent evidence supporting this statement was when the UK Prime Minister, Tony Blair, at his speech in the European Parliament on June 23rd 2005, was opposing the ‘pure’ continental model and emphasizing the need to inject the Anglo-Saxon spirit into Europe. He then, in his words, proposes the need to adjust the old policy configuration with the recent trends of the social system (Warin, 2005).

The change of social system will bring in new social trends and shift the old ones into the records (Haferkamp & Smelser, 1992). It carries new human behavior, outlook, thought, and other innovative spirits. These demand a new managerial model, planted in a new form of governance which is called administrative reform (Ocampo, 2002). The fact is that administrative reform is necessary for all kinds of government patterns, even for the policies of continental countries with their strong obedient behavior toward formal policy attributes. Roughly five dec-

ades after it had been introduced in Europe in the late 1970s, the supporters of administrative reform were increasing, together with the growth of market forces (Farazmand, 2002). The spirit of liberalization was continuously pushing governments and their existing mechanisms, demanding reorganization, deregulation, privatization and other bureaucratic adjustments (Nikos, 2001).

Administrative reform in European countries was highly related to market orientation beyond its context of ideology and political regimes (Farazmand, 2002). This condition is slightly different compared with the administrative reform occurring in other countries outside continental European, especially for the reform's case in developing countries, which always emanate valuable experiences. In addition to this fact, perhaps the administrative reform in many Asian countries is the best case to illustrate the condition. Numerous of them are still labelled as third world countries indicating the weak to moderate performance of their governments in attaining their society's welfare.

There are at least two underlined justifications as to why the study of administrative reform in developing countries always provides valuable discussion. First, the governments in developing countries face multi-dimensional problems as many of them have limited control over the economic, social, and political environment (Cheung, 2005). There are plenty of empirical studies indicating the significant contribution of those external environments toward the success of policy implementation (Sarker, 2006; Ohemeng, 2010; Anggriawan, 2016; Strehlenert, 2017; Guga, 2018). Therefore, the policymakers will frequently face strong turbulence when they fail to maintain those external environments. In this case the action taken by them, especially on reform, is vulnerable toward the possibility of policy failure.

A few steps further apart from this discussion, there are internal matters of government in developing countries which commonly become a particular barrier to controlling the stability of those external environments. It is notoriously known that the problem of capacity or institutional capacity is still the major reason for the ills of many administrations in developing countries. Under this circumstance, the governments in developing countries are bound by two major tasks for their administrative reform. On the one hand, they should ensure the external environment to support the reformation's pace, but on the other hand they have to deal with complex internal problems within their base. Second, most developing nations are facing a cultural conflict between their fundamental culture and their significant dependency on their colonial legacy (Farazmand, 2002). It has been widely recognized that the historical experience of these nations in the past might also influence the culture of government such as administrative traditions, imperial legacies or political philosophy (Cheung, 2005). This historical experience can involve multiple timeframes, periods, regimes and the colonization era is no exception. Accordingly, there are two major possibilities for developing countries when dealing with administrative reform. The cultural conflict can be a barrier impeding the reform process, or it can provide valuable experience from the past to be a reference for a better future.

This study intended to reveal the phenomenon of administrative reform in one developing country in Asia called Indonesia. It is aimed to seek information

regarding the progress and challenges of the Indonesian government in delivering the administrative reform from its early starting point (1998) until the recent updates in 2019. It examines selected information through the review toward the recent and relevant literature published by official government institutions, academic, and non-governmental organizations. Indonesia was selected as the case study due to its compatibility with both of the above justifications. In addition, it has undergone reformation for more than two decades, which is expected to provide a series of interesting discussions in the relevant format.

Context and Mechanism of Administrative Reforms in Developing Countries

It has become a common fact that the world has recently passed many transformative ages of social sciences. The rise of power of the intellectual class has meant a permanent revolution of modernization with the dynamic spirit of society (Fisher, Miller & Sidney, 2007). This scenario has consequently demanded governments as rulers to adjust their mechanisms in order to take onboard recent developments (Farazmand, 2004). In line with an increasing number of demands from a dynamic society for efficient services of government, administrative reform has been chosen as the primary option to improve administrative machineries (Pollitt & Bouckaert, 2004). However, in a broader context, there are always frequent questions aligning the implementation of administrative reform as the government's choice to deal with complex problems of society, such as "will the reform truly solve the problem? (Khemani, 2017)" or "what kind of reform ought to be undertaken by the government to put themselves in a proper condition?" (Cope, 1997) or "how far does the government need to change?" (Demir & Aktan, 2016).

Whether acknowledged or not, many public officials would agree that reform decisions are quite challenging. At least, it is relevant to illustrate the administrative reform in France in the early nineteenth century with its enlightenment toward the role of administrator (Wagner, 2001); in Britain when it came together with Victorian England (Meer, 2009); or in the United States at the establishment of reform centered institutions (Volger, 2018). Besides this evidence, the situation of reform in developing countries might tell various stories. While a researcher may put much attention into observing a success story of reform experienced in a developed country, at the same time there are many components that need to be considered to rebuild those success stories when it is going to be applied in developing countries. Different kinds of political landscapes, governing experiences, administrative cultures or organizational capacities would become important attributes that need to be considered (Farazmand, 1999a).

The context of administrative reform in developing countries has commonly commenced its discussion by presenting the current development of the administration itself. Farazmand (2002) conveys that the development of administration in less developed countries suffered from chronic ailments of dependency, instability, and policy confusion. The dependency of developing countries has been frequently caused by economic and human development motives to the

developed nations and international organization (Roy, 2016). Under this circumstance, the economic situations in developing countries are vulnerable toward the influence of higher developed countries, for example when financial contagion and capital fighting had put many southeast Asian countries into economic crisis in 1997 (Allen & Gale, 2002; Jeon, 2012) or when the problem in the US capital market in 2007 had generated more than 7.7 million unemployed in Brazil (Proni, 2012).

In a more detailed look, the economic condition in less developed countries is strongly associated with political stability. The huge burden of crisis may create a devastating impact, such as the downfall of Suharto's regime in Indonesia in 1998 (Thoha, 2000; Maggy et al., 2011). Apart from both economic dependency and political instability, policy confusion has often become another obstacle for developing countries to succeed in their reform. Farazmand (2002) agreed that meeting these challenges is a formidable task for leaders in developing nations. These are substantial matters then covering the context of administrative reform in developing countries, and which are difficult to be separated from political, economic, and administrative components¹ (Caiden, 1991). In most cases, the administrative reform in developing countries was conducted as a spontaneous response to critical situations rather than the anticipation of needs (OECD, 2001). Consequently, many of those are frequently walking into unforeseeable developments without a clear vision, settled constituency, planned programs or supported stakeholders.

A theoretical classification of administrative reform has been offered by Peters (1994) defining the early starting point of administrative reform comprised of a purposive (top-down), environmental (bottom-up), and institutional model. The identification of the model as presented in Table 1 is useful for understanding the motive of administrative reform undertaken by the government.

Table 1

Early starting point of administrative reform

Classification	Shaping factors
Purposive (top-down)	<ul style="list-style-type: none"> – Political will of certain actors, elites or powerful individuals (Farazmand, 2002); – Need for political elites (Chester & Wilson, 1984; Caiden, 1970); – Political – Administrative reason (Peters, 1994)
Environmental (bottom-up)	<ul style="list-style-type: none"> – Environmental conditions including economic, social or cultural (Farazmand, 2002); – Administrative reaction toward the current change and trends (Killian & Eklund, 2008)
Institutional	<ul style="list-style-type: none"> – The need to modify collective value, culture, and structure (Farazmand, 2002)

Source: Peters (1994); Farazmand (2002); Killian & Ekund (2008) – modified

¹ The administrative components this section refers to asymmetric rule and regulation generated from the consequence of policy confusion which is often impeding the reform process.

In order to examine the impact of early starting points as the trigger for administrative reform in developing countries, perhaps the reform experience from China, Japan, and South Korea will illustrate a comparable perspective. These countries have undergone long experiences of administrative reform and recently transformed into developed countries. Therefore, they have been recognized as the benchmark of administrative reform in many Asian developing countries. In China, the trigger of administrative reform denotes the government agenda under Deng Xiaoping's regime between 1978 to 1989 (Naughton, 2009). Similarly, in South Korea the reform was also initiated by the strong political will of president Roh Tae-Woo in 1988 resulting in a dominant top-down reform movement. In Japan, however, the situation is slightly different, i.e., when the culture of '*kaizen*' blended with the leader's political will it results in the collective value which is applicable for better administrative reform.

Trajectory and Trend of Administrative Reforms

Most administrative reforms have occurred through internal initiatives leading to top-down reforms or by strong pressure from outside which triggered the bottom up movement (Fullan, 1994). Whether it has occurred by top-down or bottom up mechanism, both of these factors will definitely carry the spirit of change and adapt toward the new conditions (Killian & Eklund, 2008). In line with this circumstance, the need for completing the reform scenario is important. Most administrative reform cases have successfully changed the government system, but not all of them were able to move into the desired goals. In some developing countries, the effort of reform can easily lead the nation into reform failure (Caiden, 1991). In other cases, the reform movement has been too tired to achieve the desired goals with tough resistance from the status quo resulting in an undesired movement into biased direction (Prasojo, 2012). It generates a condition called reform fatigue, when the reform is neither reaching the desired outcome nor falling back to the status quo (OECD, 2001). Some experiences of reform fatigue can be illustrated as prominent examples, such as in Australia (Banks, 2005), in the Netherlands (Vries, 2016), and in some Latin American countries (Ortiz, 2003). Although sometimes the government has said that the reform fatigue is slightly better than reform failure. However, for clear measurement, each of these examples failed to meet the desired goal of the reform.

In fact, both reform fatigue and reform failure are avoidable if the government maintains the administrative reform with a good reform scenario that is adaptive to the trend and propelled with a clear trajectory (Pollitt & Bouckaert, 2017). The existence of a trajectory in administrative reform will constantly guide them from an early starting point onto the desired direction (Pollitt & Bouckaert, 2004). However, setting the reform trajectory itself is not as simple as written in a conceptual paper. One of the major reasons explaining this is the fact that the government is not a single entity (Killian & Eklund, 2008). Needless to say, the administrative reform trajectory often resulted

from a series of complicated discussions between politicians and bureaucrats (Vries, 2016).

The phenomenon of administrative reform shares a single space for both politicians and bureaucrats; this has become a common fact, even it is separated from the context of political reform itself² (Bidhya & Ora, 2014). In most detailed experiences, the administration will be closer to the bureaucrat's sphere but it is almost impossible to neglect if the reform agenda is also part of a political decision. Under this circumstance, the theory of bureaucratic-politics has been considered as one of the most important tools for understanding the decision-making process (Bidya & Ora, 2014). It covers some specific attributes of reform such as relations, dispositions, interests, and values that are relevant in identifying the reform trends. The following (Table 2) illustrates the current prominent trend in administrative reform in developing countries over the last five decades.

Table 2

Current prominent trends in administrative reform

Year	Popular trend	External supporters	Administrative reform areas
1950s	Post-war Orientation	Western and capitalism power	<ul style="list-style-type: none"> – Capacity building that serves the political ends of anti-communist and anti-Soviet; – Extensive development of security and police forces; – Managerial training for capitalist development; – Bureaucratization for political control
1960s	Institution building	Western influence	<ul style="list-style-type: none"> – Provided a major impetus for bureaucratizing societies in less developed nations under Western influence; – Bureaucratization, as part of agrarian reforms, prevented a peasant-based revolution by establishing state control over both rural and urban areas
1970s	Nationalization	International pressure	<ul style="list-style-type: none"> – Any kind of reorganizations within public sector to create society's welfare
1980s	The opposite direction	Global corporations & International organizations	<ul style="list-style-type: none"> – De-bureaucratization replacing the earlier trends of institutional building
1990s	Market-based philosophy	Marketization and privatization has created chaos	<ul style="list-style-type: none"> – Public administration has transformed into Administration for public for social control; – Expansion the role of military, security, and police.

Source: Farazmand 2002 (modified).

² The fact that administrative reform is often involving political interference, while the political reform lies in a different dimension which is not always pulling the participation from bureaucrats.

A Brief Chronology of Administrative Reform in Indonesia

It is almost impossible to separate the discussion of administrative reform in Indonesia beyond the context of economic and political perspective, since all of these have direct correlation. It began in 1997 with the huge financial crisis hampering the economic stability and generating instant poverty in many Asian nations.

In Indonesia the impact of this crisis resulted in the untrustworthiness of the national government which has reigned for more than three decades along with Suharto's tenure (1967–1998). The crisis has also awakened the awareness of society about the importance of injecting democratic values into the government. However, the existing administrative culture in Indonesia at that time was too rigid to accommodate the changes.

The administrative culture of Indonesia, which was fully granted through the highest constitution in 1945 (before its amendment), placed the president in an absolute position as the head of the country with minimum control from legislative branch. Furthermore, the constitution of 1945 also encouraged the dominant control of central government over the local governments for administrative affairs only. On this occasion, the position of local government merely looks like an extension of central without the delegation of political affairs. This political setting has generated a significant barrier to injecting the democratic values within public institutions, as demanded by society. Therefore, in mid -1998 the chaotic situation occurred between the central government with their military support and the civil society and many supporting organizations carrying their pressure.

At least, the demands from society for a more democratic government can be illustrated in four concrete agendas, comprised of: first, changing Suharto's cabinet with its authoritarian officials, who have proven their failure to counter the economic crisis; second, encouraging the protection of human rights as the pioneering strategy to establish democratic culture; third, abolishing military domination for their political function within governments and banishing their existence within political parties; and fourth, realizing the liberalization of the political party system. All of these demands would be the major reason to conduct an amendment of the highest constitution of 1945.

The series of chaotic demonstrations in 1997–1998 have successfully reached the commitment between the government's agreement and society's demands by realizing the amendment of the highest constitution of 1945. The downfall of Suharto's regime also became another grant associated with this situation. Basically the amendment of the highest constitution has been conducted in four different periods: October 1999, August 2000, November 2001, and August 2002. This resulted in several prominent changes enabling the injection of democratic souls within public institutions. It also affected the institutional arrangements including the establishment of an independent law enforcement institution. The following (Table 3) describes the specific changes within the configuration of the highest constitution of 1945 during its amendment.

Table 3

Illustration of amendment of highest constitution 1945

The amendment series	Year	Coverage Areas			
		Political Configuration	Economic Configuration	Administrative Configuration	Social & Justice Configuration
First amendment	1999	1. Placing the constitution of 1945 as the highest legal basis over all public sector institutions in Indonesia; 2. Bordering the authority of the president; 3. Strengthening the role of legislative and judiciary institutions as controller; 4. Creating the limit on the period for the president's tenure		1. Amending rather than renewing the highest constitution; 2. Enabling the decentralization system (Administratively)	1. Strengthening the rule of law for human rights
Second amendment	2000	1. Settlement for house of representative configuration; 2. Abolishing military participation within house of representative		1. Settlement for the administrative component of decentralization for local government	1. Settlement for the human right's protection as equal to universal declaration of human rights
Third amendment	2001	1. Settling the impeachment's procedure for president and vice president; 2. Establishing the regional representative council	1. Reforming the Supreme audit agency		1. Encouraging the participation of society for democracy; 2. Conducting the direct presidential and vice-president election
Fourth amendment	2002		1. Settlement regulation about economic and welfare society; 2. Settlement for national currency and central bank	1. Abolishing the supreme consultative agency; 2. Settlement of additional regulation	1. Independency's of judicial court; 2. Culture and education for society

Source: Compiled by the authors.

Table 3 explains that the amendment of the highest constitution of 1945 contains several changes intended to accommodate the demand from society toward the establishment of a more democratic government. Overall, the changes within these amendments cover four major aspects including political, economic, ad-

ministrative and social configuration. According to Table 1, the first amendment of the highest constitution in 1945 has been intended to set the political commitment to enabling appropriate settlement for the rest of the configurations. This can be seen from the fundamental idea to change the highest authority from the president as part of a representative assembly toward the constitution 1945 itself being the highest legal basis. This shift is intended to prevent the absolute position of president which may lead to an authoritarian government.

Current Progress and Future Challenge

Either the president's decree number 81 in 2010 or Permenpan number 11 in 2015 have managed the administrative reform in strategic government institutions such as ministerial institutions and provincial governments, as well as local government in either a city or regency. Both of these laws also encourage periodical assessment to measure the progress and identify the challenges faced by those strategic institutions. The current progress of administrative reform's assessment (in 2018) has stated that ministerial institutions and provincial government performed better than local government at city and regency levels. This illustration is described in Table 4, which illustrates the target and realization, as well as the percentage realized.

Table 4

Administrative reform in Indonesia, %

Institution/ Organization	Target	Realization	Percentage
Ministerial Institution	100	92	92
Provincial Government	100	85	85
Local Government (City and Regency)	75	46	61

Source: Ministry of Administrative and Bureaucratic Reform of Indonesia (2018).

Based on the data presented in Table 5, it can be inferred that on average the achievement of administrative reform performed by public institutions in Indonesia still failed to reach the target set on its roadmap. However, these failures provide a significant lesson for the head of those institutions to evaluate their weakness within their performance. Furthermore, this evaluation process will assist them to identify their future challenges and opportunities to maximize their performance.

The reason behind the failure to reach the target is different for each institution. At ministerial level, it can be seen that the average progress of administrative reform has covered more than 90% from the overall target of 100%. The reason behind this data is that in Jokowi's cabinet there are frequent ministerial reshuffles which have brought inconsistency to the ministerial program. Jokowi's cabinet also brings the new political trend that is focused on infrastructure development, and some ministerial institutions were less prioritized under these circumstances. However, there is no doubt that the reshuffling process

initiated by Jokowi has also successfully brought multiple qualified candidates to fill the ministerial positions. Thus, it also contributes a significant impact toward the overall performance.

Then, at the provincial level, the position of leader of the province is filled by the governor who is elected directly through a local election. The overall achievement of the provincial government covers 85% from the target of 100%. This value is rather less than at the ministerial level. The position of governor enables them to be a double agent; on the one hand they are the leader of the province, but on the other hand they also become the representative of the central government. On this occasion, the policy and program delivered by the provincial government is not as independent at city and regency level because the provincial government has no specific local autonomy.

Finally, at city and regency level, the local mayor accomplished the lowest realization which is 46% from the overall target of 75%. The target set for city and regency is rather lower than other institutions such as those at ministerial or provincial level because they have different authority. Unlike the ministerial and provincial government, the city and regency have their own local autonomy as regulated through law number 32 of 2004. Therefore, when compared to ministerial and provincial governments, they tend to be more independent in terms of policy and programs. In some regions, this local autonomy has successfully generated innovative ideas of policy, program, or regulation. However, the rest also face tremendous challenges including the minimum capacity of human resources, lack of innovative ideas for policy formulation, or limited supporting resources. This challenge should be accomplished before they can maximize their performance.

The dilemma of reforms (1998–2010)

Perhaps 'dilemma' is an appropriate word to illustrate the administrative reform of Indonesia in 1998. It seems no exaggeration to be using this word to describe the reform that was conducted under the critical situations where there was no political, economic, and social stability. The theoretical assumption conveyed by OECD (2001) has proven its relevance to illustrate administrative reform in Indonesia, especially when it has shown its function as a response toward a critical situation instead of anticipation of needs. Under this circumstance, the decision making process in central government has been motorized by multiple stakeholders carrying various demands representing their community (Hermawan, 2014; Kusumasari, Pramusinto, Santoso & Fathin, 2019).

The fall of Suharto's regime has been replaced with Bacharuddin Jusuf Habibie, otherwise known as President Habibie, as successor to continue the pace of reformists. However, the trend of reform in Indonesia slightly separated from the common reform trends in many developing countries in the 1990s. While other developing countries were strengthening their military involvement within government institutions and following the market-based philosophy (Farazmand, 2002), Indonesia was abolishing military interference within governmental bodies. The fourth amendment of the highest constitution even banished military participation within local elections (reference).

Taking a more detailed look, the Indonesian reform seems to run without a clear trajectory. The cabinet of president Habibie were reluctant to follow the market-based philosophy as part of their reform since the main concern was surviving from the crisis impact. Furthermore, the reform has mainly talked about institutional, capacity building, and other mechanisms of re-organization in the public sector rather than privatization or deregulation. Although President Habibie was in position for less than two years, during his tenure there were some prominent policy decisions intended to increase the future government's performance.

Meanwhile, in Abdurrachman Wahid's tenure the reform policy underwent tremendous change in central government, especially in ministerial institutions, with a massive replacement of ministers. This decision caused significant conflict among political parties until the end of his tenure. In Megawati's tenure, however, the trend of reformation shifted into the local level, unlike Habibie's tenure, which was aimed at crisis recovery, or Wahid's tenure, which focused on reform at central government level. Megawati prioritized her attention to local government and she considered giving local autonomy to leaders at city and regency level as an appropriate decentralization principle. The next president after Megawati, Soesilo Bambang Yudhoyono, attempted to carry all the spirit of his predecessors to conduct the administrative reform in central government, local government at city and regency level, as well as local government at the provincial level.

All of these experiences were different from most of the benchmarking countries in Asia, such as South Korea which had a strong reform institution at the beginning of its reform (Berman, Moon & Choi, 2010). They were also different from China's experience which emphasized military domination at a first glance (Noughton, 2009). Therefore the Indonesian administrative reform was merely the result of various agendas of political leaders' who attempted their best to reach the maximum performance of government without a clear vision for long term orientation. In some perspectives, this condition is also relevant to the reform fatigue as referred by OECD (2001), especially when the succeeding leaders tended to bring new reform ideas rather than continuing the long term plan of their predecessor.

Rebuild the reform trajectory (2010–2019)

The existence of trajectory has been recognized as a viable solution to reach the desired outcome under the confusion within administrative reform (Pollitt & Bouckaert, 2017). Under the reformation case in Indonesia, the focus of administrative reform is not quite clear, especially within the first decade of its implementation. However, in the second term of SBY's tenure, the discussion about long term goals of administrative reform had been a concern (Prasojo, 2012). The seeking of the major focus within the reformation's pace was also analyzed through a set of experiences from the previous leaders. At the end of his tenure, SBY signed the president's decree number 81 configuring long term goals of administrative reform, known as the grand design of administrative reform.

In the most fundamental review, the grand design of Indonesian administrative reform provides a viable track for all public institutions in Indonesia to achieve integrated action for their best administrative performance. This trajectory reflects

the sustainability of the target between the short, middle and long terms in most public institutions in Indonesia. It is also equipped with the administrative reform roadmap ensuring the role of trajectory and mileage in a clear measurement. The creation of this trajectory is inherited from the past experience of previous leaders, carrying various priorities of administrative reform components. It covers some prominent aspects as the main consideration, comprising accountability, effectivity and efficiency within public service delivery.

In theoretical aspects, the essence of this grand design is in minimizing the space of political streamline within the administrative reform itself (Bidya & Ora, 2014). An example illustrating this fact is when the administrative reform is always interfered with by the political disposition of the national leader's decision, the result being that every change of national leadership has always seen the emergence of a new reform agenda that is unconnected with the past (Prasojo, 2012). The existence of this trajectory ensures the reversal of any political decisions of a leader that are unrelated to the fixed purposes of administrative reform written in the grand design. Consequently, every program reform policy and program will always be consistent with his predecessor (Pollitt & Bouckaert, 2004). Although it seems that the existence of a trajectory provides a fixed border for the political aspect to make a further agenda, it is impossible to completely separate the political aspect within the administrative process. This means that the existence of political support within administrative reform is absolutely necessary in order to ensure it is a comprehensive process within a dynamic bureaucratic environment.

While in practice, the trajectory of administrative reform has been designed to create an integration among political support, human resource personnel, budgeting and current trends in administrative reform, it has cultivated a reform mechanism that is applicable to be implemented in ministerial and local government either at the province or city level. The results of these institutions reflect the different performance of leaders; on the one hand they are appointed by the president but on the other hand they are elected through local elections. These facts reflect the relationship between bureaucratic and political performance within the reform process.

The synchronization and future projection (2020–2024)

Although the ideas of administrative reform noted in the grand design (President's decree 81/2010) and road map (Permenpan 11/2015) cover the long term goals, it is sometimes seen as a too ambitious pathway. The main vision of administrative reform in Indonesia is '*terwujudnya pemerintahan kelas dunia*' which means to realize world class governance. Perhaps, this vision is often appropriate to be a main goal for ministerial institutions that are coordinated by central government. However, some government leaders at the province and city level might find themselves to be a burden together with this vision (Tab. 5).

Indeed, it has been acknowledged that the existence of structure within bureaucracy will always cultivate its own administrative culture (Kallinikos, 2006). Regarding this statement, both the grand design (President's decree 81/2010) and its road map (Permenpan 11/2015) have been considered as a contrast to replace the old

structure of bureaucracy in some local institutions. Thus, the process to cultivate a new administrative culture is hindered by strong resistance against the trajectory. While, theoretically, successful reform is often associated with an applicable structure within the trajectory itself (Pollitt & Bouckaert, 2004;), even this reform was initiated by bottom up approaches without specific long term purposes at beginning (Killian & Eklund, 2008). Thus the ministry of administrative reform should make it a priority to synchronize this matter within the relevant situation at the local level.

The next aspect that needs to be synchronized is the leadership aspect as one of the important factors determining the success of administrative reform (Farazmand, 2004). Within this research, the finding illustrates a lack of performance in maintaining the administrative reform at the local level rather than that at the ministerial level. This finding illustrates a minister with administrative authority achieving better performance than the leader at the local level with their political authority. In the future, it will be a significant challenge to formulate a suitable trajectory with comprehensive attributes suitable for all the characteristics of public institutions in Indonesia. Either from a general trajectory or leadership aspect, various characteristics of public institutions will be required to find their cohesion in order to minimize asymmetric between reform policy and its downstream implementation.

Conclusion

According to the series of discussions presented in previous sections, it can be inferred that the administrative reform in Indonesia has undergone some transformative periods since its first declaration in 1998. In the early years of its progress, the focus of reform was blurred by unstable conditions, especially in the political and economic environment. Under these circumstances, the core of reform seems difficult to recognize because many Indonesian leaders were still focusing on political and economic recovery. However, in late 2010, the president, SBY, was setting the reform grand design as the main trajectory of administrative reform for all public institutions in Indonesia. This paper has recognized this period as a turning point from the reform stagnation of the previous age. Following the same path, the current progress of administrative reform resulted in a comparable value among the three dominant public institutions in Indonesia, comprised of ministerial institutions, provincial governments, and local governments at the city and regency levels. The current assessment from these institutions has resulted in a higher value in centralized institutions such as ministerial and provincial institutions. While in decentralized institutions at the local level the value tends to be lower than the previous one.

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EVALUATION OF ORGANIZATIONAL CITIZENSHIP BEHAVIOR IN THE CONTEXT OF ORGANIZATIONAL COMMITMENT: THE CASE OF HEFEI PUBLIC SERVICE INSTITUTIONS, CHINA

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Abstract

The subject of research is organizational citizenship behavior (OCB) in the context of organizational commitment (OC) in public service institutions of Hefei city, China.

Two research hypotheses have been proposed: "Organizational citizenship behavior has positive relationship with organizational commitment" and "Organizational commitment is a predictor of organizational citizenship behavior". To find the relationship between organizational citizenship behavior and organizational commitment, this study adopted a relational approach. A validated questionnaire from previous studies was used to collect the data. A total of 234 people (78% response rate) working in different public service institutions responded to the survey. Correlation and regression were used to assess the impact and relationship between variables of this study. The regression and correlation results for this study showed that there is a very strong and significant relationship between the two variables (OCB and OC) in public service institutions of Hefei city. Thus, the results of this study clearly support the idea that policy makers in public service institutions should pay more attention to shaping organizational civic behavior by investing in organizational commitment.

Keywords: public service institutions; organizational commitment; citizenship behavior.

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Introduction

In recent years, numerous scholarly debates and studies evolving around employee performance and behavior inside organizations have been based upon the concept of organizational citizenship behavior (OCB). Organizational citizenship behavior can be defined as the extendibility of simple behaviors inside an organization (co-workers and supervisors) and outside an organization (clients) (Meynhardt, Brieger & Hermann, 2020; Organ, 1988). Examples of such behaviors could be helping colleagues in their work, putting extra energy and taking innovative approaches in fulfilling one's own duties, or dealing with clients in the best possible interest of an organization. Many scholars agree that organizational citizenship behavior solved the year's long dilemma of organizational effectiveness. As it is well established that employee attitude, emotions and behaviors at work, together with their beliefs, are highly affected by the way an employee behaves (Jung, Park & Yoon, 2010), organizational citizenship behavior is in the spotlight of this model. According to Kim (2006), if employee interaction with co-workers and clients shows a positive association and relationship with OCB, the organizational operations will be carried out with a high level of productivity and efficiency, and organizational services can be delivered in the most effective way. However, this dilemma is not adequately studied and examined, especially in the context of public service institutions in China, and most importantly in a third tier city like Hefei (in China). This study is an attempt to bridge that knowledge gap.

There are not enough studies to evaluate organizational citizenship behavior in different cultural contexts (Chen, Tsui & Farh, 2002; Farh, Zhong & Organ, 2004; Hui, Law & Chen, 1999; Khan, Ismail, Hussain & Alghazali, 2020). It is hard to evaluate and compare the concept of organizational citizenship behavior in Western countries with Chinese public sector organizations because of the communist legacy these organizations are carrying (Farh et al., 2004). According to Cun (2012) there is no adequate literature on applying the theories of private sector organizations to public sector institutions, especially in the context of China because of its unique cultural background characterized by rule, emotion and principle. Further research is needed on OCB in Chinese public sector institutions because most of the employee activities associated with OCB are the results of state promotion (Farh et al., 2004). According to Chen and Francesco (2000) and Chen et al., (2002), Chinese employee behavior is different from that in Western countries in terms of organizational commitment because of China's unique cultural context and further studies are needed to evaluate it properly.

The basic aim of this study is to elaborate the dimensional factors of organizational citizenship behavior and organizational commitment prevailing in Chinese public service intuitions. There is still a significant research gap and research potential in OCB and OC in order to highlight the predictors of efficiency and effectiveness in Chinese public service intuitions. This study is divided into five sections. The first section highlights the introduction and motivation for this research. The second highlights the literature review and hypothesis development. The third highlights the research methodology. The fourth presents the results and discussion. The last section presents the conclusion, implications and limitations of the study.

Literature review

To promote the culture of openness, empowerment, mutual trust and collaboration, responsibility and mutual benefit among employees, organizations are encouraged to follow and implement organizational citizenship behavior strategies. Many scholars and researchers examined the practical and theoretical implications of OCB and OC (Kim, 2006; Motalebi & Marşap, 2020; Motowidlo, 2000; Organ & Ryan, 1995). According to Muchinsky (2007), employee commitment is the employees' predisposed loyalty to their employer. When employees and an organization endeavor to have a mutually beneficial relationship then organizational commitment will emerge (Chen et al., 2002; Davenport, 1999; Lambert, Keena, Leone, May & Haynes, 2020). According to Mathieu and Zajac (1990), all theories and definitions of organizational commitment have one thing in common, that is, an emotional link between organization and individuals. The loyalty an employee is experiencing with the organization creates a bond between them and this loyalty-based bond keeps the employee motivated to work with that organization. Organizational commitment is a kind of emotional attachment of an employee with his job or organization (Cohen, 2017; Newstrom & Davis, 1986).

According to Karim and Noor (2017) and the model posited by Meyer & Allen (1991), organizational commitment has three dimensions: moral commitment, affective commitment, and necessary commitment. Moral commitment is a kind of commitment that an employee feels through wanting to stay in the organization. Affective commitment is the emotional attachment employees feel towards an organization. Affective commitment is the sense of satisfaction employees get by working in a particular organization; which also minimizes the chances of job turnover. Employees experiencing affective commitment think the particular organization they are working with is the right organization for them. Necessary commitment is the mutual tradeoff between an organization and an employee. Necessary commitment is associated with the cost the employee will bear if he leaves the organization and the investment in time, labor, and effort the employee made in that particular organization to reach a certain level. The employee understands and fears losing that certain level and benefits associated with that level if he leaves the organization. Affective commitment and normative commitment are both part of organizational citizenship behavior. Any employee who has a high degree

of moral commitment will likely serve the organization with a high degree of loyalty, and will be likely to impose responsibilities and obligations on colleagues.

According to Meyer and Allen (1991) the reason behind any individual acting to create a positive environment in an organization are their feelings for that particular organization, which motivate him to do so. That is why moral commitment is always associated with high performance, good behavior, punctuality, and traits of organizational citizenship behavior (Karim & Noor, 2017). Individuals who demonstrate normative commitment are loyal to their particular institutions. They integrate the organization's values and culture into their own values and culture, and they think of their job as a noble cause. To them being a part of their particular organization is the right thing to do, sharing and supporting organizational culture and values they identify with.

Most of the studies conducted after 1990 used the three dimensional conceptual model of organizational commitment proposed by Allen and Meyer (1990). According to Meyer (1997), only those employees who are engaged will likely remain in the organizations compared to those employees who are not. We can say that organizational commitment is an emotional bond between an employee and his job. Becker (1960) stated that organizational commitment is the result of an individual decision, to go along with his job for the long-term benefits (retirement and pension plans) the individual is getting from that particular organization. Leaving the organization means leaving all these long-term benefits.

Podsakoff, MacKenzie, Paine and Bachrach (2000) in their study reviewed the literature and examined the background and work of other scholars on this subject. The three dimensional model which was proposed by Allen and Meyer (1990) in their study consists of normative commitment, affective commitment, and continuance commitment. They described normative commitment as obligatory commitment, affective commitment as value based commitment, and continuance commitment as cost and benefit commitment. They stated that these dimensions of organizational commitment work differently for different variables, working as antecedents or consequences (Karim & Noor, 2017; Meyer & Allen, 1991; Rifai, 2005).

In a study by Meyer, Becker and Vandenberghe (2004), organizational commitment is linked to employee motivation. It is evident that employee engagement can be observed by their actions and behavior inside the organization, for instance, their willingness to work longer hours (Hallberg & Schaufeli, 2006). This supports the idea of strengthening the various prospects of organizational citizenship behavior by organizational engagement.

In a study conducted by Gautam, Van Dick, Wagner, Upadhyay and Davis (2005) in Nepalese organizations on the association between OCB and OC, the results indicated a positive and significant association between OCB and OC. In another study by Williams and Anderson (1991) on OC, job satisfaction, OCB, and in-role behavior, the results indicated that organizational commitment, organizational identity, and some aspects of organizational citizenship behavior can be improved through internal communication within an organization.

Other researchers and scholars linked traits of organizational citizenship behavior with organizational commitment in their studies (Bogler & Somech, 2004;

Ensher, Grant-Vallone & Donaldson, 2001; Moorman, Niehoff & Organ, 1993; Motalebi & Marşap, 2020; Nguni, Slegers & Denessen, 2006; Osborne & Gaebler, 1993). A study by Zayas-Ortiz, Rosario, Marquez and Colón Gruñeiro (2015) indicated a significant and positive correlation between organizational citizenship behavior and organizational commitment. Based on the above review of literature the following hypothesis has been proposed for reaffirmation:

H1. Organizational citizenship behavior has a positive relationship with organizational commitment

According to Yen and Niehoff (2004), organizational commitment is the only predictor variable which truly explains organizational citizenship behavior actions. Wasti (2003) stated that organizational commitment is an emotional link between employee and organization, promoting employee's OCB in the best interests of an organization. Organizational commitment that results in OCB is the most valuable kind of commitment for any organization. Among the types of commitment, necessary commitment is the least desirable commitment for any organization, because it is based on the economic benefits the organization is offering to its employees, and only exists when the offered economic benefits are comparatively better than other organizations (Clugston, Howell & Dorfman, 2000; Shin, Park & Park, 2019).

The best predictor of employee performance and the foremost contributor to organizational human resource which mobilize organizational citizenship behavior is organizational commitment (Zayas-Ortiz et al., 2015). Organizational citizenship behavior is positively related with employee organizational commitment (Yen & Niehoff, 2004). A significant predictor in employee organizational citizenship behavior is affective organizational commitment (Donglong, Taejun, Julie & Sanghun, 2020; Nguni et al., 2006; Rifai, 2005). Affective organizational commitment will also result in extra efforts by the employees to increase their behavioral roles inside organizations. Many researchers and scholars, such as T. E. Becker (1992) and Moorman et al. (1993), supported and predicted the correlation between OCB and OC. Wagner and Rush (2000) stated that there is a positive and significant association between altruistic OCB and OC. Bogler and Somech (2004) suggested a positive perception about the correlation between OCB and OC among teachers. Research suggests a positive association between perceptual organizational citizenship behavior and perceptual organizational commitment among teachers (Loi, Hang-Yue & Foley, 2006; Nguni et al., 2006).

Some scholars in their research on organizational commitment stated a strong and positive relationship between organizational citizenship behavior and normative and affective commitment, whereas continuous commitment has an inverse and negative relationship with organizational commitment and other organizational outcomes such as performance (Shore & Wayne, 1993). A study by Chen and Francesco (2000) suggested that there is a positive correlation between affective commitment, in-role performance, and OCB, but continuance commitment has a negative and inverse relationship with in-role performance and organizational commitment. There was a strong relationship between in-role organizational citizenship behavior and affective commitment for those em-

employees having the lower normative commitment. Gautam et al. (2005) reported a strong and positive relationship between some of the organizational citizenship behavior factors (compliance and altruism) and normative and affective commitment. Human resource managers inside organizations have to use organizational commitment as a tool to build the relationship and link between employee individuality and loyalty with their institutions and institutional goals. This will help organizations to find the most loyal and attached employees, with the prospect of keeping them.

Organ (1988) and Bodla, Tang, Van Dick and Mir (2019) Stated that OCB is a type of behavior which is not a part of employees' formal job descriptions; these include all those explicit behaviors by employees that are not rewarded by the organization. Organ (1988, 1997) divided organizational citizenship behavior into five categories and dimensions; civic virtue is the active participation in events organized by the employee organization, e.g., taking part in some social and charitable activities organized by his organization; courtesy is the attitude, respect, and consideration for other people in the workplace; altruism is the employee spirit of volunteering for any problem and work around his workplace; awareness is the employees' optimal behavior and knowhow of the rules, regulations, and procedures of the organization; and "chivalry" is the courage, attitude, and tolerance of an employee around his workplace to avoid problems and complaints.

Most researchers and scholars investigated the idea of organizational citizenship behavior because it is crucial for the effectiveness of an organization (Karim & Noor, 2017; Meyer, 1997). Institutions will be likely to hire those people having the right skills and qualities prerequisite in the working groups, and who show traits of organizational citizenship behavior. Likewise Smith, Organ and Near (1983) stated that organizations are likely to benefit from hiring employees who show the traits of organizational citizenship behavior. According to Organ (1988) OCB is a way to maintain and retain the human capital inside organizations, and the effects of OCB on different organizational outcomes like innovation, efficiency, and others have already been established. Based on the above literature, the following hypothesis has been proposed for reaffirmation:

H2: Organizational commitment is a predictor of organizational citizenship behavior.

According to Pattanayak (2020) and Huselid (1995), organizational success depends upon human resource management. It is the duty of human resource management to work and think in the best interests of the organization within set boundaries to achieve organizational goals and objectives. Literature suggests and supports the idea that to create a work environment that is beneficial, motivating, and pleasant, employees need to get along with each other, support each other, work together, respect each other, and understand each other. A work environment based upon the mutual relationship between organizations and their employees will result in achieving organizational and individual goals and objectives. Organizations should pay attention to both productivity factors and the quality-of-life that employees have in their respective organizations.

Methodology

Data was collected through a cross sectional study from employees working in public service institutions around Hefei city. A sample of 300 was derived from a population consistent with the Barlett, Kotrlik and Higgins (2001) and Krejcie and Morgan (1970) sampling determination. Out of 300 questionnaires, 234 were duly and accurately completed and returned, generating an adequate response rate of seventy-eight percent (78%). Employees working in public service institutions provided an up-to-date, unexplored population for the set of variables of this study. A close-ended structured questionnaire derived and validated from the literature was used for data collection. Data were collected in public service institutions with the approval and consent from the authorities in each organization. As the study was designed to study human behavior, information about the respondents was kept confidential.

In the data-collection-instrument, 25 items of organizational citizenship behavior were used in previous studies and 21 items of organizational commitment were adopted from Rosario-Hernández and Millán (2004). According to Gliem and Gliem (2003), the Likert-scale is popular and widely used for measuring attitude and behavior. The Likert-scale is used in this study to measure attitude and behavior. As the instrument was modified to adjust it to the context of Chinese public service institutions, reliability of the instrument was tested, which turned out to be 0.82, meeting the criteria of Brown (2002) and Gliem and Gliem, (2003). Collected data was analyzed through SPSS version 21.

Results and discussion

A keen observation was conducted on the personal characteristics of the people who participated in this study, as they could have an impact on organizational commitment and organizational citizenship. These personal characteristics were later used as controlled variables in analysis to avoid autogenic and endogenic biasness. To get a general idea, the descriptive statistics of this study are briefly summarized here. Sixty four per cent of the respondents were male, while thirty six per cent of the respondents were female. Gender has an influence on the variables of this study. Marital status was another important characteristic; the majority of the respondents (62%) were married and the rest (38%) were unmarried. Age is another important aspect which has a direct relationship with people's behavior at work. The majority of the correspondents (58%) who participated in this study were between 30–40 years old, followed by 40–50 years old (32%), 20–30 years old (6%), and the last and smallest percentage was of those who were above 50 years old (3.8%). The last two things of interest worth mentioning are educational level and experience level: the majority of the respondents (54%) had bachelor degrees, followed by master's degree holders (29%), postgraduate degree holders (13%), while high school or below were just 2% of the whole sample set. Majority of the respondents have 5–10 years of experience in public service institutions, followed by respondents who have 10–15 years of experience.

Correlation among variables

A correlation test was conducted in order to examine the relationship and association between variables and constructs of this study. The correlation results gave us a general impression about the factors coefficients in this study. The results are presented in Table 1.

Table 1

Pearson Correlation Results

	1	2	3	4	5	6	7	8	9	10
1. Affective Commitment	1									
2. Normative Commitment	0.455**	1								
3. Continuance Commitment	0.286**	0.636**	1							
4. Organizational Commitment	0.597**	0.798**	0.688**	1						
5. Altruism	0.292**	0.694**	0.719**	0.640**	1					
6. Conscientiousness	0.359**	0.432**	0.464**	0.488**	0.534**	1				
7. Sportsmanship	0.380**	0.360**	0.387**	0.440**	0.381**	0.707**	1			
8. Courtesy	0.791**	0.292**	0.227**	0.464**	0.232**	0.341**	0.380**	1		
9. Civic Virtue	0.341**	0.417**	0.483**	0.472**	0.361**	0.548**	0.507**	0.274**	1	
10. Organizational Citizenship Behavior	0.506**	0.519**	0.542**	0.629**	0.551**	0.770**	0.730**	0.491**	0.631**	1

** Significant at 0.01 level (two-tailed).

Source: Hereinafter tables are compiled by the authors based on research results.

The correlation results revealed that there is a strong and positive association between variables. All the coefficients are positive, and all have significant associations. The focused variables for this study, organizational citizenship behavior and organizational commitment, were both positively and strongly associated with each other ($r=0.629$; $p \leq 0.01$). H1 is accepted as it was proposed.

In principle, committed public sector employees will likely demonstrate the traits and desire of organizational citizenship behavior to improve the quality and image of public sector institutions. Such demonstrations from public sector employees means that everything is going well in public sector organizations. Public sector employees reveal and demonstrate these traits by assuming extra roles not defined in their job description, helping, assisting coworkers and customers, and strictly following the government rules and regulations, because of their emotional bond with their job and government setting. The results of this study are similar to studies done by Bogler and Somech, (2004) and Rifai (2005). However, we cannot generalize these results to all public sector employees due to different emotional and behavioral needs and wants. Due to different levels of commitment towards

organizational goals and objectives among employees, organizational citizenship behavior of all employees cannot be the same. Nevertheless, the relationship between variables in this study turned out to be strong and positive, consistent with some previous studies (Cun, 2012; Moorman, 1991; Yen & Niehoff, 2004; Zayas-Ortiz et al., 2015).

Regression analysis

Regression analyses were done to find out the predicting power of OC in OCB. The existing literature indicates a connection between OC, OCB, and some of the employee characteristics. Therefore, these were controlled in Model 1, and organizational commitment is added to Model 2 as indicated in Table 2.

Table 2

Regression Analysis

Control variables	Model 1 β	Model 2 β
Age	0.073	0.028
Gender	-0.030	0.024
Marital status	-0.006	-0.036
Educational level	-0.059	-0.078
Experience	0.031	-0.023
Organizational commitment		0.805
R^2	0.013	0.650
R^2 (adj)	-0.009	0.640
ΔR^2	0.013	0.637
F change	0.604	410.591
Significance (P-value)	0.697	0.000

The results obtained from regression analysis are statistically significant and support the stated hypothesis. The predictive power was considerably high since $R^2 = 0.650$ with a significant value of $P=0.00$. The standard error of the estimate was moderate at 0.325. Although the control variables are not in the main scope of this study, finding them not significant raises scholarly interests, and shall be mentioned and recommended in the section for further study and recommendations. To support the findings and arguments of this study, other scholars like Shore and Wayne (1993) also indicated the association between organizational outcomes such as organizational citizenship behavior, performance and organizational commitment (effective and normative). Another study by Zayas-Ortiz et al. (2015) stated the positive association between the indicators of OCB and the dimensions of OC. Another study by Bogler and Somech (2004) on the connection among job satisfaction, OC, fairness perception and OCB, indicated that only organizational commitment has predictive power in organizational citizenship behavior.

The study by Chen and Francesco (2003) suggested a positive affiliation between affective commitment and OC while continuance commitment has a negative correlation with organizational citizenship behavior. Normative commitment was moderating the association between normative commitment and OCB. According to Fassina, Jones and Uggerslev (2008), having employees who demonstrate the traits of organizational citizenship behavior is vital for the survival of organizations now, due to globalization, customer orientation, and team-based approaches in work. Many scholars and researchers are focused on discovering ways of integrating organizational commitment in organizational practices to increase the organizational citizenship behavior level of their employees (Fassina et al., 2008).

The existing literature on organizational citizenship behavior indicates that OCB is the result of organizational and personal factors (İnce & Gül, 2011). As the results of this study clearly indicate, people working in public service institutions have OCB tendencies, but there is not enough empirical evidence on the attendant predictors. Most studies on organizational citizenship behavior are conducted on the predicting power of OC in OCB (Gautam et al., 2005; Kim, 2006), especially studies conducted on OCB in Western countries (Farh et al., 2004). This study is not different from previous studies. Organizational commitment is a kind of psychological bond between the employee and his/her organization based on normative pressure, to fulfil one's own duties and goals in order to stay loyal and effective (Lok & Crawford, 2001). In the case of Chinese public service institutions, it is evident from anecdotal evidence that public servants will be less committed to go beyond what is in their job description. Nevertheless, organizational commitment has three categories, which are normative, effective and continuous commitment (Allen & Meyer, 1990; Karim & Noor, 2017). The relationship between organizational citizenship behavior and different dimensions of organizational commitment in developing countries needs more research and study, as most of the studies have been conducted in developed countries. (Farh et al., 2004). The debate about the relationship between OC and OCB (Alotaibi, 2001; Donglong et al., 2020; Gautam et al., 2005; Meyer, Stanley, Herscovitch & Topolnytsky, 2002; Motalebi & Marşap, 2020; Murphy, Athanasou & King, 2002; Williams & Anderson, 1991) has long been resolved from studies conducted recently. Scholarly studies have identified the predicting power of organizational commitment in OCB (Cohen, 2017; Dickinson, 2009; Feather & Rauter, 2004; Gautam et al., 2005; Kehoe & Wright, 2013). However, not enough studies have been conducted in the context of China. This study is built upon findings from studies conducted in Western countries. Despite the fact that organizational commitment is a huge predictor of organizational citizenship behavior, only a few governmental bodies have taken the initiative to incorporate it and create such an environment (Dessler & Starke, 2004). The outcome of these studies is raising scholarly interest in the priorities of governmental organizations. Questions regarding governmental organizations practices such as leadership priorities and human resource practices need to be answered. The findings of this study are in line with those conducted in other countries, but various constructs predicting organizational citizenship

behavior were not consistent. A series of further studies are needed to explore the grounded realities in the context of China as done by various researchers in extant literature.

Conclusion and limitations

This study is a part of the debate on organizational citizenship behavior and its predictors in the context of China. The findings of this study are consistent with previous studies (Dickinson, 2009; Feather & Rauter, 2004; Gautam et al., 2005; Kehoe & Wright, 2013; Motalebi & Marşap, 2020). The findings of this study support previous studies, as the coefficient of determination is moderately high. This study provided an interesting insight into the role of personal characteristics used as control variables in the model. It is noteworthy that these personal factors were found not significant to predict OCB using human behavior in this study. In order to stay relevant and competitive, every organization should develop new approaches and techniques to measure and evaluate the performance of its human resources in order to manage them optimally. Organizations should incorporate those policies and practices that help develop attitudes and attributes required for fostering the noble conduct of organizational citizenship in human capital. The result of this study will enable us to enlighten the leadership of public sector organizations in devising the vision, mission, and strategy to choose those attributes and behaviors essential for staying relevant and competitive. People working in public service institutions are directly affecting the quality of life of a community, because public service institutions are part of the social structure that determines the standard of living. This study will provide guidance in conducting further research, devising policies and strategies. The findings of this study reveal that the policies for improving efficiency and productivity will work effectively, if they are nurtured in an environment that promotes organizational citizenship behavior. Policy makers should pay their utmost attention to the different aspects of organizational commitment (continuance, affective, and normative commitment) because of their implication for attitude and behavior. As has already been explained in this study, organizational citizenship behavior has different constructs, therefore, it wholly and solely depends upon the ability of practitioners to create an environment that promotes civic virtue, sportsmanship and courtesy. Organizational leadership should lead based upon the adaptation and implementation of such policies. This study found important research gaps for future studies. The high predicting power of organizational commitment in Chinese public service institutions is raising scholarly interest and it should be further investigated in the context of Chinese private sector organizations to see if it gives us the same results or not. The controlled variables (age, gender, experience, educational level, marital status) used in this study are found to be not that significant but deserve further scholarly attention.

In the context of practical implementation of OCB, the results of this study clearly support the idea that policy makers of public service institutions should focus more on building organizational citizenship behavior by investing in organizational commitment. The nurturing of organizational citizenship behavior

among public servants through organizational commitment will not only improve the effectiveness of public sector employees, but also promote good governance in public service institutions.

There were a few challenges and limitations in conducting this study. The foremost challenge was the Chinese organizational setting in which this study was conducted. Because of the unique Chinese characteristics inherited by institutions in China, this research may not have contextualized the true spirit of this study in the Chinese context. The questionnaires used in this study for data collection may not have conveyed the exact concepts as they were translated from English into Chinese. The lack of literature in the Chinese specific context was another limitation for this study to elaborate discussion. This study was conducted in public service institutions of Hefei city; therefore, generalizability of this study is limited. The use of a quantitative approach might not be sufficient to discover the reasons behind employee attitude and behavior; qualitative input will be very helpful in digging out the true reasons behind employee attitudes and behaviors. Lastly, the statistical tool used in this study to analyze the variables is very simple in nature and not as sophisticated as some scholars might wish. However, this study is believed to be a focal point for future studies in the context of Chinese institutions.

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COMMITMENT TO PUBLIC INTEREST AND PUBLIC SERVICE MOTIVATION DEVELOPMENT CHALLENGES: A QUALITATIVE INQUIRY

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Abstract

The use of qualitative research in Public Service Motivation research is growing and its impact on the field is beginning to be felt. This study contributes to our understanding of PSM by exploring the dimension of “commitment to public interest” and the challenges to development in Ghana. The analysis of 34 semi-structured in-depth interviews conducted with employees of the Financial Intelligence Centre demonstrates that commitment to public interest is influenced by leadership actions and organizational culture. The outcome of this paper is useful for public organizations in their attempt to improve employee commitment and productivity in the public sector.

Keywords: public servants; public service motivation; Ghana; public sector; qualitative research; public interest.

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Introduction

Researchers and practitioners have been interested in the possibility that some individuals may have a unique conviction that predisposes them to serve and safeguard the public interest. Public service motivation (PSM) symbolizes

an example of theory development in public administration on the predisposition that individuals could have towards public service. The term “public service motivation” originated in the 1970s in discussions of public service ethics (Buchanan, 1975; Rainey, 1982) that investigated the differences in reward motivations between public and private sector workers. The study concludes that public employees have a greater interest in altruistic or ideological goals. As a theory, PSM has important practical relevance, as it tries to explain the relationship between motivation and public interest (Moynihan & Pandey, 2007).

According to PSM, public employees are motivated by altruistic intentions to serve the public interest (Asseburg & Homberg, 2020; Neumann, 2019; Bright, 2008). Public choice theory, however, posits that public servants are self-interested individuals, trying to maximize their utility and benefits, and aiming to increase their prestige, power, and income, instead of being motivated to serve the state and the public (Hughes, 1994). In contributing to the discourse, Tullock (1976) also argues that public servants are not entirely selfish; they are “partly selfish and partly public-interested” (p. 27). The public interest construct is fundamental to traditional public administration scholarship (Appleby, 1945). This theoretical development in the last few years has been gradually joined by empirical studies as researchers try to operationalize what public interest means for employees, why they develop a strong sense of public service, and how that sense influences their actions (Neumann, 2019; Kim & Vandenaabeele, 2010; Kim, 2006).

Despite the increasing attention to PSM scholarship (Kalgin, 2020; Van der Wal, 2015; Perry & Hondeghem, 2008), qualitative methodological approaches have received limited attention (Bawole et al., 2018; Ritz et al., 2016). This methodological approach is recommended by Wright (2008) and also provides credible research findings, context realism, and context-relevant examples (Wright & Grant, 2010; Krefting, 1991). Moreover, qualitative findings tend to be constructive in generating theories about PSM (Yung, 2014). Therefore, qualitative research methods have a significant role to play in PSM scholarship. In light of the above, this paper will attempt to use a qualitative methodological approach to make a modest contribution to the PSM literature. The paper investigates commitment to the public interest as a PSM dimension and PSM development challenges in Ghana.

The rest of the paper is organized as follows: section two discusses the concept of PSM, public service in Ghana, and PSM in Africa; section three provides the research setting and methodology; the study findings and discussions are provided in section four; and the last section provides the conclusion and policy implications.

Literature review

Public Service Motivation

Public service motivation is one of the oldest and most discussed topics in public administration (Perry & Hondeghem, 2008; Alonso & Lewis, 2001). This could be attributed to the relevance of PSM to productivity, account-

ability, improved management practices, and trust in government but not just to motivation (Neumann, 2019; Moynihan & Pandey, 2007). The discipline has suggested that public employees should be and are motivated by the desire to help the public (Moynihan & Pandey, 2007); better defined as the public service ethic (Brewer & Selden, 1998) or public service motivation (Perry & Wise, 1990).

PSM is “an individual’s predisposition to respond to motives grounded primarily or uniquely in public institutions” (Perry & Wise, 1990, p. 368). In developing the theory, Perry and Wise (1990) identified three motives for PSM: affective, rational, and normative. Affective motive is derived from a civil servant’s ability to identify with the less privileged and those who need State assistance. The rational motive is an understanding of the instrumental process of public service. Meanwhile, the normative motive is premised on accomplishing goals in compliance with values and norms (Andersen et al., 2013). Based on these motives, Perry (1996) developed a scale that consists of four dimensions: attraction to policy-making, commitment to public interest, self-sacrifice, and compassion. Previous studies were using proxy variables to measure PSM and sector comparisons to test for its existence but his approach was a significant improvement (Bright, 2005). Commitment to public interest measures normative motives, attraction to public policy measures rational motives, and both compassion and self-sacrifice measure affective motives (Perry, 2000). The public interest dimension of PSM is based on the duty to serve society and loyalty norms (Perry, 1996). This suggests that public employees are expected to do what is considered best for society. This encompasses a commitment to public values like fairness, honesty, accountability, and social equity. As a result, the public interest dimension has been renamed “commitment to public values” by Kim and Vandenabeele (2010).

However, empirical support of PSM as a motivational force in promoting pro-organizational behavior and public interest has been mixed (Asseburg & Homberg, 2020; Kalgın, 2020; Bright, 2005). Even though some empirical studies have found a positive relationship between PSM and employee behavior (e.g. Piatak & Holt, 2020; Miao et al., 2019; Kim, 2006; Brewer & Selden, 1998), the relationships in other studies were complicated or non-significant (Bright 2008; Alonso & Lewis, 2001). For example, Scharz, Eva, and Newman (2020) found that leadership is significantly positively related to employee PSM and job performance of civil servants in China. Leisink and Steijn (2009) also established that higher levels of PSM were associated with a greater desire to exert effort at work. In a cross-country study, Meyer-Sahling et al., (2020) reported that merit competitions are associated with greater PSM levels but permanent contracts have no significant effect in two countries and a lower effect in one country. Furthermore, another study by Choi (2004) to investigate the relationship between ethical behavior and PSM in the United States, found that commitment to public interest did not influence the ethical reasoning level of public servants.

Despite the expectation on public employees to promote public interest as espoused by the PSM concept, there exist some obstacles which hinder these expect-

tations and PSM development in many public organizations. For instance, a study by Paarlberg and Lavigna (2010) found that bad leadership practices do not encourage prosocial motivation, hence, hinders employee PSM development. Another challenge to PSM development is the culture and environment in which employees work. In a study to explore the role of organizations in fostering public service motivation, Moynihan and Pandey (2007) found that excessive red tape discourages public employees and makes them feel they are not serving the public interest, which affects the PSM levels. This evidence is corroborated by Cooke et al., (2019). Other challenges to PSM development include lack of training, poor remuneration, (Yung, 2014), lack of trust in leadership (Lee et al., 2020), and corruption (Jacobson, 2011). From the above, although public employees are expected to promote the public interest, there remain some issues that need to be addressed to achieve this.

Public service in Ghana and PSM in Africa

The British colonial government fashioned its Ghanaian public administration after the British Parliamentary Civil Service System and this was passed to an independent Ghana in 1957. When the British relinquished their political and administrative control in 1957, Ghana became the first sub-Saharan country in colonial Africa to gain independence. Despite moving to a Presidential system, Ghana's public service structure still to a large extent replicates its British colonial origins. Ghana's public service is considered one of the oldest and most professional fields of public administration in sub-Saharan Africa (Huq, 1989). The period immediately before independence in 1957 to the mid-1970s was described as the "good days" of the public service because public servants were adequately remunerated and resourced, plus their security of tenure as well as their anonymity were guaranteed (Ayee, 2001). These factors summed up to produce an enabling work environment that stimulated the highest degree of performance and productivity. These factors attracted people to work in the public sector.

Since independence, Ghana's public service has undergone significant changes. Public servants once described as efficient, enjoyed high prestige after independence have now been described as offering poor services and being corrupt (Owusu, 2006). Commitment to public sector goals is manifested in constructs such as PSM (Perry & Wise, 1990) and public service ethos (Rainey, 1982) which are the subject of most research in recent times. Therefore, are Ghanaian public servants self-interested? Do they try to maximize their benefits and increase their power and wealth, instead of serving the public interest? These are questions and concerns that require answers. Most times, public servants do not simply have one motivation, be it PSM or any other motivation, but rather a combination of motivations (Taylor & Taylor, 2011). It would be of utmost interest to the government of Ghana and the citizenry to know whether Ghanaian public servants have the required level of PSM-value or ethics.

Preliminary studies on PSM started in the United States (Van Der Wal, 2015). Most of the studies have been done in developed countries (Bawole et al., 2018; Ritz et al., 2016), especially in the United States and Europe (e.g. Asseburg

& Homberg, 2020; Belle, 2013; Leisink & Steijn, 2009). In recent years, PSM studies have been gradually increasing in the Asian context (e.g. Lee, 2020; Aqli & Syafi'I, 2019; Chen et al., 2014). However, there is a paucity of PSM studies in Africa (Bawole et al., 2018). For instance, in their systematic review of PSM research, Ritz et al. (2016) reported that 27.5% of PSM studies are from the United States, 43.4% from Europe, 17.2% from Asia, and the remaining 11.9% from the rest of the other regions of the world including Africa. They further revealed that there were only three studies from Africa that used samples from 11 different African countries. This demonstrates that there is little research on PSM in Africa. The paucity of PSM studies provides an incentive for empirical PSM studies in the region. Therefore, this paper attempts to make a modest contribution to the PSM literature by bringing in an integrated dimension from Ghana, a sub-Saharan African country.

The study context

This research was conducted in the Financial Intelligence Centre (FIC). The FIC is a public institution in Ghana established under Section 4 of the Anti-Money Laundering Act, 2008 (Act, 749), with the mandate to assist in the combat of money laundering, terrorism financing, and the proliferation of weapons of mass destruction. The present research started with the assumption that prosocial behaviours would be present and would differ among the workers of the FIC. Besides having the mandate as an anti-corruption and anti-money laundering institution, employees of the institution have different educational backgrounds and technical competencies.

Methodology

An interpretive perspective was adopted for the study. Hence, a qualitative methodological approach was used to find answers to the research question on motivating factors for entry and the challenges to the development of PSM among public employees in Ghana. This approach is a different method from the survey designs used in previous studies of antecedents and relationships of PSM (e.g. Meyer-Sahling et al., 2020; Lee, 2020; Bullock et al., 2015; Leisink & Steijn, 2009). Adopting a qualitative approach facilitates the use of information from diverse sources in answering the why, what, and how questions (Yin, 2003). Similarly, it can help address some of the challenges (Wright, 2008) associated with the lack of consensus on a valid operationalization of PSM (Perry et al., 2010). In exploring complex theoretical concepts like PSM and when the aim is to elucidate patterns of motives about a concept in relation to other complex variables, interviews are considered very appropriate (Kjeldsen, 2012). Although this qualitative research may not bring about statistical generalization, it can certainly aid in understanding the general situation among public officials in Ghana from a qualitative perspective, complementing quantitative research.

A case study design was adopted for the research. Yin (2003) claims that a case study is generally limited to a specific activity and is time-bound, which

allows the collection of comprehensive data on an issue within a stipulated time. Both secondary and primary sources were the main data sources for the study. The primary data was collected through in-depth semi-structured interviews with 34 employees of the Financial Intelligence Agency (FIC). The study sample came from officers, deputy-managers, and managers. The employees interviewed came from different units and departments. In this research, data saturation was reached after new themes stopped emerging from the interviews.

Because theory building was not the focus of this study but rather interpretation and description, the delineation of the correlations between different theoretical concepts was not used as a criterion of data saturation (Corbin & Strauss, 2008). The breakdown is presented in the Table. The interviews sought information about the reasons for joining the public service, motivation for staying with the public sector, their commitment to the public interest, and specific factors to PSM development in Ghana's public sector.

The interviews generally lasted between 30 to 45 minutes. The study also conducted a documentary analysis to augment the interview data. The interviews were analysed based on the approach by Miles and Huberman (1994). The analysis started with a thorough reading of each transcript. They were then reviewed for common themes and ideas. The themes were grouped under broad headings focusing on identifying the major ideas brought out by each sentence. The main ideas were labelled or coded, which formed the main analysis categories. Based on this, related sub-categories that were dominant in the responses of interviewees were also set apart for re-evaluation alongside the main categories. The final stage of data analysis was generating categories, themes, and units for analysis that formed the basis of the final study report. To also improve the interpretive validity of the findings, verbatim quotes were used to exemplify the results (Johnson, 1997).

Research Findings

This paper investigates commitment to public interest as a PSM dimension and PSM developing challenges amongst public employees. The analysis of the data focuses on PSM and reasons for joining the public sector, commitment to the public interest as a PSM dimension, challenges to PSM development in Ghana, and ways to promote PSM development.

Demographic characteristics of respondents

The demographic characteristics of respondents show that the majority of the respondents were men (55.9%) and most of them were within the ages of 31–40 (58.8%). Most of the respondents (61.8%) had bachelor's degrees. Additionally, most of the participants (68%) have worked in the agency for more than three years. The years spent in employment could improve an employee's level of experience. This suggests that most of the respondents were experienced and probably understand the public sector environment as well as the issues discussed.

Table

Demographic characteristics of respondents

	Frequency	%
Gender		
Male	19	55.9
Female	15	44.1
Age		
20–30	8	23.5
31–40	20	58.8
41–50	4	11.8
51–60	2	5.9
Education		
Bachelor degree	21	61.8
Master's degree	13	38.2
Positions		
Officers	22	64.7
Deputy-managers	8	23.5
Managers	4	11.8

Source: Fieldwork, 2018

PSM and reasons for joining the public sector

The Ghanaian public perceives public sector employment as flexible and providing high job security with good fringe benefits. Until the introduction of the Single Spine Pay Policy (SSPP) in 2010, the public perceived public employment as a low paid job in Ghana. The introduction of the SSPP led to a review of all public sector salaries leading to a 20% increase in salaries (Fair Wages and Salaries Commission, 2011). This improvement in salaries led to increased interest from people to work in the public service which was previously associated with poor remuneration. This could imply that most people who joined the public sector after the introduction of the SSPP, probably joined because of the high remuneration but not necessarily to promote the public interest. Illustrating this point, a respondent asserted that:

“Getting a well-paid job in Ghana is not easy. So for me, PSM was not my reason for choosing the public service. I chose the public sector because of the improvement in salaries. I never considered the option to serve the public interest before joining the agency” (male, officer, finance and administration).

Job security is a characteristic associated with public sector employment in Ghana. Job security was a major determinant for the majority of the respondents. However, a significant finding was that most of these respondents were offic-

ers and deputy-managers. All four managers did not consider job security as a major issue in their job search. This could be attributed to their level of experience and the higher probability of getting a new job. Additionally, although previous studies have reported that PSM is an essential determinant of career choice in the public sector, the study findings show that PSM was not an essential determinant for most of the respondents but rather job security. The quote below reflects the issues as espoused by a respondent:

“As a working mother, I needed a job that provides me flexible working hours and job security and the public sector is my best bet. The private sector was never an option for me because it won’t provide that” (female, officer, analysis department).

Limited employment opportunities in Ghana was another reason why people choose to join the public service, the study revealed. Although most job seekers would prefer the option to decide where to work, the limited employment opportunities for university graduates is making this almost impossible. This is how a respondent describes it:

“After my national service, I was unemployed for three years and finding a job was a major hurdle for me. So when the opportunity came to work in the public service I took it because I needed a job to make a living” (female, officer, finance and administration).

These findings suggest that the motivation to serve the public does not appear to be an important determinant for public servants when making a career choice to work in the public sector in Ghana. What matters to them is the opportunity to have a stable job and improve their living conditions.

Commitment to public interest as a PSM dimension

Public employees are expected to act in the interests of society and promote the public interest. This places enormous pressure on them in the execution of their job roles. Commitment to the public interest is an obvious way to promote the public interest. While numerous factors can drive the desire of people to work in public service, it was revealed that commitment to public interest seems to be a prevalent motivation among the respondents. This probably lies in their empathy for people which appears to be a general Ghanaian characteristic.

Public service as a civic duty. This category explores the principle that citizens owe some allegiance to society and act as a motivating factor that influences public employees’ motivation. Regarding civic duty, some respondents find the idea of allegiance to society and the resulting expectations motivating. One employee asserted:

“As public officials, we owe our allegiance to society because we are paid through the taxes citizens pay. Therefore, this places an obligation on us to promote the interest of our society” (female, deputy-manager, finance and administration).

It is significant to the respondents that they are able to contribute their skills and technical knowledge to making public service meaningful. Moreover, they want to create a positive impression on the citizens they serve and be recognized as public officials who deliver efficient public service. In this context, the link between technical expertise, expert knowledge of public service, and public empathy is frequently mentioned. Some of the respondents have found ways to serve the public and bring their expert skills and knowledge in the face of scarce resources. A respondent underscored this point:

“As the head of this unit, we have limited officials so I have developed a flexible break schedule to ensure that we always have officials attending to people who come to our office” (male, deputy-manager, compliance department).

Altruistic norm is an integral part of PSM. The respondents were asked if they would still go ahead and do what is best for their society, even if it would harm their interests. The findings were interesting, revealing a limited motivation among most respondents to do so. For a few, it is motivating because somebody probably must rise to the occasion and be making those sacrifices. Some respondents were of the view that it was not worth it. Commenting on the issue, a respondent argued:

“Nobody cares about what goes on in this country and look at how the politicians and senior public officials carry themselves around. Nobody is willing to sacrifice anything. Why should I?” (Male, officer, analysis department).

Another respondent also added that:

“Taking actions like that will only lead to victimization from colleagues and senior officials because you will end up fighting the ills in the system. When this happens you may be transferred or your promotion will be stifled” (male, officer, compliance department).

In sum, the issues described suggest that commitment to the public interest is seemingly mixed. Commitment outcomes are contingent on the work environment and culture as well as what is demanded of the public servant. But generally, public employees see the need to promote public interest as a legitimate responsibility for them.

Challenges to PSM development in Ghana

PSM levels of public officials could be developed when they join the sector. The findings show that most employees who joined the public sector were not generally driven by the motivation to serve the public interest. This suggests that PSM appears not to be a significant factor for joining the public sector in Ghana. The PSM levels of these employees can nonetheless be nurtured. The Government of Ghana has implemented various policies and pro-

grammes intending to motivate public employees to protect and promote the public interest. For instance, in 2010, the Single Spine Pay Policy was introduced to improve public service remuneration. This has led to a yearly pay rise between 10–20% (Fair Wages and Salaries Commission, 2018). The objective of the salary increases and the SSPP aims to improve the salaries of public servants to help improve productivity and ameliorate the rising corruption in the sector. Besides, there is an annual performance appraisal to assist employees to improve their performance and also motivate them.

These initiatives appear not to be achieving their intended goals of motivating public employees and creating a sense of responsibility to protect the public interest. The majority of the respondents believe that results of performance appraisals conducted annually are rarely used and not even considered when promoting or increasing the salaries of public sector workers. For example, a respondent lamented:

“It doesn’t matter how you perform because people are rarely scored low marks on the performance appraisal scoresheet. So why would I care about putting in more effort and caring about what I do for the sector and the public when I know that won’t count in my appraisal. What is important for me is just to remain in the service” (male, officer, monitoring and supervision unit).

Performance appraisals performed annually in Ghana’s public service are very lenient and on most occasions “rubber stamp” processes to satisfy administrative and policy requirements. Consequently, these processes are bedeviled with irregularities and fraud due to their subjective and reward-driven nature.

Ghana is a democratic nation that observes the rule of law. Therefore, citizens expect the government and public servants to consult them in the formulation and implementation of public policies to ensure that their interest is promoted. This has not been the case over the years in Ghana. Past governments have formulated and implemented with the help of public servants bad policies that have caused financial loss to the State. What do public officials consider as “public interest”? Helping politicians to the detriment of society or ensuring that public interest is promoted. Moreover, citizens perceive public servants as corrupt. This negative perception about public servants was confirmed by opinion polls with 91.4% of respondents ranking corruption in the public sector of Ghana as high (NCCE, 2017). Since PSM is not the motivating factor for most workers joining the public service, coupled with the negative public perception of corruption in the public sector, it might be challenging to nurture PSM in public officials after joining the public sector.

The leadership in Ghana has verbally supported the urgency to promote the public interest. However, the commitment and will to do so appears to be absent. This suggests that the development of PSM in Ghana’s public service has only received lip-service support from both political and institutional leaders. According to participants, the actions and inactions of their superiors are significant since their actions influence their PSM development. They tend to look at their leaders for motivation and direction. However, it was revealed that some po-

litical government appointees and supervisors in the organization are engaged in corrupt practices. This implies that such leaders engage in practices that promote their personal interest to the detriment of the public interest. Significantly, when these appointees are exposed, they are only reassigned or transferred and seldom face any prosecution. These acts impede PSM development and further erode gains made, if any.

Public institutions are associated with rigid bureaucratic and hierarchical structures with limited room for functional freedom and proactivity. These bureaucratic and hierarchical structures have the potential to impede PSM development (Gailmard, 2010). This was reiterated by a respondent who lamented that the bureaucratic structures tend to limit employee initiatives as they are required to obey and take orders from their superiors. Therefore, people who join the public sector with innovative ideas and a high level of motivation to promote the public interest could get frustrated by the public sector machinery due to its inflexible nature. Consequently, most of these employees might gradually become disinterested in public service as their motivation is consistently frustrated by the rigid bureaucratic and hierarchical structures. These challenges have the potential to dampen the innovative drive of public servants, which is likely to weaken their PSM levels.

Discussion

Recent studies have underscored the significant roles that PSM can play in determining employee performance in public sector organizations (Miao et al., 2019; Bullock et al., 2015; Kim, 2006; Alonso & Lewis, 2001; Perry, 1996) and the challenges to PSM development (Barsoum, 2016; Yung, 2014; Paarlberg & Lavigna, 2010; Paarlberg, Perry & Hondeghe, 2008). These studies highlight the facilitating role PSM plays. Recruiting employees with high PSM levels into the public sector has been a continual challenge for many public sector managers especially in developing countries. The study supports the hypothesis that PSM can be used to examine why people choose to work in the public sector (Moynihan & Pandey, 2007; Brewer & Selden, 1998). Contrary to the public interest dimension of PSM based on the duty to serve society and loyalty norms (Perry, 1996), the findings of this study do not support this view, rather, it shows that job security and remuneration packages are the dominant factors considered when making a career choice to work in the public sector. Public sector employment provides stable job opportunities and the introduction of the SSPP has led to increases in public sector salaries in Ghana. It is also important to mention that having self-interested motives for choosing to work in the public sector might not necessarily make it impossible to have simultaneous public-interested motivations (Le Grand, 2003). This result could be attributed to the poor economic conditions, high poverty rates, and difficulties associated with getting a job in Ghana due to the limited job opportunities in the country. Therefore, these conditions might be influencing people to consider job stability and pay conditions when making career choices but not necessarily promoting the public interest.

This finding confirms previous research results from Egypt (Barsoum, 2016) and Hong Kong (Yung, 2014) but contradicts the study by Bright (2008) from the United States.

Organizational culture and leadership actions were identified as factors impeding PSM development in the case study organization. The findings provide additional support for current efforts in the literature to examine the factors that impede PSM development in public organizations (Schwarz et al., 2020; Yung, 2014; Bellé, 2013; Paarlberg & Lavigna, 2010). These results make the claim by Paarlberg, Perry, and Hondeghem more significant, that is, leaders can foster or impede PSM development when “they raise their followers’ consciousness about idealized goals by articulating high standards of moral and ethical conduct, and acting as prosocial models’ (2008, p. 282). This suggests that when leaders fail to act as prosocial models, the probability that high PSM employees might start showing low PSM motives becomes quite high. This is probably because the motivation to promote the public interest and act ethically might not appear rewarding and relevant due to the prevailing organizational culture supported by the leadership. This may cause low job satisfaction among some employees and reduce their levels of commitment to the organization which might lead to low productivity in the long run. As a result, this study supports the claim that leadership and organizational culture are important factors in employee PSM development. When employees see that their leaders are showing prosocial behavior, it motivates them to also show similar behaviours and this promotes their level of PSM. These results are consistent with other research that reveals that employee PSM levels can either be improved or reduced by the prevailing organizational culture, employee knowledge about events in their organization, and leadership behaviour (Lee et al., 2020; Ritz & Brewer, 2013; Kjeldsen, 2012).

Conclusion

There is a need to provide clearer guidance on how PSM knowledge can be used in practice, given the capacity of PSM as a theory for predicting employee commitment to public interest. The study aimed to investigate commitment to public interest as a PSM dimension and PSM development challenges in Ghana. The study makes some modest contribution to advancing scholarly understanding of PSM in the African context. The research empirically supports the argument that PSM is a unique construct for tapping into the unique areas of motivation that differentially predict the behavior of public officials in theoretically consistent ways. In this research, commitment to public interest is not the central determinant for joining the public service. The key factors that employees considered when joining the public service were job security and remuneration packages. Additionally, organizational culture and leadership were two important factors with the potential to facilitate or impede PSM development in public organizations. PSM emphasizes the duty of public officials to promote the public interest in the dispensation of their duty. Making PSM practically relevant will require more research and information. The study concludes that more

effective approaches to motivating public employees must take into consideration the complexities and diversities of the public sector workforce and develop strategies that present opportunities that motivate employees who are interested in opportunities that public sector work naturally provides and opportunities for workers who are also interested in intangible rewards. In addition, strong and committed leadership is required for the successful development of public sector ethos that would nurture PSM amongst public sector workers. Therefore, initiatives to develop PSM amongst public workers may not achieve anything worthwhile beyond the normative objective until senior officials display exemplary leadership and prosocial behaviours. It is important to point out that the study had some limitations. First, the study uses data from one public agency in Ghana which may limit the application and generalization across other public institutions in Ghana. This provides avenues for future research to conduct comparative studies using samples from different public organizations or different levels of government such as local and central governments. Second, the research falls under the standard list of common method biases due to it being a behavioral study (Podsakoff et al., 2003) and its relevance could be overestimated in the existing literature (Spector, 2006). However, the objective of the study has been achieved, because the aim was to investigate commitment to the public interest as a PSM dimension and PSM development challenges, rather than to generalize the results across the country.

Recommendations to promote PSM development

Culture defines what the next generation does. The development of personal values is achieved through social interactions in societies and organizations. Therefore, the development and enhancement of the PSM of the next generation of public servants should be promoted through the introduction of PSM values in the educational curriculum as well as the training organized for public sector workers. This should also be included in civic education for the general public to develop the perception that working in either the public or private sector is synonymous with serving the public (Yung, 2014). This will make people understand and appreciate that promoting the interest of the public is not the sole preserve of public servants but will require support from the private sector

Regarding the challenge of bureaucracy, inter-sectoral and intra-departmental collaborations should be encouraged. The relevance of developing work structures that improve self-regulation through empowerment and participatory decision-making is that they promote PSM amongst public sector workers (Pearlberg et al., 2008). Encouraging frequent interactions between subordinates and superiors creates room for engagements and dialogue about institutional challenges; leading to a better understanding of institutional challenges (read more about this here: Amegavi et al., 2018). This also tends to create room for innovation and improvements in organizational operations.

Lastly, an important tactic in encouraging the development of PSM amongst public sector workers is to highlight PSM in the reward, promotion, and performance appraisal systems. Non-task related issues have been ignored in perfor-

mance appraisal processes (Gruman & Saks, 2011), therefore including observations of PSM behavior in performance appraisal systems as a strategy to promote PSM development could encourage and develop employee PSM. However, this would probably depend on how the indicators of PSM are developed to merge with the indicators of the performance appraisal system since it has the potential to affect the whole process and its usefulness in promoting PSM.

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BUDGET SURPLUS MANAGEMENT AND FISCAL “FINE TUNING”

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Abstract

The subject of research of this paper is the specifics of forming and managing a budget surplus when providing economic growth for the national economy. The results of analyzing the concepts of a budget balance are presented, and directions for managing a positive balance of the state budget are revealed. The specifics of the macroeconomic politics of a surplus are given, and it is revealed that forming a “new” fiscal regime – surplus regime – requires a radical restructuring of budget management. The general typical features of countries with a long-term period of a budget surplus are revealed: focus on budget consolidation on the expenditure side of the budget and the ensuing complex budget reforms made after achieving a surplus. It is discovered that one of the main reasons for supporting a stable surplus budget in a number of the world’s countries is the radical restructuring of economic and financial priorities, which was caused by serious macroeconomic shocks. It is noted that when assessing the possibility of maintaining a budget surplus in specific countries, it should be taken into account that unfavorable macroeconomic events such as the financial crisis of 2008 or the global pandemic of COVID-19 in the current year (2020) are of crucial significance for maintaining a surplus. According to the results of a comparative analysis of the dynamics of the level of budget deficit and the rates of economic growth, using the example of Switzerland and Norway for 2009–2019, no direct correlation between these indicators was discovered, and it was concluded that there was a lack of empirical evidence and appropriate theoretical generalizations about the existence of a cause-and-effect relationship between economic growth and the type of balance (deficit, surplus, “zero-based”) of the state budget. The advisability of using the budget surplus to reduce the tax burden and to reduce the level of state debt was assessed.

Keywords: budget balance; budget management; budget deficit and surplus; theory of "tax smoothing"; budget policy; fiscal regime; economic growth; money hoarding.

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Main concepts for managing the budget balance

The stable budget *deficit* in an overwhelming majority of countries in the world piqued the interest of economists in the theories and facts relating to the reasons for forming a budget policy. The most developed is the theory of budget balance, which is in fact a theory of budget deficit. The problem of a balanced budget has received wide coverage. It is especially worth mentioning the publications of English and American economists.

First and foremost, when looking back, it is worth paying attention to the position of neo-Ricardians, for example, the famous A.C. Pigou (1928, 1960) who, in his research on state finances, touched on this problem, including his ideas of negative externalities and the need for taxation specifically for the investment needs of the national economy.

The classic summary paper by R. Barro (1989) on standard models of budget deficit holds an important place among such research.

It is interesting to remember the position of neo-Keynesian macroeconomics on budget deficits, for example, the thoughts of J. Stiglitz. In particular, Stiglitz (2010) wrote that when a government is at a deficit, private savings S_p serve two functions: to finance the government deficit ($G - T$) and finance investments (I):

$$S_p = I + (G - T)$$

Likewise, at the same time it can be considered that a deficit corresponds to negative private savings:

$$G - T = -S_g$$

As a result, the first equation can be rewritten in the following form:

$$S_p = I - S_g \text{ or } S_p + S_g = I$$

The left side of the equality is equal to national savings, i.e., the sum of private savings (households and businesses) and state savings (state). When the capital market is in equilibrium in a closed economy, the national savings are equal to investments (Stiglitz et al., 2010).

The process of budget balancing is thoroughly analyzed in a significant number of sources dedicated to problems of fiscal consolidation (Alesina, Ardagna, 2009; Guichard et al., 2007; Wagschal, Wenzelburger, 2008).

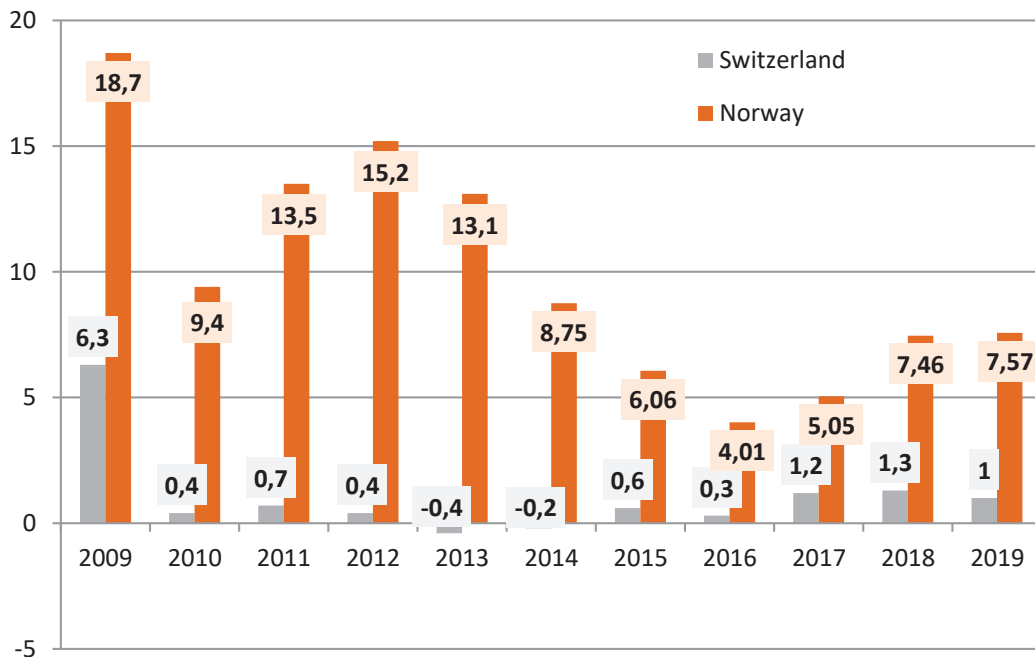
At the same time, no theory has yet to be formed in economics for an “optimal” budget balance, unlike the repeatedly and deeply developed concept of “optimal taxation”.

Due to this, it is quite natural that the most discussed questions in academic circles are those relating to the critical, high level of budget deficit, state debt ceiling, and other crisis aspects in the area of state finances.

Traditionally, most economists continue to follow the example of Buchanan (Buchanan, Wagner, 1977) and consider budget surpluses as an empirical, improbable event, and – in the case of a recorded surplus – as unimportant in terms of theory. Furthermore, this (traditional) approach can be theoretically justified, since a surplus is often seen as a “negative example” (Emigh, 1997), which contradicts the prevailing theory of a fiscal (budget) policy.

However, as the real budget practice of various countries shows, for example in Norway and Switzerland, a budget surplus, contrary to popular belief, is far more common. Thus, for example, the Swiss state budget was formed with a surplus even during a weak state of affairs (fig. 1).

Figure 1: Dynamics of the budget surplus of Switzerland and Norway for 2009–2019¹, % of GDP



Source: URL: <https://www.efd.admin.ch/efd/de/> and <https://www.regjeringen.no/no/id4/> (accessed: 13 July 2020).

In connection to this, of undoubtable interest is the work of Haffert (2015), who used material from 13 countries of the OECD (Australia, Canada, Denmark,

¹ A surplus budget was also planned in these countries for 2020 (0.4% in Switzerland and 7.25% in Norway); however, the pandemic situation brought significant adjustments to these plans.

Finland, New Zealand, Sweden, and others) over a 30-year period and identified at least 18 periods of a surplus, whereby in some of them, the periods of a budget surplus were recorded at least twice.

The author shows that the identified periods of a "budget surplus" are characterized by varying lengths. Out of the 18 identified "surplus" periods, 6 lasted more than 10 years (on average 11.3). It is these long periods of a budget surplus which seriously conflict with the concept of a deficit. The research mentioned above shows that most of the analyzed countries were able to maintain a budget surplus until the 2008 crisis. The rest of the economies showed shorter periods (from 3 to 5 years) of a budget surplus, which overall aligned with peaks in the global business cycle.

According to the theory of "tax smoothing" (Barro, 1979; Lucas et al., 1983), a budget balance should be used as a buffer, allowing tax rates to be more or less constant, and the budget surplus should be the norm, both during expansion and in times of temporarily low government spending.

At the same time, the question arises of why in some countries balanced budgets turn into surpluses while in others they do not? Thus, in several countries the cases of a budget surplus are a completely extraordinary occurrence, while in others, significantly long periods of a recorded surplus of the state budget are observed.

In many countries, the existence of a budget surplus was not accompanied by a fundamental restructuring of fiscal interests. Their fiscal policy remained similar to the policy of countries with a deficit budget. Similarly, the political surplus economy in many respects is akin to the political deficit economy.

At the same time, an analysis of existing sources dedicated to this problem showed that, with consideration of real budget practice and the appearance of a "new" fiscal regime – surplus regime – questions of forming and implementing a modern budget policy in countries around the world should be given the most serious and consistent attention.

Creating and managing a "new" fiscal regime

In most countries, for example, Japan (1988–1992), Denmark (1986–1989), Great Britain (1999–2001), USA (1998–2000), a budget surplus is only recorded over a very short period (as a rule not exceeding 3–5 years). However, when researching budget surpluses, countries with longer surplus periods should be included in the analysis.

In order to exclude one-time effects, it is advisable to maintain the position supported by Haffert (2015), for example, who defines a "surplus period" as a period of at least two years of an uninterrupted surplus, which is broken by no more than two years of a budget deficit before the budget again returns to a surplus.

One of the factors influencing the length of the budget surplus period (clearly) was the harsh budget reaction to unfavorable macroeconomic events. Countries where long budget surpluses are recorded (for example, New Zealand – 15 years; Canada, Finland, Sweden – at 11 years; Australia, Denmark – at 10 years), experienced serious crises which led to drastic changes to their economic and financial

priorities. The condition of state finances in these countries demonstrated that the short-term adjustments to the budget policy in the post-crisis period were not sufficient: fundamental reforms were necessary (Lewis, 2003; Mehrtens, 2014). Such reforms not only fought the deficit but also created a new stable context for a budget policy in which a surplus policy was subsequently carried out.

Thus, the analysis shows that a “new” fiscal regime (a “surplus” regime) was created as a result of serious macroeconomic shocks occurring, for example, the deep financial crisis, accompanied in these countries by a loss of trust in the financial markets, which was followed by a consolidation of budget spending.

Some authors believe that an analysis of the reasons for choosing a budget (fiscal) policy of different countries should be conducted from the point of view of the historical and institutional perspectives of their development (Androniceanu et al., 2019; Dadashev, 2017; Serkov, 2017), of the structure of fiscal autonomy of regions inside the countries (Alibegovich et al., 2019). In particular, it was discovered that the interests of the dominant political elite significantly influence the choice of budget policy vector (Schwartz, 1994). At the same time, the deep financial crisis and the subsequent consolidation of spending led to the creation of a new “surplus regime”, within which the budget policy was restructured according to the goals of achieving a balanced budget and reducing the level of taxes.

The existence of a budget surplus in various countries of the world gives rise to (at least) three important research questions: how is a surplus created, how is it maintained, and how is it spent. Here, the most important question should be considered that of maintaining a surplus (Alesina et al., 2019).

While the occurrence of a surplus is a question of changing the policy – how can the fiscal policy be changed in order to overcome a deficit? – preserving a surplus is related to the problem of the stability of this policy, i.e., how can it be prevented from changing back?

The question of stability is especially significant since many observers believe that the success of budget consolidation is under the constant threat of “consolidation fatigue” (Von Hagen et al., 2002). Far less is known about stability, however, since most sources primarily examine the process of consolidation itself and pay no attention to its effects.

First, countries in which a long-term budget surplus is observed (over an average of 10 years) experienced unique financial and macroeconomic difficulties, reacting to them by implementing large-scale government investment programs. These investments, however, did not give the expected results but instead exhausted the fiscal possibilities of the government even more.

Second, budget consolidation in countries with a long-term surplus was almost completely concentrated on the spending side of the budget, while countries with a short period of budget surplus relied far more on increasing revenue.

Third, unlike countries with a short-term surplus period, countries with a long-term surplus passed a large number of reforms, particularly, four types of budget rules (Budina et al., 2012), specifically, the budget balance rules (BBR), debt rules (DR), expenditure rules (ER) and revenue rules (RR).

Lastly, at the same time, budget reforms were approved only after reaching a surplus, while in countries with a short-term budget surplus, they usually pre-

ceded the surplus. This suggests that institutional reforms were not an exogenous cause for changing the fiscal policy, but instead one of its key endogenous elements.

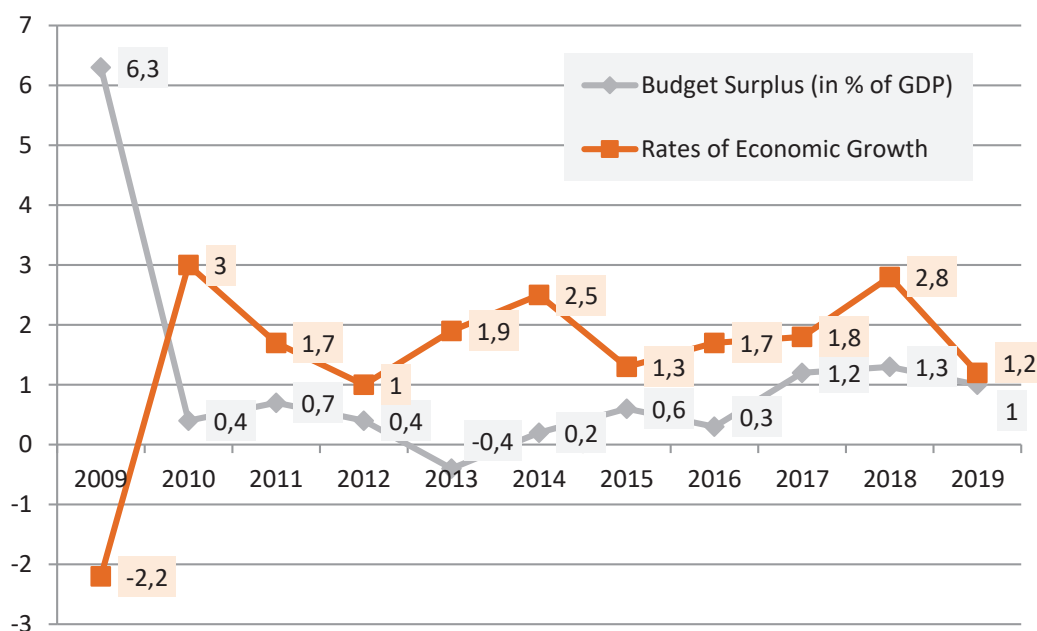
Certainly, while assessing the possibility of preserving a budget surplus in specific countries, it should be taken into account that unfavorable macroeconomic events such as, for example, the 2008 financial crisis or the global pandemic of COVID-19 in the current year (2020), have a crucial impact on preserving a surplus.

Managing a surplus in the interests of economic growth

In Norway and Switzerland the current surplus was achieved thanks to the combination of an exceptionally strong economy, low interest rates and a significant reduction of the defense budget (as a share of the GDP). The increase of social benefits was not stopped. Despite the favorable condition of the government finances of Switzerland, C. Tille (2019), for example, believes that the policy currently being implemented for maintaining a surplus and eliminating debt is ineffective.

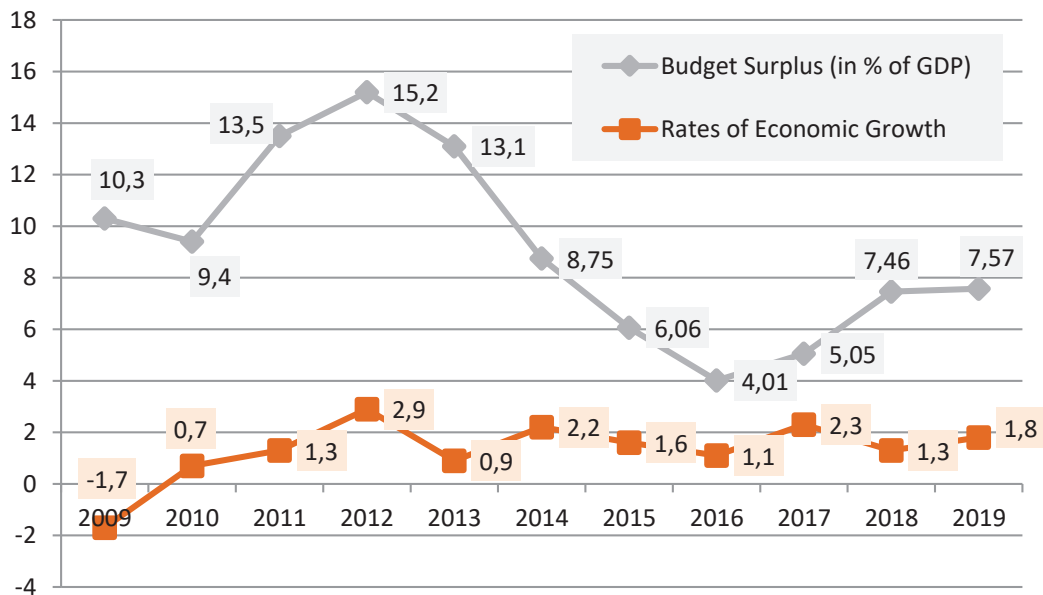
The efforts of countries with a recorded budget surplus in the area of budget consolidation based on spending were also connected to a change in the growth model of the respective economies (Cohen-Setton et al., 2019). At the same time, the conducted analysis shows that "surplus" economies can demonstrate very modest indicators of economic growth. As an example, one can compare the size of the budget surplus and the growth rates of Norway and Switzerland for the period from 2009 to 2019 (fig. 2 and fig. 3).

Figure 2: Dynamics of the economic growth rates and budget surplus of Switzerland for 2009–2019



Source: Built on data from <https://www.efd.admin.ch/efd/de/> (accessed: 13 July 2020).

Figure 3: Dynamics of the economic growth rates and budget surplus of Norway for 2009–2019



Source: Built on data from <https://www.regjeringen.no/no/id4/> (accessed: 13 July 2020).

By analyzing the data presented in Figures 2 and 3, it can be concluded that overall, the countries researched show no correlation between the amount of budget deficit and the economic growth rates. Thus, for example, the most significant amount of budget surplus was recorded for Switzerland in 2009, which was accompanied by the lowest (most negative) rates of economic growth (-2.2%). A similar situation was observed in Norway when in 2011, 2012 and 2013, with the highest indicators of a budget surplus (13.5%, 15.2% and 13.1%, respectively), the country reached very moderate rates of economic growth (1.3; 2.9 and 0.9).

As mentioned by a number of researchers, successful consolidation largely benefited from increased export demand which alleviates the negative effects of reduced spending (for example, Perotti, 2011). It was not uncommon for consolidation to be accompanied by an increase in the economic importance of the export sectors and, subsequently, an actualization of the problem of competitiveness of other sectors in the national economy (Fatás, Summers, 2016).

In the goal of stimulating economic growth, it is often suggested that a surplus budget be used to finance the (so-called) more discretionary spending. So, for example, Reich (1999), Eisner (1998) and Baker (1998), among other authors, advocate the use of surpluses to finance government investments in education. In reality, the argument for using current (temporary) surpluses to finance a constant increase in spending has the same drawbacks as the argument in favor of a constant tax reduction (Auerbach, Gale, 2000).

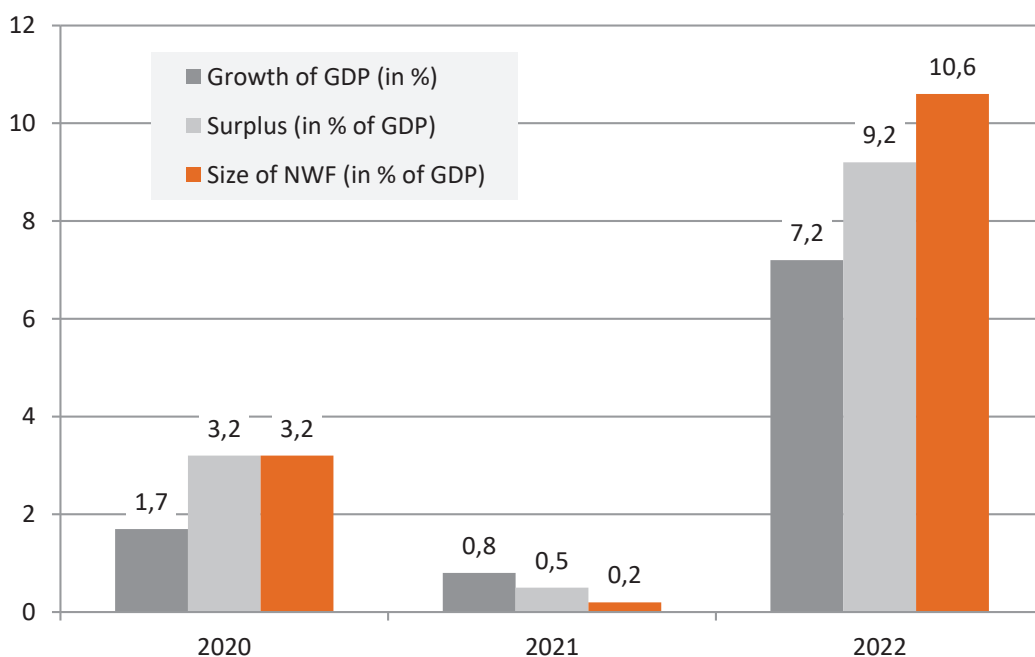
Arguments according to which more discretionary spending can be financed using the current surplus are misleading. Even if it is desirable to in-

crease the amount of government investments, this requires reducing spending for benefits or increasing taxes in the current or future periods. The argument that industrial economies have a significant amount of free resources for increasing internal spending without increasing taxes is hardly probable. Here it is appropriate to remember the recent experience of increasing VAT and introducing other taxes in Russia (Andreev, Polbin, 2018; Chelekhovsky, Khabibullin, 2018).

On the backdrop of this, the initially adopted federal budget for the current budget cycle (2020–2022) has plans for a budget surplus for the first time in Russian budgeting practice.

A number of other patterns in the Russian economy over recent years can also be noted. For example, during a growth of volume planned in the current budget cycle of a surplus and, accordingly, the Russian National Wealth Fund – NWF (fig. 4), the savings “recyclable” for investments are reduced.

Figure 4: Individual macroeconomic features of the federal budget of the Russian Federation (targets for 2020–2022)



Source: Explanatory note to the Russian federal budget project. URL: <https://www.minfin.ru/ru/document/> (accessed: 13 July 2020).

In connection with this, it was assumed that a number of measures focused on stimulating the process of investment activity would be taken (Moiseev, 2018). With this in mind, in early February 2020 to start the investment cycle it was decided to use funds from the NWF for inflation safe investments in the national economy at a value of 300 billion rubles yearly. The first tranche was planned to be applied in the current year already.

It was proposed to use funds from the NWF to ensure an investment growth from 0.7% (2019 indicator) to 5% in 2020. The increased rate of investment growth over two years (2020–2021) by more than 8.5 times (up to 6% GDP) was to provide a growth of GDP, and when implementing this scenario in 2024, the amount of investments was to reach an indicator of 25% GDP.

In accordance to this, the Russian government created a system for managing NWF funds, which, first of all, calls for a mechanism to minimize budget risks by ensuring the sufficient amount of NWF funds in the form of liquid financial assets which is necessary to cover lost income of the federal budget in the case of a large-scale external stress; secondly, it aims to increase the profitability of managing NWF funds when preserving the effectiveness of the “budget rules” mechanism in terms of providing stability and predictability of economic and financial conditions regardless of sharp fluctuations in the energy market.

When assessing how realistic these plans are, the following questions naturally arise. Is it better to be cautious or take risks? Is an investment of any kind beneficial to the economy? The Calvinist Léon Walras wrote that savings are tomorrow’s consumption (Walras, 1879). What level of the Russian NWF is rational in terms of economic growth policy? This question remains unanswered until now.

At the same time, it should be taken into consideration that during the serious fall of the GDP in the first half of 2020, it has become clear that the political wishes of the monetary authorities (not only of Russia) can clash not only with development logic, but also with the current economic reality, since the current situation undoubtedly not only requires a substantial reexamination of economic predictions and budget indicators, it also leads to a serious restructuring of the whole global economy. However, the current situation has already negatively affected the change in size of the NWF since the start of this year. Thus, according to data from the Russian Ministry of Finance², a nominal increase of 67.48 billion roubles occurred for January 2020; a growth of the nominal amount was also noted for February; however, if the change in the size of the NWF for January–February 2020 is valued in US dollars, it becomes clear that the increase was caused by the lowered exchange rate of the national currency, since converting the amount to dollars gives a reduction from the beginning of the year of 2.42 billion USD (1.18 for January and 1.24 billion USD for February). Thus, in the current situation, the degree of uncertainty in the area of managing NWF funds has significantly increased.

Despite the fact that, overall, investment spending supports economic growth, it must be remembered that in order to implement infrastructure projects, there is a significant period of time required wherein (despite the long-term benefits) a low “usefulness” of such projects for managing negative short-term changes during the current business cycle is noticed.

At the same time, the budget practice of different countries around the world has shown that there is currently no empirical evidence or appropriate

² URL: www.minfin.ru

theoretical generalizations about the existence of a cause-and-effect relationship between economic growth and the type of balanced state budget (deficit, surplus, "zero-based").

Surplus: hoarding and taxation

An analysis of the main macroeconomic features of the federal budget of the Russian Federation makes it possible to conclude that accumulating money in the NWF is essentially money hoarding, which, in fact, does not save them with a subsequent investment (state or private) in the national economy. Furthermore, it is possible to interpret surplus hoarding as an additional tax on the capital of businesses and household incomes.

Economic growth is always a result of investments in the economy. However, it should be said that not all investments are generative. As mentioned before, a surplus on its own does not lead to economic growth.

Neo-Keynesians support the multiplier demand idea of J.M. Keynes from 0 to 1.5 (Keynes, 2005). However, the budget multiplier can act against the budget demultiplier during a surplus budget. In other words, the hypothesis about a slowdown in demand of up to 1.5 times during a surplus budget is possible (Afanasiev, 2011). It is noted that the Ricardian multiplier is equal to zero and has a Keynesian negative effect.

Of significant interest is the research by Ramey (2019) which summarizes the results of a wide array of works, where the author concludes that assessments of the multiplier range from 0.8 to 1.5. Based on this, it can be concluded that the tax-budget policy can support economic growth, although this effect in practice leads to very heterogeneous results (Hazlitt, 2013).

If the government collects more money than it actually spends and engages in "pure" money hoarding, then economic growth slows down. In this case, it would be advisable to reduce the tax burden in the economy.

Currently, the maximum tax burden – up to 45–55% of GDP – exists in France, Belgium, and the Netherlands. Sweden lost this "peculiar" leadership. For comparison, the tax burden indicator in Russia for 2019 equaled 46.2%, while in the USA the value of a similar indicator was 36.6%, and in Great Britain it was 30.6%.

As budget practice shows, the existence of a surplus budget provides the following opportunities as well:

- more effective handling of a crisis by using fiscal incentives during a fall or in response to macroeconomic shocks;
- reducing the yield of government debt obligations by making future government loans less expensive;
- paying off a part of the existing government debt;
- reducing the tax burden to stimulate supply.

In connection to this, it is worth remembering A. Laffer (Laffer, Canto, 1990), who intuitively believed that taxes were "bad" for economic growth. In truth, in Russia with its tax burden of 36% of the GDP, this is yet to be a topic of discussion about the importance of the Laffer curve in terms of a possi-

ble slowing down of national economy development. The Laffer curve is more an intellectual exercise, since empirical and statistical evidence of its existence has until now yet to be presented.

However, it can be used to illustrate the events taking place in the Russian economy. If the VAT rate increased from 18% to 20% to supposedly cover the deficit of the Russian pension fund, then why was a budget surplus formed? Where is the validity for the measures of economic policy being implemented? Supporters of using a surplus to reduce taxes believe that it is necessary to reduce the burden and to balance the proportions of the taxation of businesses and households. However, no consensus has yet to be reached about exactly what kind(s) of tax(es) should be reduced.

A very important question for any national economy where a surplus budget is recorded is the decision about the areas where it will be used (Haffert, Mehrstens, 2015). Analysis shows that in all countries with a long-term period of a surplus budget, measures for a substantial reduction in taxes were taken in the first years the surplus was recorded. Furthermore, the existence of a surplus in itself, apparently, is evidence of the fact that economic agents are overloaded with taxes and deserve tax breaks.

Despite the fact that other authors (e.g., Alesina, 2000) consider the argument in favor of a temporary tax reduction in relation to budgetary practice in individual countries to be very weak (in terms of economic theory), the reduction of taxes has, to a certain degree, become a fairly successful economic strategy for increasing the competitiveness of countries with a long-term surplus budget.

Being (for the most part) small open economies, these countries could benefit from international tax competition, since the correlation between lost revenue during the current tax base and additional revenue gained from increasing the tax base by attracting new investors has become especially favorable (Genschel, Schwarz, 2011).

The macroeconomic approach to the impact of the fiscal policy on economics often ignores its redistributive effects. Types of redistribution which consider standard macroeconomic models of fiscal policy give some kind of visible effect over generations. It is natural that changing the fiscal regime, which leads to establishing a new “surplus regime”, is as a rule accompanied by obligations to use a surplus as compensation for reducing the tax burden. This “regime” approach should have consequences not only for analyzing a surplus budget but also for the continued (closer) study of budget policy.

The conditions laid out above bring to attention specific historical conditions in which a tax budget policy was carried out and place in doubt the validity of broad generalizations, including the prediction of a constant “deficit”. In particular, such an approach shows the limits of the fiscal policy concept established in the world (Blinder, 2016). This is especially important in cases where the prevailing fiscal policy regimes face difficulties and the configuration of fiscal interests starts to change.

One of the last examples of such a change in the configuration of fiscal interests is undoubtedly the reaction to the 2008 financial crisis (the economic and budget consequences of the current force majeure conditions cannot currently

be calculated due to the uncertainty of the period of "freezing" the economy). Many studies dedicated to this crisis are focused on more pressing issues of fighting deficits, balancing financial markets and reviving economic growth.

According to this approach, it can be asserted that the long-term effects of various kinds of budget policies are just as important as their immediate effects. It is clear that the decisions made in response to the 2008 crisis determined the direction of the budget policy for many years ahead. However, it is not practically possible to predict exactly what specific effect will come from implementing the various options.

During future studies, it is advisable to analyze the dependencies on the chosen trajectory in the fiscal policy on a much more systematic scale, in other words, to not only identify them ex-post, but to also foresee them ex-ante.

The next, highly interesting fact is the gaining of remarkable value through budget rules when reducing the tax burden. Instead of being a legitimate reason for saving surpluses, the main goal of budget rules is to influence the use of surpluses and apply them for adjusting the whole tax system. This is especially clear in the case of establishing ceilings on spending, which prohibit the use of unexpected revenue for anything other than reducing taxes or paying off the state debt.

One curious condition is that the area of use and principles of forming a surplus significantly impact its preservation. Only countries which used their surplus for reducing taxes were able to maintain it; likewise, only countries which created a surplus by reducing spending were able to fulfill these commitments. At the same time, it should be understood that as a result of mass reductions in spending, economic agents pay more or less the same taxes as before, but they receive significantly less government services.

The argument in favor of a constant tax reduction should ultimately be based on two grounds: first, the conditions that the spending of economic agents is either constantly decreasing or their constant decrease is expected; second, that the rate of growth of the national economy is constantly increasing for "exogenous" reasons, therefore lower tax rates are to generate higher revenue.

At the same time, it is advisable to form and introduce into budgeting practice budget rules regarding a balanced budget, debt, spending and revenue, with the obligation to observe them strictly. It is possible that it is the current, unique financial and macroeconomic difficulties experienced by the economies of various countries, including the Russian Federation, due to the epidemiological factor which can become the prerequisites for forming a "new fiscal regime".

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UNDERSTANDING ADMINISTRATIVE SILENCE: A VIEW OF PUBLIC OFFICERS FROM THE SUBCARPATHIA

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Abstract

This paper presents attitudes of public officers employed in public administrative institutions in Subcarpathia (a region in southeast Poland) towards administrative silence. As a background to the problem, the paper provides characteristics of the legal environment in which the Polish public administration operates regarding administrative silence. In the Polish legal system, administrative silence is expressed and described by different linguistic terms; there are also a variety of possible reactions to it. It causes not only different interpretations of legal regulation concerning the silence, but it also prevents a universal application of these provisions by public administration. The research aimed at determining what kinds of situations are recognised by Subcarpathian public officers as administrative silence (as defined in the Polish Administrative Procedure Code), what types of reactions towards administrative silence most frequently occur, and if there are any internal measures to counteract the silence. The paper concludes with the authors' assessment of the appropriateness of the current Polish regulatory framework on administrative silence for everyday practice of regional public administration in Subcarpathia. The authors conclude that legislation does not facilitate Subcarpathian public officers to correctly understand the consequences of administrative silence. This conclusion can be broadened to public administration in other Polish regions.

Keywords: administrative procedure; administrative silence; inactivity; inaction; governmental administration; self-governmental administration.

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Introduction

Administrative silence is a complex phenomenon lacking a universal definition. In the simplest manner, administrative silence can be defined as a non-fulfilment of an obligation to act by a public administration. Such a broad definition covers various categories of administrative silence – from a silence that is subject to legal consequences (strictly prescribed by law) to silence that is not recognised as such in law but that is negatively assessed by the society as a blameworthy inaction.

The goal of this paper is to describe administrative silence as one of the dimensions of public administration's functioning. The paper proposes a view of the issue from the inside of public administration. One problem raised in the article could be defined as a 'behavioural attitude towards administrative silence' among officials of local public administration, with regard to the legal system in Poland. The authors claim that even if the Polish Code of Administrative Procedure (CAP; Consolidated text: Journal of Laws (JoL) 2020, item 256) provides sufficient rules to counteract administrative silence (rules on elimination of administrative inaction and sanctions for being silent), the phenomenon of administrative silence is still ambiguously interpreted by public officials, mainly because of a lack of a single definition of administrative silence.

The paper gathers the results of a survey conducted in public administration bodies located in Subcarpathia, an administrative region in southeast Poland. The survey focused on how officials understand the concept of administrative silence and their personal experiences regarding administrative silence.

The research was divided into two stages: the first stage involved the legal background of administrative silence in Poland, specifically in the CAP, and the second stage involved a survey conducted among public officers from the Subcarpathian province. The first stage of research aimed at verifying the thesis that the Polish administrative law operates on a multitude of notions and phrases describing administrative silence, resulting in the lack of a commonly recognised (even inside public administration) definition of administrative silence. The research covered conceptual analysis of the literature and systematic analysis of the Polish legal framework. The latter involved identification of a normative description of administrative silence in Polish legal acts by searching electronic databases of Polish law in January–March 2018. The research on the legal framework covered solely laws (acts adopted by the Parliament) – 1,433 acts at the time of research (June 2018, verified in May 2019).

Identification of a normative framework seems to be important, because Polish public administration has been functioning for dozens of years due to a strong paradigm of acting within and on the basis of law in compliance with a literal interpretation of the law. Analysis of the contents of legal acts required an application of mixed methods of searching (machine and non-machine search) because of the specific character of the Polish language and a style of law-making in Poland that does not allow for creating a selected group of normative acts categorised as 'law of public administration'. In the first stage of research, among 1,433 acts (laws being in force), all the acts containing words with cores of words used for describing 'silence' (inaction) and laws referring to silence/inactivity of public administration were selected.

Results of the first stage of the research became a conceptual base for conducting the second stage of the research by a survey, which was administered from March to June 2018 in selected public administration units in Subcarpathia. The province, located in southeast Poland, bordering Ukraine and Slovakia, is inhabited by 2,129,138 people. With a capital in Rzeszow City, it covers 17,846 km² (5.7% of the surface of Poland). It is considered one of the most dynamically developing provinces in Poland. The province is divided into 25 territorial units of a middle level (PL: *powiaty*), including four towns with a status of poviats, and 159 territorial units of the lowest level (communes; PL: *gminy*). A sector of public administration in the Subcarpathian province employs ca. 32,788 people¹ in either regional delegations of governmental administration or regional/local self-governmental authorities.

The survey covered 227 persons in 13 public administration units: 92 persons (40.5%) from a governmental administration and 135 persons (59.5%) from self-governmental administration. Respondents (70.9% women; 29.1% men) were employees (public officers in general and specialised governmental administration [regional or local representation thereof]) and self-governmental administration. The survey was conducted using the 'paper and pencil' method, with use of anonymous questionnaires.

The questionnaire contained nine questions focusing on the personal understanding of the term 'administrative silence', the most common reasons for administrative silence, the most common reactions to administrative silence from either clients or institutions, and instruments to combat and prevent administrative silence. Questions represented three categories: (1) single-answer questions (individual answers exclude themselves and contain statements such as 'I do not know' or 'I have no opinion'); (2) multiple choice questions; and (3) ranking questions.

Conducting the survey faced a few barriers. Because of the extremely hierarchical structure and mode of functioning of regional and local public administration, in many institutions the persons taking the survey could not have direct contact with public officers, since questionnaires could have reached them only through supervisors of organisational units. This barrier had a special importance for ranking-type questions because a few participants of the survey did not seem to correctly understand the way these questions should be answered. Another barrier, of a more general nature, was the negative connotation of administrative

silence; persons under survey could have tried to reduce the meaning and effects of this negative phenomenon in their institutions.

The paper is divided into five sections. After the short introduction, that also contains a description of a scope of the empirical research, review of the literature on administrative silence is presented. In the third section, the paper presents a multitude of recognitions of administrative silence in the Polish administrative law. In this section, the paper specifies different types of public administration's reactions to various reflections of administrative silence. It also proposes a categorisation of these reactions. The last part of the third section is dedicated to a presentation of regulations of CAP concerning administrative silence. In the fourth section, the concept of administrative silence, identified in Polish law, is confronted with the view of this concept expressed by the public officers employed in local public administration who were surveyed. The fifth section presents conclusions.

Literature review

Public administration is predominantly considered as an activity (Skulová, Potěšil, Hejč & Bražin, 2019). Administrative silence is rarely raised as an issue in international literature. Legal writings provide many definitions of administrative silence, usually strictly linked to a specific legal culture. The lack of a single definition of administrative silence results in a variety of possible reactions to inactivity of public administration. Among the many different aspects of administrative silence, an excessive length of administrative proceedings seems to be the most often recognised and the most widely analysed in legal writings (Kotulski, 2015; Sever, Đanić & Kovač, 2016). Other aspects of administrative silence reflected in deeper research considerations are models of administrative silence (Kovač et al., 2020), the unlawfulness of administrative silence (Jansen, 2015), a party's (of administrative proceeding) rights in a situation of administrative silence, and details of a particular legal solution (e.g., positive fiction) to counteract or combat negative effects of administrative silence (Cevallos Gorozabel, Quiñonez Francis & Castle Cevallo, 2017; Kubiak, 2009; Parisio, 2013; Saddy, 2012; Wagner (2020)). An overall view on this legal, political, and social phenomenon is even more unique (Anthony, 2008; Batalli, 2017; Kovač, 2011). Moreover, the majority of writings in this area were specific to national legal systems (e.g. Rozsnyai & Hoffman, 2020) and used to be published in national languages (e.g., in Polish: Bochenek, 2003; Gniady, 2019; Gurba, 2015; Kotulski, 2015; Kubiak, 2009; Miłosz, 2011; Dobosz 2011, Suwaj, 2014; Wagner, 2020) – a breakthrough in this regard came in 2020 (Dragos et al, 2020). Personal views of public officers on administrative silence are uniquely presented in the literature (however, see Olsen, 2017), even if personal perspective becomes an important framework for understanding governance (Ford & Ihrke, 2019).

Administrative silence in Polish law: linguistic and functional perspective

Legal acts adopted before 1989 (the year when the first democratic parliamentary elections were organised, regarded as the year of the shift from communism

to democracy as a political system) did not pay much attention to administrative silence. Under the political system enforced until 1989, public administration was considered as a solid monument, granted with instruments of highly proceduralised forms of activities, usually based on power (*imperium*). The universal means for contesting time-excessive administrative proceedings and administrative silence was only citizens' complaints and motions, formalised in Part II of the Code of Administrative Procedure. In this period, a few Polish lawyers (Janowicz, 1987; Jendrońska, 1979; Starościak, 1978) presented the effects of their research on 'targeted' administrative silence (understood as a lack of activities regardless of a duty to act). All of these authors assessed administrative silence negatively as a non-activity (in particular areas) that was contrary to law. They also pointed out disciplinary responsibility as a sanction for administrative silence.

Since 1989 (i.e. in the 1990s), the model of public administration in Poland has changed. It transformed from the state (rather than public) administration executing goals of the central government to public administration whose aim was the delivery of services for a society by fulfilling public tasks established in accordance with the subsidiarity principle that became a constitutional rule (Constitution of the Republic of Poland dated 2 April 1997 (JoL 2017, no. 78, item 483). Public administration, instead of acting formally according to procedures, had to deal with new types of activities (and duties) resulting from the new public management and imposition of duties related to the new role of governing a development (Act of 6 December 2006 on principles for conducting a development policy, consolidated text: JoL 2019, item 1295) and managing resources. Supervisors of public administration units have been obliged to fulfil duties of establishing the missions and visions of their units (Act of 27 August 2009 on public finance, consolidated text: JoL 2019, item 869). Even if administrative silence in this area was noticed by controlling authorities, there were no effective legal tools to prevent it or to combat its negative effects.

After 2000, a concept of good governance and multilevel governance became an important dimension of the assessment of public administration in Poland. This approach has been reflected in a growing number of legal institutions imposing new duties to act on public administration's side, such as public discussion (Act of 27 March 2003 on Spatial and Land Use Planning, consolidated text: JoL 2020, item 293), local initiatives (Act of 24 April 2003 on Activity for Public Benefit and Volunteering; consolidated text: JoL 2020, item 1057 as amended); citizens' participation (Act of 20 February 2015 on Local Development with Participation of Local Society, consolidated text: JoL 2019, item 1167, and Act of 9 October 2015 on Revitalisation, consolidated text: JoL 2020, item 802, 1086); the duty of consulting; the right of active participation in meetings of collective organs of public administration; citizens' budget; and other solutions introduced by the Act of 11 January 2018 on Amending Some Acts in Order to Enhance Citizens' Participation in Process of Selection, Functioning and Control of Some Public Organs (JoL 2018, item 130, 1349). These legal institutions should be considered as 'communication channels' for an administered community to express its expectations towards public administration if the latter does not act according to the needs of the community. A specific feature of new regulations is that new

duties and possibilities introduced in legal acts are usually not connected with an introduction or a reference to any institutions that allow for acting in a situation when public administration will not implement new duties imposed by the new law; such measures can appear at a later stage when the inactivity of public administration has particularly negative effects on a community.

Regarding the above characteristics of a legal environment, the research question was to what extent administrative silence. It is reflected in existing Polish law in 2018. Normative descriptions in Polish legal acts (laws), being in force at the time of the search (June 2019, verified in May 2019), were identified with 14 keywords listed in Table 1 below.

More than 250 legal acts (out of 1,433 laws) – not including the Polish Administrative Procedure Act – contain at least one of these terms, while some acts use more than one term to describe administrative silence.

Table 1

Phrases linked to administrative silence in the Polish legal framework

Specific phrase concerning administrative silence	Number of legal acts containing the specific phrase
Non-presentation (PL: <i>nieprzedstawienie</i>)	37
Non-adoption (PL: <i>niepodjęcie</i>)	34
Non-submission (PL: <i>nieprzekazanie</i>)	30
Non-expression (PL: <i>niewyrażenie</i>)	26
Non-taking (PL: <i>niezajęcie</i>)	25
Non-adaption (PL: <i>niewydanie</i>)	24
Inaction (PL: <i>bezczynność</i>)	21
Silent resolvment of the case (PL: <i>milczące załatwienie sprawy</i>) Silence (PL: <i>milczenie</i>)	19
Non-notification (PL: <i>niezgłoszenie</i>)	16
Non-fulfilment (PL: <i>niewykonanie</i>)	11
Non-grant (PL: <i>nieudzielenie</i>)	7
Lack (PL: <i>brak</i>) in relation to other phrases, such as: Lack of implementation (PL: <i>brak wdrożenia</i>) Lack of adoption (PL: <i>brak wydania</i>) Lack of presentation (PL: <i>brak przedstawienia</i>)	6
Overdue/excessive length (PL: <i>przewlekłość</i>)	6
Non-implementation (PL: <i>niewdrożenie</i>)	3
Non-proving of a sufficient effectiveness (PL: <i>niewykazanie dostatecznej skuteczności</i>)	2

Source: Everywhere, unless otherwise specified – research by authors.

The research proved the existence of a multitude of descriptions of situations that can be considered as administrative silence. A collection of these phrases creates a diverse picture of administrative silence in Polish legal acts.

Reactions to administrative silence and the effects of administrative silence are also described diversely. However, within this multitude of descriptions, it is possible to select certain types of reactions/effects and legal tools used for combating and/or preventing administrative silence.

Table 2

Consequences of administrative silence in the Polish legal framework (*examples*)

Specific phrase concerning consequences of administrative silence	Types of reactions to administrative silence/types of tools used for combating and/or preventing administrative silence
'is not a barrier' (PL: <i>nie stanowi przeszkody</i>) 'does not suspend a resolvment of a case' (PL: <i>nie wstrzymuje rozpoznania</i>) 'does not delay further works' (PL: <i>nie wstrzymuje prac</i>) 'does not suspend an adoption of a decision' (PL: <i>nie wstrzymuje wydania decyzji</i>) 'does not delay a proceeding' (PL: <i>nie wstrzymuje postępowania</i>) 'A requirement for getting an opinion is considered as fulfilled' (PL: <i>wymóg zasięgnięcia opinii uznaje się za spełniony</i>)	Silence = elimination of a certain activity from an administrative proceeding
'means a lack of remarks' (PL: <i>oznacza brak uwag</i>) 'means a lack of reservations' (PL: <i>oznacza brak zastrzeżeń</i>) 'means a lack of remarks and reservations' (PL: <i>oznacza brak uwag i zastrzeżeń</i>) 'is considered as a lack of reservations' (PL: <i>uznaje się za brak zastrzeżeń</i>) 'is treated as a lack of reservations' (PL: <i>traktuje się jako brak zastrzeżeń</i>) 'It is considered that this entity does not make any reservations' (PL: <i>przyjmuje się, że podmiot ten nie składa zastrzeżeń</i>)	Silence = considered as a lack of any comments/remarks
'means a resignation of a right to express an opinion' (PL: <i>oznacza rezygnację z prawa do wyrażenia opinii</i>)	Silence = considering resignation of the right to take a particular position in a case
'is equal to accepting an application' (PL: <i>jest równoznaczne z akceptacją wniosku</i>) 'is recognised as an acceptance' (PL: <i>uznaje się za akceptację</i>) 'is recognised as an accord' (PL: <i>uznaje się za uzgodnienie</i>) 'is recognised as an expression of an accord' (PL: <i>uznaje się za wyrażenie zgody</i>) 'is recognised as an expression of a positive opinion' (PL: <i>uznaje się za wyrażenie opinii pozytywnej</i>) 'a condition is considered as fulfilled' (PL: <i>uznaje się wymóg za spełniony</i>) 'It is claimed that an opinion is positive' (PL: <i>uważa się że opinia jest pozytywna</i>) 'It is claimed as equal to a positive opinion in a case' (PL: <i>uważa się za równoznaczne z pozytywnym zaopiniowaniem</i>) 'is regarded as an accord on a project' (PL: <i>uważa się za uzgodnienie projektu</i>) 'It is acknowledged that an opinion is positive' (PL: <i>przyjmuje się, że opinia jest pozytywna</i>)	Silence = acceptance, accord

Specific phrase concerning consequences of administrative silence	Types of reactions to administrative silence/types of tools used for combating and/or preventing administrative silence
[supervisory organ] 'establishes independently' (PL: [organ nadzorczy] samodzielnie ustala) [supervisory organ] 'issues an order' (PL: [organ nadzorczy] wydaje zarządzenie) [a person pointed by law] 'executes' (PL: [osoba wyznaczona ustawą] wykonuje)	Subsidiary execution
'a complaint to the administrative court' (PL: skarga do sądu administracyjnego) 'an appeal to the administrative court' (PL: odwołanie do sądu administracyjnego) 'a reminder' (PL: ponaglenie)	Complaints to appropriate organs/institutions
'financial penalty' (PL: grzywna) 'fine' (PL: kara pieniężna)	Financial sanctions
'a call for an execution of tasks' (PL: wezwanie do wykonania zadań) 'a notification to supervisory organs' (PL: zawiadomienie organów nadzorczych) 'a subsidiary order' (PL: zarządzenie zastępcze) 'a suspension of organs – appointing a subsidiary management' (PL: zawieszenie organów – wyznaczenie zarządu komisarycznego) 'calling a person off a function of an organ' (PL: odwołanie osoby z funkcji organu) 'dissolving an employment contract without a termination period by a fault of an employee' (PL: Rozwiązanie stosunku pracy bez wypowiedzenia z winy pracownika) 'a revocation of an accreditation' (PL: cofnięcie akredytacji)	Supervisory measures
'granting compensation on the basis of Civil Code (Art 417 ff.)'	Civil liability
'disciplinary responsibility (from a caveat to a dismissal)' (PL: odpowiedzialność dyscyplinarna od upomnienia do zwolnienia)	Disciplinary responsibility
'criminal liability'	Penal liability

The research shows that in substantive Polish administrative law there is no universal model of attitude/reactions towards a non-fulfilment (by public administration) of duties directly expressed in law. Many laws provide instruments oriented for accelerating administrative procedures where a lack of activity 'is considered as an acceptance', the procedure 'goes on despite a lack of', and 'is considered as a lack of any reservations'. If an activity of a public administration authority is necessary, the Polish lawmakers also predicted such instruments as complaints to a court or fines and financial penalties in order to guarantee an efficient closure of a case to a party.

Another instrument for combating negative results of administrative silence is expressed in laws mainly as 'considered as accepted' and 'considered

as approved'. This instrument is present in more than 50 laws, but it is used rather incidentally, not as a rule.

In many laws, one can find instruments in the form of 'a notification to supervisory institution' and 'disciplining instruments': from an order to undertake an action, through subsidiary execution to a suspension of organs or appointing a subsidiary management. 'Subsidiary execution' (understood as an activity of a certain public administration institution instead of an institution primarily obliged to act) can be applied in few cases, almost solely in relations between administrative authorities. However, in a great number of laws there are no measures on preventing and/or combating administrative silence. An organ that wants to co-operate can, then, potentially use universal instruments of supervision in public administration and notify an inactivity of a certain organ to a supervisory organ. This mode of action is described mainly in internal regulations and guidelines – separately in governmental and self-governmental administrations (the only area of regulation at the parliamentary level, by-laws, is the supervision of governmental administration over self-governmental administration).

At the most general level, the Polish Code of Administrative Procedure provides regulations on the control of timeliness of public administration that can be controlled through: urging (Art. 37 of CAP) as well as a complaint on administrative silence (Art. 3 § 2 points 8-9, Art. 54 § 3 Law on Judicial Administrative Procedure (JAP))¹, a fine (Art. 154 § 6 of JAP) and a claim for a damage (Art. 154 § 6 JAP). In 2017 a tacit authorization was introduced into Art. 122a-122f CAP. It can be applied only if specific laws explicitly state so (Gniady, 2020; Jakubowski, 2020; Jurkowska-Gomułka et al., 2020; Kmiecik, 2019).

Administrative silence: personal perspectives of public officers in the Subcarpathian province

Regarding the chaotic approach of Polish lawmakers towards administrative silence (multitude of phrases describing the phenomenon, either in substantive administrative law or in the light of CAP; various kinds of reactions to administrative silence), the question on the attitude of public officers towards the problem of administrative silence is important and was reflected in the second stage of the research.

Firstly, public officers were asked about their personal definition of the concept of administrative silence. The questionnaire offered six answers, giving the possibility to choose more than one of them.

The majority of respondents consider administrative silence as a lack of any activity of public administration in individual cases. The least number of choices concerned defining administrative silence as a lack of activities aimed at building public policies.

¹ Consolidated text: JoL 2018, item 1302.

Table 3

Question 1. The concept of administrative silence should be understood as:

Answer	Share of the particular answer, %
Lack of any activities of public administration in an individual case	33.8
Lack of any activity of public administration in a certain area of problems (e.g., spatial planning)	9.8
Lack of any activity of public administration shaping public policy	5.4
Lack of any activity of public administration if a public authority is obliged to act	28.9
Lack of any activity of public administration if a public authority is not obliged to act	11.4
Excessive length of administrative proceeding	10.6

The survey showed that administrative silence is understood diversely by public officers from governmental and self-governmental administrations. Public officers offered the third answer (lack of any activity of public administration shaping public policy) most frequently: 100% of managers of the middle level, 62.5% of managers, and 53.6% of specialists chose this answer. The second choice of the respondents from governmental administration was the first answer, focusing on a lack of activity in an individual case. Within self-governmental administration, the first answer was the most common (61.1% of middle-level managers, 66.7% of managers, and 63.7% of specialists chose this answer), whereas the third answer was the second choice for this group.

Further, respondents were asked about their personal assessment of reasons for administrative silence and intentions for administrative silence. The majority expressed an opinion that a lack of activity in more than 50% of cases (63.4%) is unintentional, and only 20.3% assume that there is a conscious intention behind administrative silence. But more than 16.3% of respondents do not have an opinion of the reasons for administrative silence. Seemingly, the respondents understood 'unintentional' administrative silence as inaction caused by reasons lying totally beyond the reach of public officers (or even public administration, as such).

Table 4

Question 2. In the majority of cases (over 50%), administrative silence is:

Answer	Share of a particular answer, %
Intentional and targeted	20.3
Unintentional	63.4
I have no opinion	16.3

Respondents were also asked to rank selected reasons for administrative silence from the most to the least frequent. The majority of public officers (43.6%) considered unclear content of legal provisions as the most common cause for a lack of activity of public administration (only 7.9% suggested it as the least frequent reason). Rankings of other reasons were more balanced; for example, insufficient human resources were considered as the first (the most common) reason by 30.4% of respondents and as the least important reason by 17.6%. Too short a period for completing the case was even more 'democratically' considered as the most common reason for administrative silence by 20.3% of respondents and the least frequent by 22.9% of respondents. Only 7.5% of respondents ranked as the first a lack of an institution's conviction for a certain solution, but, surprisingly, 24.3% ranked this reason as the second in a row. The analysis of answers in both pillars of public administration showed that representatives of governmental administration ranked the second answer (insufficient human resources) as the most important reason (38%) and unclear content of regulations as the reason of second importance (34.8%), whereas self-governmental administration pointed out the third answer (on unclear content) as the most frequent reason (49.6%), and insufficient human resources was the second-choice answer for this group (25.2%). The conclusion is rather simple, although alarming: self-governmental administration declares more problems with the interpretation of regulations while dealing with administrative cases.

Table 5

Question 3. Considering reasons for administrative silence pointed out below, inaction of public administration is most frequently caused by (answers ranked: 1 – the most frequent reason, 4 – the rarest reason; rank 0 in tables below refers to a share of respondents who did not choose a particular answer)

<p><i>Too short a period (prescribed by law) to close a case:</i></p> <p>Rank 1: 20.3%</p> <p>Rank 2: 27.8%</p> <p>Rank 3: 18.1%</p> <p>Rank 4: 22.9%</p> <p>Rank 0: 11%</p>
<p><i>Insufficient human resources:</i></p> <p>Rank 1: 30.4%</p> <p>Rank 2: 17.2%</p> <p>Rank 3: 26.4%</p> <p>Rank 4: 17.6%</p> <p>Rank 0: 8.4%</p>
<p><i>Unclear content of legal provisions being the basis for a final decision:</i></p> <p>Rank 1: 43.6%</p> <p>Rank 2: 18.9%</p> <p>Rank 3: 24.7%</p> <p>Rank 4: 7.9%</p> <p>Rank 0: 4.8%</p>

Lack of institution's conviction for a certain solution:

Rank 1: 7.5%

Rank 2: 24.3%

Rank 3: 14.6%

Rank 4: 42.9%

Rank 0: 10.6%

Some questions concentrated on the problem of clients' attitude towards administrative silence. Regarding 'emotional' aspects, 41.4% of respondents experienced anger of clients as their reaction to administrative silence; 13.1% experienced a reaction described as disappointment and discouragement; and only 7.1% of respondents faced a certain level of understanding from clients. According to public officers' opinions, the most common reaction of clients is a claim lodged within an internal structure of an institution. Only 6.7% of respondents held that disappointed or angry clients applied to an administrative court, and 9.4% of respondents pointed out appealing to the media as a response to administrative silence.

Table 6

Question 4. What was the most common reaction of clients of public administration towards administrative silence that you experienced in your professional practice?

Answer	Share of the particular answer, %
Anger	41.4
Disappointment and discouragement	13.1
Understanding	7.1
Complaint to supervisors (within internal institutional structure)	22.3
Complaint to administrative court	6.7
Contact with the media	9.4

Anger and a complaint addressed to supervisors (within an internal structure) were pointed out by a similar number of respondents from governmental and self-governmental administrations (79.5% and 82.1%, respectively). However, more persons from a self-governmental administration (29.9% to 19.3%) chose an attitude of disappointment and discouragement as the most common reaction to administrative silence. Perhaps this choice was somehow driven by the fact that public officers from the self-governmental administrations under survey were in a majority of cases engaged in direct relationships with clients. More public officers from governmental administration than public officers from self-government (18.2% to 9.7%) pointed to a complaint to an administrative court as a common client response to administrative silence, which may be explained by categories of cases: in the survey, governmental financial administrations

were strongly represented, and in social insurance or tax cases clients usually have much stronger incentive to act. The same argument can be applied towards the noticeable difference between governmental (28.4%) and self-governmental (11.9%) administration regarding a choice of a contact with the media as a reaction to administrative silence (probably, mistakes by financial (governmental!) administration are really what the media are interested in).

A few questions concerned institutional reaction to administrative silence directed to a particular employee held responsible for a lack of activity. The first question focused on supervisors' responses to the behaviour of employees resulting in administrative silence. The questionnaire offered a choice of six answers, and the last one was formulated in an open manner; a respondent had the possibility to add any types of reaction specific to her/his institution. The most common reaction of supervisors to a situation resulting in administrative silence was a reprimand; 61.7% of respondents ranked it as the first, but 16.7% did not mention it at all. Financial sanctions, such as fines or a decrease of income, seem to be the least popular; 67% of respondents did not mention them at all, although this type of sanction was mentioned more often by public officers of self-governmental administration (from various levels). Only 8.4% of respondents claimed that a transfer of a case to another employee or another department was a reaction to non-action in an institution. Apologies to a client also do not seem to be very common in public administration in the Subcarpathian province; only 6.6% of surveyed public officers ranked it as the first, 9.7% as the second, 14.5% as the third, and 13.2% as the fourth. Apologies seem to be more common among public officers of governmental administration (65.2%) than among public officers from self-governmental administrations. What is striking in the analysis of answers to this question is that a high number of respondents (63%) did not rank any particular sanction. It proves that reactions to behaviour causing administrative silence are not standardised in public administration and probably not very common.

Table 7

Question 5. What supervisor reaction to a behaviour of an individual employee, resulting in administrative silence, do you observe the most often in your institution?
(answers ranked: 1 – the most frequent reaction, 4 – the rarest reaction):

<p>Reprimand: Rank 1: 61% Rank 2: 9.7% Rank 3: 6.2% Rank 4: 5.7% Rank 0: 16.7%</p>
<p>Non-financial sanctions, other than a reprimand: Rank 1: 9.3% Rank 2: 20.7% Rank 3: 18.1% Rank 4: 8.4% Rank 0: 43.6%</p>

<p>Financial sanctions:</p> <p>Rank 1: 2.6%</p> <p>Rank 2: 4.4%</p> <p>Rank 3: 8.4%</p> <p>Rank 4: 17.2%</p> <p>Rank 0: 67.0%</p>
<p>Transfer of a case to another person or department in order to close it:</p> <p>Rank 1: 8.4%</p> <p>Rank 2: 20.7%</p> <p>Rank 3: 15.4%</p> <p>Rank 4: 11.5%</p> <p>Rank 0: 67.0%</p>
<p>Requirement of apologies for a client:</p> <p>Rank 1: 6.6%</p> <p>Rank 2: 9.7%</p> <p>Rank 3: 14.5%</p> <p>Rank 4: 13.2%</p> <p>Rank 0: 55.9%</p>
<p>No reaction:</p> <p>Rank 1: 11.1%</p> <p>Rank 2: 5.8%</p> <p>Rank 3: 4.0%</p> <p>Rank 4: 15.5%</p> <p>Rank 0: 63.7%</p>
<p>Other (what types of reactions?):</p> <p>Rank 1: 0%</p> <p>Rank 2: 0%</p> <p>Rank 3: 0%</p> <p>Rank 4: 0%</p> <p>Rank 0: 0%</p>

Public officers were also asked in the survey to express their opinion on necessary (the most desired) actions that should be applied by public administration. The greatest number of respondents (62.6%) ranked as the first giving priority to a case as soon as it is found out that so far an institution has been 'silent'. A much lower number of respondents (30.4%) mentioned solving a case in a manner that is satisfying for a client as the best reaction of an institution to administrative silence. Financial instruments, in the form of either compensation for clients or a fine imposed on an employee who contributed to administrative silence, were rejected by respondents. In both pillars of public administration, shares of particular answers from the total number of answers were quite close: the most popular response concerned prioritising the case (70.7% in governmental administration and 57.0% in self-governmental administration). Disciplinary proceedings are the least popular measures taken in the case of administrative silence; 54.3% of public officers from governmental administration and 60.7% from self-governmental administration did not give this answer at all. The results of the survey in this part suggest that both pillars of public administration – governmental and self-governmental – operate the same model of sanctions for administrative silence.

Table 8

Question 6. What are the most necessary instruments that should be implemented in the case of administrative silence from a client's point of view? (answers ranked: 1 – the most necessary instrument, 4 – the least necessary instrument)

<i>Solving a case in a manner that is satisfying for a client:</i>	Rank 1: 30.4% Rank 2: 41.9% Rank 3: 4.0% Rank 4: 9.7% Rank 0: 14.1%
<i>Giving priority to a case as soon as it is found out that so far, an institution has been 'silent':</i>	Rank 1: 62.6% Rank 2: 22.5% Rank 3: 2.2% Rank 4: 1.8% Rank 0: 11.0%
<i>Financial compensation for a client:</i>	Rank 1: 3.1% Rank 2: 4.8% Rank 3: 33.9% Rank 4: 15.4% Rank 0: 42.3%
<i>Fine imposed on a public officer who contributed to administrative silence:</i>	Rank 1: 5.3% Rank 2: 3.5% Rank 3: 17.2% Rank 4: 40.1% Rank 0: 33.9%
<i>Initiating a disciplinary proceeding against an employee who contributed to administrative silence:</i>	Rank 1: 3.0% Rank 2: 5.3% Rank 3: 13.7% Rank 4: 21.6% Rank 0: 58.1%

What is astonishing is that when asked about the existence of internal procedures to prevent administrative silence in their institutions, 19.4% of respondents answered that such procedures were non-existent, and 34.4% did not know if they existed. A comparison of results from governmental and self-governmental administrations shows that governmental public officers are better oriented on this issue; 60.9% of them know internal procedures in case of administrative silence, and only 36.3% of respondents from self-government have any knowledge of such procedures.

Table 9

Question 7. Do you know if any internal procedures preventing administrative silence have been established in your institution?

Answer	Share of the particular answer, %
Yes	46.3
No	19.4
I do not know	34.4

Public officers from the Subcarpathian province were also asked what category of liability for administrative silence would be the most effective as an instrument for counteracting administrative silence. Answers covering five types of liability (civil liability, financial liability, penal liability, employee's liability, and disciplinary liability) had to be ranked in reference to the effectiveness of the particular category of liability. Almost 1/3 of respondents consider employee's liability (i.e., intra-institutional liability) as the most efficient; 1/5 of respondents consider penal liability as the most appropriate measure to combat administrative silence; and less than 1/20 see civil and penal liability as the most efficient.

Table 10

Question 8. In your view, what categories of liability of public officers for administrative silence are the most efficient measures to counteract administrative silence? (answers ranked: 1 – the most efficient category of liability, 5 – the least efficient category of liability)

<p>Civil liability: Rank 1: 7.5% Rank 2: 9.7% Rank 3: 22.9% Rank 4: 24.2% Rank 0: 19.4%</p>
<p>Financial liability: Rank 1: 21.9% Rank 2: 19.4% Rank 3: 14.1% Rank 4: 14.5% Rank 0: 17.2%</p>
<p>Penal liability: Rank 1: 20.3% Rank 2: 22.5% Rank 3: 16.3% Rank 4: 7.9% Rank 0: 18.1%</p>
<p>Employee's liability: Rank 1: 27.8% Rank 2: 10.6% Rank 3: 8.4% Rank 4: 18.1% Rank 0: 9.7%</p>
<p>Disciplinary responsibility: Rank 1: 16.3% Rank 2: 20.7% Rank 3: 18.5% Rank 4: 15.4% Rank 0: 14.5%</p>

In the final part of the questionnaire, respondents assessed existing regulations regarding administrative silence. A criterion for this assessment was the effectiveness of these regulations seen as a real tool for preventing ad-

ministrative silence. It was found that 12.8% of respondents do not know any regulation on administrative silence, but 40.1% do not have any opinion of it (31.5% in governmental administration and 45.9% in self-governmental administration). A positive opinion on effectiveness of existing regulations was expressed by 43.5% of respondents in governmental administration and 27.4% in self-governmental administration. These results confirm that for public officers in the Subcarpathian province, administrative silence seems to be a rather alien topic.

Table 11

Question 9. Do you think that regulations regarding administrative silence are sufficient in terms of their effectiveness in the real prevention of administrative silence?

Answer	Share of the particular answer, %
Yes	33.9
No	13.2
I do not have any opinion	40.1
I do not know any legal regulations concerning administrative silence	12.8

Conclusions

The research on the Polish legal framework proved that Polish lawmakers operated a great number of instruments for combating or preventing administrative silence. The whole picture is unclear. Each of these instruments is described by different phrases, which makes the practical interpretation of these regulations difficult. Furthermore, some areas of potential administrative silence are worth regulatory intervention, whereas others are not. It seems that, at least in some cases, incentives to introduce a particular measure to counteract administrative silence were society's expectations and dissatisfaction caused by a lack of activity of public administration (an example is a fine of ca. 125 EUR for each day of delay in making an administrative decision on the basis of Construction Law (consolidated text: JoL 2020, item 1333), as a response to a problem of excessive duration of proceedings regarding construction cases that was negatively assessed by society). In recent years (2010–2017), a tendency in law-making was choosing measures/instruments aimed at guaranteeing efficiency and quickness in solving cases rather than forcing an organ to act. The research showed that the Polish legislators introduced plenty of phrases referring to administrative silence in legal acts (e.g., inaction, non-implementation, non-application, non-completion). But these phrases are applied in a chaotic manner, dependent on the linguistic preferences of those drafting legal acts. As a result, the total view of administrative silence in the Polish legal framework seems to be rather incoherent.

The Polish legal system lacks a systematic approach to administrative silence, even if the latter is understood in a narrow sense as an inaction and non-fulfilment of duties explicitly described in laws. This conclusion is confirmed in the results of the survey covering public officers from regional governmental and self-governmental administrations in Subcarpathia. The concept of administrative silence is not understood in a universal manner. Subcarpathian public officers are not convinced about the efficiency of existing measures to counteract administrative silence, and some of them do not even know these measures (the survey showed a degree of ignorance regarding internal procedures on administrative silence), even if they are established e.g. in CAP that constitutes the key basis for their every day work.

The state of Subcarpathian public officers' awareness regarding administrative silence results from the fact that public administration has been educated in accordance with an execution paradigm, and public officers focus exclusively on procedures attributed to their workplaces. This situation was shaped historically in Poland. The Polish lawmakers also made a choice: instead of introducing instruments universally applied in typical situations, casuistic instruments dedicated to a single law are created. Consequently, the Polish legal system lacks general principles and instruments that would be clear for either public officers or citizens. These characteristics of the Polish legal system are widely reflected in attitudes of public officers in Subcarpathia towards the problem of administrative silence. Surely, the research is worth repeating in other regions of Poland, but assumingly, the results will be rather similar – public officers are uncertain in their knowledge on the definition and the practice of administrative silence.

Undoubtedly, the collection of forms of public administration activities has been permanently growing in recent decades. Therefore, areas of administrative silence have been broadening. Legal means that can be applied for diagnosis and reactions for administrative silence have been adopted, with some delay: under these circumstances, Subcarpathian public officers' ambiguous attitude towards administrative silence can be justified.

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NEW SPACES IN THE PUBLIC ARENA: LEARNINGS FROM GIPUZKOA

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Abstract

The difficulties that European Welfare States are experiencing in order to respond to emerging social needs are making a re-configuration of the welfare system inevitable. In this sense, spheres such as the third sector are gaining special attention due to their role in the provision of welfare. This paper qualitatively addresses the interaction between public administration and the third sector using the example of welfare provision in the Province of Gipuzkoa. Specifically, our research focuses on the existing instruments for this interaction and the existing spaces for representation and interaction between both.

By means of a participatory approach based on qualitative techniques, professionals from the public administration and the third sector were given voice. Semi-structured interviews were carried out with nine participants considered by the research team as references in the field of the third sector. To complement and advance in the understanding of the information obtained, three discussion groups were also set up: two were formed by participants who are in charge of third sector organizations; and the third was made up of technicians from the Provincial Council of Gipuzkoa.

Altogether, the results obtained illustrate much confusion between both actors concerning how their relationships should be built, as traditional ways seem insufficient. Although the creation of the civil dialogue table seems like an alternative, it presents several difficulties in terms of ensuring the representation of all third sector organizations.

Keywords: Public administration; third sector; governance; Gipuzkoan model; welfare mix; representation; interaction; relations; qualitative research.

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The Third Sector in light of the reorganization of the Welfare mix

The combination of different spheres for the provision of welfare is by no means a new phenomenon, as the “welfare mix” or the welfare and care schemes are in the origins of the welfare state (WS). However, WSs in Europe are currently searching for new ways to organize these schemes, and the interest in the subject is becoming increasingly relevant from the political and academic perspective. Following Brandsen and Pestoff (2006), this growing concern is primarily due to the difficulty of welfare states to respond to existing social needs, which is linked to the existence of ideological motivations.

At present, the main feature of this reorganization is that the state is gradually losing its central role while the other spheres are taking on more responsibilities. In this sense, we follow the scheme proposed by Pestoff (1998), which integrates the State, the market, the Third Sector and the Community as the main sources of welfare. Moreover, Henriksen, Smith and Zimmer (2015) argue that concepts such as hybridity, collaboration, co-production or co-creation, as well as “welfare mix” itself, are gaining more attention due to the withdrawal of the State from the provision of welfare. Given this loss of centrality of the state, the role of the rest of the spheres is said to be increasingly prominent, especially the third sector (Bode, 2006; Salamon, 2015). It is important to add that in every country these schemes are organized in very different ways, depending on the existing needs, the historical evolution and the ideological motivations. For example, regarding the third sector, while in some countries its involvement in welfare provision entails a new governance model (Kolin, 2009; Nałecz, Les & Pielin’ski, 2015; Wathen & Scott, 2014), for others, as occurs in Spain, it represents the status quo (Brandsen & Pestoff, 2006; Brandsen & Pape, 2015). This means that the participation of the third sector in the provision of services is nothing new for the great majority of European countries, but its role is increasingly prominent.

However, although this political-territorial fragmentation leads to different models, the review of the literature on this subject indicates that there are a series of global trends reshaping the third sector and its function in the welfare states throughout Europe. One of the trends observed in particular is the process of ‘nonprofitization’ of the welfare states, in which governments increasingly seek the collaboration of the third sector in the provision of services (Salamon, 2015).

On the other hand, this growing role of the third sector in welfare provision seems to go hand in hand with the ‘marketization’ of the sector (McKay et al., 2015). Marketization is a process whereby organizations professionalize their activity by adopting management practices and further adjusting to the bureaucratic requirements of public administrations. Several studies (Clifford, Rajme,

& Mohan, 2010; Dart, 2004; Guo, 2006; McKay et al., 2015; Salamon, 1993; Teasdale et al., 2013; Eikenberry, 2009; Ekinberry & Kluver, 2004) analyze the process of marketization and the financing of third sector organizations. Originally, these organizations channeled the needs and demands of different social movements (Johansson et al., 2015), and while many have continued to be voluntary, community-based organizations, others have resulted in or have moved towards the provision of services and, therefore, have assumed a more commercial character. In other words, this process has led them to take on management and modes of operation which are more in line with the business world than with the associative one. One of the issues that exemplifies this trend is how the third sector's economic dependence on public administration has led it to become an 'extension' of the public sector and to adopt guidelines belonging to the bureaucratic culture of public administration, which has caused the contraction of its original purpose and function of channeling social demands and complaints (Izquieta, Callejo & Prieto, 2008). Additionally, Wathen and Scott (2014) point out that government funding can entice non state actors to service delivery areas or activities that may not fit an organization's "original mission".

For Milbourne (2009), the growing emphasis on competitiveness and the demands of collaboration frameworks undermine trust and cooperative work between organizations and also affect the community. Although these mechanisms can have visible short-term results for institutions, they diminish the work of local communities, which increasingly position themselves as one of the main allies or spheres capable of dealing with current social problems. This trend, adds Milbourne (2009), can be useful to improve the efficiency of the money received by the organizations, especially in relation to the provision of services, but it penalizes small organizations, which are more linked to the local and community level and are confronted with the most acute problems. Other organizations which, although small, adapt to institutional demands, inevitably distance themselves from their users and the community environment. Eikenberry (2009) argues that it is necessary to create a narrative that counteracts the prevailing marketization trend, and that helps to build a more human, just and cooperative society and future. Whether we defend one narrative or the other, the marketization of the third sector is also clearly a global phenomenon (Maier, Meyer, & Steinbereithner, 2016). In fact, the different narratives are considered two sides of the same coin, as they offer different answers to the challenges and dilemmas posed by the growing presence of the third sector in the provision of public services, and the growth of the organizations and the sector itself.

Spaces for representation and types of relationships between public administration and the third sector

The trends described above, and the role demanded and now adopted by the third sector determine not only its role in the provision of welfare within the welfare mix, but also its social function. This indicates that there is an asymmetric relationship between the third and the public sector, as a large number of organizations receive their funding primarily through agreements with public adminis-

tration, on which they are economically dependent (McKay et al., 2015; Nałecz, Les & Pielin'ski, 2015; Zimmer & Pahl, 2018). Therefore, although third sector organizations can be formally seen as independent of the state, in practice there is a complex relationship of interdependence, which varies in intensity, meaning and impact (Macmillan, 2015). In short, although it is assumed that the state and the third sector are separate spheres, in reality governments play a very significant role in the associative world and that of voluntary and community action. And, consequently, it can be inferred that the third sector finds itself in a clearly disadvantageous position vis-à-vis the state (Macmillan, 2015). This happens mainly because they are dependent on public funding, making them more compliant to the needs or demands of public institutions.

This clearly has its effect on the relationship with public administrations and on the correlations of power that are established. It should be noted that when referring to the types of relationships, we do not refer only to the classic modes of collaboration, such as agreements and subsidies, but to the existence of spaces in which information and reflections are shared concerning the welfare model that we wish to build and which role each sphere should play. The relationship established in each context is the logical result of the existing mutual interdependence and an effective way of organizing a wide variety of services (Salamon & Toepler, 2015), since the strengths of the third sector complement the shortcomings of governments in providing services, while governments complement the weaknesses of the sector through funding.

It can be affirmed that the role of the third sector in policy design is certainly limited compared to its role in implementation. However, there is an interest and a tendency to increase its participation (Nałecz, Les & Pielin'ski, 2015; Pestoff, 2009), since responding effectively to current challenges requires a new form of governance in which third sector organizations not only participate in the execution of policies, but also in their design and development (Salamon & Toepler, 2015). Although there is a growing trend for this participation, the debate revolves around how this participation can be made more effective.

In this regard, it has been pointed out that there are different collaboration 'styles' concerning relationships between different spheres (Oosterlynck et al., 2013) that have been classified, among others, by DiGaetano and Strom (2003), who identify five modes of governance (clientelist, corporatist, managerial, pluralist and popular), or by Najam (2000), who proposes the four C's to understand the different models of relationship between public administration and the third sector (cooperation, confrontation, complementarity, co-optation). However, apart from the decentralization practices, which are viewed as processes of 'devolution' to the more local levels of government and are seen as positive because they are more effective, participatory and sustainable (Oosterlynck et al., 2013), and apart from co-production with citizens (Pestoff, 2006, 2009, 2011, 2012) in the delivery of social services and provision of welfare (but not co-managing these services with the third sector), little attention has been paid to the specific instruments and spaces with which to carry out this governance or the coordination of the welfare mix, specifically between public institutions and the third sector. Particularly notable in this area is Ranci's contribution (2015) which reports on the evolu-

tion of the relationship between public institutions and the third sector. The author suggests different ways of innovation and improvement such as the creation of a new legal framework, greater competition in financing mechanisms, and new forms of coordination, among which the 'tables of discussion' stand out. These should involve local or municipal governments, third sector organizations, trade unions and representatives of local employers jointly defining common objectives and criteria for the distribution of funding. These 'tables' are a clear example of an instrument for coordination between the public and the third sector, as well as for the third sector's participation in the design of public policies.

Gipuzkoa as this study's setting

Gipuzkoa is one of the three provinces in the Basque Country (Euskadi), representing approximately 33% of the population in the region (720,595 inhabitants). Donostia/San Sebastián is the capital city, with 182,391 inhabitants (EUSTAT, 2020), which is 25% of the province's population. The rest of the population resides in urban conurbations, and therefore Gipuzkoa can be characterised as largely an urban and industrialised province. Furthermore, Gipuzkoa is known for the strength of its cooperative movement, also clearly visible in the social sector, where a strong and diverse range of third sector organisations play a central role in the welfare system of the province.

Within the third sector of Gipuzkoa, there is an underlying principle of subsidiarity which limits the sector's actions to those areas that public administration does not reach. This could be due to a long-established practice in the territory, which has gradually become part of the tradition of public policies (path dependence) through which they are understood in a shared, public-private, manner. This is what is commonly referred to as the 'Gipuzkoan model' of policy implementation (Ferran, 2017).

The public action framework of Gipuzkoa's local government's last legislature (2015–2019) was inspired by principles of public-private collaboration and the involvement of the third sector in managing public policies. These fundamental principles lie behind the "Etorkizuna Eraikiz – Building the Future" program, which founded the exercise of government powers over the past four years (Barandiaran, 2018) and will also determine, according to the newly elected responsible, the action program for the years ahead (2019–2023) (Olano, 2019). Behind this political – institutional momentum stands the current debate regarding the role of each of the actors involved.

Interaction instruments that currently exist, and therefore prompt the relation between the third sector and the public administration, can be distinguished as follows: the instruments for guaranteeing the provision of services, and the spaces for representation. The first kind of instruments refers to annual competitive subsidies or multiannual and more stable subsidies. In this sense, subsidies are important for the development of many initiatives and the implementation of social innovation programs, but they are precarious: rarely are they multi-year program plans, which makes it difficult to plan and implement these programs and the services that should be provided (Guiteras, 2012).

Agreements, on the other hand, have been useful instruments that have provided greater stability to the relation between the public administration and the third sector in the provision of services. Reality nowadays is being subjected to debate between this figure's continuity and the transition towards economic agreements, thus establishing greater control from the public administration towards the third sector.

Beyond the interaction instruments that currently exist, the research questions to be answered are the following: Which type of relationship should be established between the public administration and the third sector in Gipuzkoa?; Which are the existing interaction flows between the public administration and the third sector in Gipuzkoa?; Are new interaction instruments between the public administration and the third sector necessary in Gipuzkoa?

We hypothesize that:

- Traditional ways of relationships between the public administration and the third sector in Gipuzkoa are insufficient, making it necessary to think of innovative ways of building these relationships.
- Although the creation of new interaction instruments such as the civil social dialogue table may give voice and representation to the third sectors' organizations, its implementation should be viewed in relation to its functions and characteristics.

Method

The research on which this article is based was drawn from a wider project named "Estrategia para impulsar el Tercer Sector Social en Gipuzkoa – Strategy to promote the Third Sector in Gipuzkoa", commissioned by Gipuzkoa's Provincial Council and Deusto University and aimed to design and define the regional strategy in order to implement Law No. 6/2016, of May 12th, of Gipuzkoa's Third Sector.

This qualitative study was developed following different stages: First, an informative session was conducted with coordinators of 71 different organizations of Gipuzkoa's third sector and also with public administration technicians. They received detailed information about the nature and purpose of the study and were encouraged to express their concerns and suggestions regarding the implementation of the study. Second, professionals from the public administration and the third sector were given the opportunity to participate in the semi-structured interviews designed by the research team. More specifically, nine participants agreed to take part in this qualitative process (four technicians and five organization managers). Those that declined to take part at this stage either reported being too busy to participate or had already taken part in similar research processes throughout the year. These qualitative questions referred to the nature of the existent relationship between the public administration and the third sector (e.g., How would you describe the existent relationship between the public administration and the third sector in Gipuzkoa? Are there any difficulties in this relationship? If so, which ones?) and the existing instruments and spaces for this relationship to happen (e.g., Which are the existing interaction flows between the public administration and the third sector in Gipuzkoa?).

Interviews lasted 90 minutes approximately and were audio-recorded. The following table shows the participants main characteristics.

Table 1

Characteristics of the participants taking part in the interviews

Code	Category	Job Title	Sex
P1, P2, P3, P8	Public administration	DFG Technicians	3 Males 1 Female
P4, P5, P6, P7, P9	Third sector	Organization manager	2 Males 3 Females

Sources: Everywhere, unless otherwise specified – research by authors.

In order to obtain a better overview of the transcribed interview material as a whole, the authors of the manuscript read through the entire interview material of the interviews several times to identify key categories. In line with the process of thematic content analysis, carried out with Atlas-ti 7.0 software, these key categories were the basis to code the entire interview material. Once researchers were satisfied with the thematic coding framework, each transcript was coded, and each instance of difficult or uncertain codings and possible new categories that emerged from the data were noted. These codings were discussed and jointly decided and new codes were either created or collapsed into existing categories. The third step of analysis was to identify patterns among these categories.

Having analyzed the interview material and in order to advance in the understanding of the information obtained, three focus groups were developed. While 11 professionals from the public administration took part in the first focus group (FG1), the second (FG2) and third (FG3) focus groups involved 11 and 12 professionals from Gipuzkoa's third sector. The following table shows the participants main characteristics:

Table 2

Characteristics of the participants taking part in the focus groups

Code	Category	Job Title	Number of participants	Sex
Focus Group 1 (FG1)	Public administration	DFG Technicians	11	5 Males 6 Females
Focus Group 2 (FG2)	Third sector	Organization manager	11	5 Males 6 Females
Focus Group 3 (FG3)	Third sector	Organization manager	12	4 Males 8 Females

The main topics discussed when developing these focus groups also referred to the themes commented on in the interviews, the nature of the existent relationship between the public administration and the third sector and the existing instruments and spaces for this relationship to happen. More specifically, and in order to clarify and complement the information obtained in the interview process, researchers mainly focused on the identification of existing instruments and spaces in order to guarantee collaboration and cooperation between both actors.

The three different focus groups were also audio-recorded with the permission of the participants and transcribed. As with the semi structured interviews, data obtained was subjected to thematic content analysis carried out with Atlas-ti 7.0 software. Key-themes were identified and divided into sub-topics.

To deepen and to provide a broader range of information, a contrast session was carried out with the professionals taking part in the three different focus groups.

Analysis

This paper qualitatively addresses the interaction between the public administration and the third sector in Gipuzkoa. Specifically, our research focuses on the existing instruments for this interaction and the existing spaces for representation and interaction between both. The main issue of debate regarding public interaction between the third and public sectors in the historical province of Gipuzkoa refers to the existing instruments and spaces for representation and interaction. But ultimately, the question is not only which type of relationships should be established, but also how the information flows are structured, what spaces make this possible, and who is represented in them; because, in the end, it is the organization and structuring of public power together with funding which are the most controversial issues amongst third sector organizations and within the public administration itself which is, by definition, reluctant to yield excessive power and transparency to other representative agents of the territory.

The analysis of the interview material led to the identification of the following topics: spaces for representation and interaction; and new spaces for representation and interaction. Below follows a description and also examples of excerpts from the analysed material. These excerpts are chosen to illustrate the different points of view that emerged from the data and represent the content of the material as a whole.

Spaces for representation and interaction

Concerning spaces for representation, we also identify different dynamics and logics, as in the previous point. In the first place, the people interviewed describe the third sector's 'own' spaces, which can be considered 'networks' or spaces generated as a result of the dynamics of networking in the third sector itself. These spaces have emerged as platforms based on demands and common work goals. In this sense, the following quote describes three main networks and associations characterized by Gipuzkoan third sector's presence.

For example, in the province of Gipuzkoa there are networks and associations such as Sareginez¹ and Sargi², and also Gizalde³, since we also meet with third sector organizations that come to see us. P1, Public Administration.

Another space for representation is the one that has emerged between the third sector and public administration, about which serious doubts and questions are raised. Firstly, the public administration itself recognizes the meetings with technical staff, the agreement negotiations with the organizations or the calls for funding proposals as spaces for dialogue and representation. This idea is pictured in the narration of one of the participants:

Agreements are already, by definition, instruments of dialogue. In addition, there are the High Councils. And, if not, there is networking ... There is also another alternative, which we do not use too often, the financial support for social initiatives that can also be used to build relationships... P2, Public Administration.

In addition, both the third sector and public administration recognize the existence of representative councils of social areas in which many different organizations participate. In this sense, one of the participants describes having experienced feelings of weariness as third sector organizations are asked to take part in many different programs and initiatives thus questioning the efficiency of this participation.

I ask myself whether there are not any social councils in Gipuzkoa to channel these initiatives. I believe that, in the end, there are countless programs in which citizens are asked to participate, and we are represented in four or five places, always by the same people. I have the feeling that there are too many channels for participation, and I am not sure whether this is efficient in the end, because there are too many ways... FG2, Third Sector.

However, both sectors recognize that what is relevant is not so much the problem of the existence and structure of these spaces, but the opportunities they give people to really express their opinions and that these are taken into account, and consequently, the expectations that are generated around them. In fact, one of the main critiques observed when analyzing the transcribed material has to do with the lack of protagonism some of the third sector voices acquire. In this sense, professionals of the sector argue that although their presence is required in numerous meetings, the truth is that the relevant decisions are already taken even before asking them. These situations produce the feelings of boredom and weariness previously mentioned. This participant's narration reveals:

¹ Network made up of non-profit volunteer organizations, which work in the historical province of Gipuzkoa and carry out programs of general and social interest.

² Association for the Co-ordination of Social Organizations in Gipuzkoa.

³ Project launched by the Provincial Council of Gipuzkoa and Hezkide Eskola whose mission is to promote volunteering as a means of building an engaged and active civil society rooted in justice and solidarity.

Social engagement is very popular nowadays but by the time you arrive at a given meeting everything has been decided ... I think we are fed up of attending forums and meetings which take time away from what really concerns us, of going to places where they have us reinventing the wheel... and I insist, everything holds up on paper. And there is already a sense of boredom, and then we have to go to another forum ... I think many of us are already very tired. FG3, Third Sector.

Another problem linked to spaces for representation has to do with people, or rather with the organizations that participate in these spaces. In the third sector itself, there is also a debate regarding the capacity of larger organizations, which have more resources, to influence and engage in dialogue in comparison to smaller organizations, whose capacity for dialogue is limited. As seen in the following quote, the third sector's main concern has to do with the participation of smaller organizations. Participants defend the importance of giving them [smaller organizations] voice and protagonism as they also respond to existing social needs.

What we cannot allow is that four organizations, and we all know which ones we are referring to, have all the share of the cake. The voices of smaller organizations should also be heard. FG3, Third Sector.

In an attempt to find a solution to this issue, the participant in the FG2 points out that the organization's size should not be viewed as a barrier to participate in the different spaces. Even if large organizations have much more stable communication channels than smaller ones, this participant highlights the need for smaller organizations to be able to count on more stable and direct information channels and representation.

We can look at possible ways for them to be effective and that, in some way, every organization is represented regardless of its size (...), which would be the right thing to do. FG2, Third Sector.

New spaces for representation and interaction: The Gipuzkoan civil dialogue table

Thus, the key question of the work process, the need to create a new space for dialogue between the public administration and the third sector in the territory as has been required by a higher law, has raised many doubts in society itself. In this sense, some of these doubts are closely related to the lack of knowledge regarding the work objective of this new space which, in turn, leads to a certain degree of uncertainty among third-sector professionals who doubt the productivity of this space.

It is a question of setting an objective. I have the impression that we talk a lot, but no specific objectives are put on the dialogue table and depending on the objective we can decide how to organize everything. FG1, Provincial Council Technician.

Regarding the civil dialogue table that is to be set up, I do not know to what extent it is going to be productive. FG1, Provincial Council Technician.

Moreover, the existence of already established but not activated dialogue tables intensifies the feeling of uncertainty mentioned above, and therefore the need for new spaces for representation is again thrown into question. The following comment shows one participant's perspective:

Dialogue tables have already been set up but have not been opened. FG2, Third Sector.

This feeling of uncertainty is intensified if we take into consideration the discomfort that already exists among some third sector's professionals. Precisely, the following narration gathers a significant critique regarding the use given to existent spaces for representation. In this sense, this professional requires a better use of this new space, otherwise it will not be productive.

Now, if when we arrive, all the decisions have been made...and all we have to do is to agree with what the public administration wants to undertake according to its budget, that is another matter... FG3, Third Sector.

Clearly, we can distinguish different points of view among the third-sector professionals who support this initiative. Although participants express that this new space is not a brand-new initiative, it is seen as an opportunity and alternative for maintaining the communication channel with the public administration open. Here are the narrations of two of the participants:

If it is functional and executive, we are in favor of it. FG3, Third Sector.

I think it is positive that we can talk with the public administration, in this case through an organization. It is not exactly a new idea, but still... FG2, Third Sector.

Furthermore, one of the participants in the process opens the way for defining a possible aim for the functioning of this new space. In this sense, this person states that this new space should look for the participation of all the organizations in the third sector, regardless of their size, in order to identify their needs and channel them so that the public administration can provide them an answer.

If the purpose of this table is that associations get involved, that the needs of each association are identified, and if this table is an instrument for channeling those needs so that public administration can provide an answer, then I think that these tables should be supported. FG3, Third Sector.

In any case, there is a feeling that the existing interaction spaces, even those that could be created, do not respond efficiently to the elements of new governance, and that it is necessary to redesign both the spaces and the forms of interaction which make this possible by establishing trust relationships. But undoubtedly, it is regarding the instruments for interaction where more doubts about the future are raised.

Discussion

While it is true that New Governance and New Public Management (NPM) is often spoken of, they mean, at least in part, construction and creation of new spaces in the public arena. In this sense, it is worth discussing how and to what extent these particular instruments are being or will be designed in the near future. Following Subirats and Rendueles (2016), we do not know if there is no light at the end of the tunnel, or if we will be 'run over' by the train coming from the other end of the tunnel.

As Eikenberry and Kluver (2014) suggest, when the Third Sector organizations are integrated into the scheme and institutional culture of the public sector, they have to adopt their regulations, laws and schemes to be recognized or legally authorized by them, and thus be able to receive support. This process can lead to the deterioration of the contribution made by Third Sector organizations in creating and sustaining a strong civil society. This is justified by, among other reasons, the fact that it can have a negative impact on the defense of their founding values and social rights, as well as on the generation of social capital.

Hence, there is much confusion in third sector organizations (but also in public administration itself) concerning the way in which to build these relationships. The traditional ways (agreements, subsidies) seem insufficient and the ways in which public administration builds relationships (councils or spaces for representation) make it difficult to represent a rich and complex third sector and, strangely enough, only seem to satisfy the largest organizations. One of the alternatives offered by public administration to develop relationships is the creation of civil dialogue groups in which all third sector organizations are represented, as proposed by Ranci (2015). However, and at the expense of its implementation, it seems that this tool has the same limitations that we previously described in the case analyzed.

In this sense, it is crucial to consider what the functions and characteristics of these groups or 'tables' should be. Firstly, the issue on which public administration and third sector organizations will work must be clarified, i.e., if it is a sector-specific issue, an issue that affects the entire third sector, or whether it has an impact on the whole welfare system, etc. Another aspect to be taken into account is the efficacy or effectiveness of these organizations, i.e., their capacity to make decisions on the issues addressed, beyond their mere advisory function. And finally, it is also relevant to know what types of representation instruments should be used, i.e., how to ensure that all third sector organizations, which make up a broad conglomerate, are represented. In this last respect, one of the main criticisms directed at the third sector is the legitimacy of its organizations and how they can be legally authorized in order to demand from these institutions a closer dialogue and greater engagement in policy design (Taylor & Warburton, 2003).

On the other hand, the debate about these instruments shows that public authorities need to change their way of ruling and implementing policies. Nowadays, it is unclear if they are ready to do so. The path dependency of the institutions themselves and the resistance of the public servants to other ways of govern-

ance are still big enough. Are there going to be politicians with strong leadership to make these changes happen? There are no clear signs in this direction.

What, therefore, does new governance imply? How can representation be achieved? Undoubtedly, the common spaces where public administration and the third sector interact, also through third parties (such as universities), can play a key role in this structuring and in generating innovative experiences.

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UNIVERSITY TEACHERS IN SLOVAKIA AS A SPECIAL CATEGORY OF EMPLOYEES IN PUBLIC ADMINISTRATION: SOCIAL STABILITY OF EMPLOYMENT?

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Abstract

The main role of public administration is to administrate public affairs. All of the functions in this field are realised by employees carrying out the dependent work. Public administration, as an employer, has to fulfil the demand of stability and attractiveness of public sector employment. For the purposes of the study our attention focuses on a large group of public employees, namely teachers in public universities in Slovakia. Legislative regulation of the employment of university teachers is alarming. The paper analyses Slovak legislation of time-terminated employment contracts with university teachers and its unlimited repetition. The authors, supported by settled case law of the Court of Justice of the EU, assess the legislation in substance and critically, but also point to its potential impact on the private life, social security and health of these employees, i.e. psychological aspects. Descriptive analysis aimed at assessing quantitative changes in individual groups of university teachers according to the highest level of qualification was used to express trends in the development of quantitative indicators characterizing selected aspects of employment of university teachers (assis-

tant, assistant professor, associate professor, professor). Legislation on the employment of university teachers under the conditions of the Slovak Republic raises considerations of unequal treatment of two categories of university teachers (associate professors and professors) when compared to the category of assistants and assistant professors. For this reason, an analysis of the age structure of university teachers according to the highest qualifications was carried out. The analyses were carried out using data from the Center of Scientific and Technical Information of the Slovak Republic (CVTI SR) and the Register of University Employees maintained by the Ministry of Education, Science, Research and Sport of the Slovak Republic. The study was conducted for the reference term of 2011–2019. Through our analysis, we have identified a downward trend in the number of university teachers qualified as assistant professors in the 40–49 age category, and this change does not reflect the increase in the number of associate professors in the same age category. The group of university teachers in this age category then becomes vulnerable/disadvantaged in the labor market, which has serious social consequences for the employees themselves and provides a picture of the university environment in terms of legislation.

Keywords: employment; public administration; university teachers; descriptive analyses of university teachers; social security; the Slovak Republic.

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Introduction

University teachers are a category of employees in public administration, whose legal position in the legal order of the Slovak Republic is not without doubt. There are no clear opinions in the literature and discussions on the legislative regulation of some aspects of their employment relationships. The practices of some universities in the exercise of the social rights and freedoms of university teachers in the performance of dependent work vary, particularly on the fundamental issue of temporary employment arrangements. The topic of dependent work is further discussed, for example, by Štefko (2013).

The selection of topic was influenced by the fact that little attention is paid to the stability of the performance of dependent work of university teachers. We consider it as a challenge that we have not recorded detailed, comprehensive research studies examining whether national legislation is friendly to this category of employees, whether the performance of such employment is currently trendy and whether such employment is dignified with a reflection on social stability, etc. We offer summary pilot considerations that are of interest to provoke discussion in the scientific space so that further related studies are focused on detail. We consider this study to be a summary of current legislation (also with regard to case law) and quantitative context (on development of the number of university teachers according to pedagogical qualification and age with

a focus on analysing changes in the age structure of university teachers taking into account different qualifications to define in which age of teachers there is a breakthrough in the gradual increase of qualifications and possible termination of employment due to the instability of this employment).

Literature review

The labor status of university teachers has its basis in Act No. 131/2002 Coll. on universities as amended (legal act on universities). Other specifics of their employment are regulated by Act No. 552/2003 Coll. on performance of work in the public interest and general legal aspects of this legal relationship are regulated by the Labor Code.

The starting point of the examination is the fact that university teachers are not entitled to conclude their employment relationship with a university for an indefinite period of time, which is merely substantiated by the provision of § 77 par. 2 to 4 of the legal act on universities. It is a remarkable and unusual arrangement that provides for the treatment of teachers which does not provide an outlook on the stability of the employment relationship that would implicitly result from an employment contract negotiated for an indefinite period of time (Barinková, 2011).

The employment relationship with university teachers can be agreed upon for a maximum of five years on the basis of a selection procedure and for a maximum of ten years in medical and pharmaceutical fields. The limitations on the number of fixed-term employment relationships are still missing in the Slovak legal act on universities. The only exception is the appointment of associate professors and professors who, on nine years of service at the earliest, and on condition that they have filled this post at least three times, have the right to conclude a fixed-term employment contract and to be assigned to that post by the age of 70. At the same time, pursuant to § 77 par. 1 of the legal act on universities, the selection procedure to fill the position of professor and associate professor is also a selection procedure to fill the position of university teacher. Teachers in lower positions than professors and associate professors are not given the prospect of social security by determining the maximum duration of fixed-term employment relationships, nor by determining the maximum number of repetitions.

The wording of Article 48 of the Labour Code, in conjunction with the provision of Article 77 of the legal act on universities, does not provide sufficient legal possibilities for the realization of contractual freedom, i.e. flexibility, but above all the necessary level of social status protection for thousands of qualified employees capable and willing to participate in forming the personalities and educating the student elite of the nation in such a way that their own legal status at work would reflect the significance, social importance of the profession and the requirement of stability in their employment relationship.

Considering the premise that the work of a university teacher is, by nature, work where the academic, professional knowledge and pedagogical-psychological readiness and maturity of the teacher are intertwined, with the continuing process of education and scientific research and the use of scientific research

results, we state that their work qualitatively forms students in a significant way. By investing in education, we invest in the human population and participate in the formation of future generations (Horváthová, Čajková, 2019). A. Coronado-Marín, M. J. Bautista-Cerro and M. A. Murga-Menoyo, in their study, state that “It is confirmed the need for institutional strategies to strengthen the training of both groups, students and teachers, in the competencies that sustainable development demands” (2020, p. 1021).

(The need for institutional strategies to strengthen the training of groups, students and teachers in competences that require sustainable development is confirmed (ibid.)) It cannot be accepted that teachers’ work should be at the level of, as a rule, occasional, short-term employment or fixed-term contracts.

The argument for a longer time horizon is, for example, the necessity of further qualification progress on the basis of the legal standard on the obligation to educate in order to obtain a scientific-pedagogical title, implementation of projects, research tasks, etc. Any short-term employment period limits the achievement of these objectives. Incorrect are the cases where the employer is led by a bad and bullying intention to keep an employee tense and worried about his job to conclude an employment contract for only a year or two. It happens that he is forced to agree on obligations beyond the possibilities of the teacher to which the teacher commits under the pressure of the threat of non-renewal. But often again only for a year or two which discourages him from working on projects and meeting other conditions for professional growth. The existing legal regulation on the renegotiation of fixed-term employment contracts must be respected, but the exercising of the employer’s right to extend the employment contract must not be linked to the intention of harming the employee or misrepresenting his social and working status. The outputs from the solution of the research task of Urdziková and Kardošová (2016) appeal to the necessity by law to establish the length of fixed-term employment contracts with university teachers lasting at least three years.

The legal regulation of the chaining of employment contracts with university teachers limits contractual freedom; the vocational crisis, the emotional burden, the psychological feeling of insecurity including job insecurity, helplessness in any way to affect the duration of the employment relationship and its synchronization with the demands placed on the teacher, resignation, gradual frustration of the employee and insecurity in relation to the employer, etc. There is often a negative emotional experience of the situation, but also psychological overload, when the teacher is aware of the conflict between the requirements for maintaining his job, which are sometimes conducted with dishonest intent, and his real possibilities to perform the desired performance. Employment insecurity and weakened teacher motivation are further specified in Cao, Shang, Meng (2020), where they examine the motivation to teach students in relation to personal expectations of exhaustion from work.

“Teacher self-efficacy (personal resources) negatively predicted exhaustion and indirectly related to innovative teaching via teaching motivation” (Cao et al., 2020, p. 1). As in other disciplines, university teachers are facing a trend of digitization and new technologies and have to keep moving forward.

According to L. Starkey (2020), a certain stressful aspect is also caused by the increasing impact of the digital era. As schools and teaching evolve as a result of the integration of technologies, teacher preparation will also change. Anxiety and fear cannot be a stimulating factor for higher quality performance. The issue (on the impact of various job demands on burnout) of burnout from work is specified in a study by Bakker and Demerouti (2017).

In this context, it is very important to maintain a passion for education for future generations. Day (2004), in 'A Passion for Teaching', offers a refreshing and positive view. "A Passion for Teaching is a contribution to understanding and improving the teaching profession and brings new insights to the work and lives of teachers" (Bakker and Demerouti, 2017). Coronado-Marín, Bautista-Cerro and Murga-Menoyo (2020) state that there is a need for institutional strategies to strengthen the professional preparation of groups, students and teachers in competences that require sustainable development.

The cumulative negative feelings of self-experience, excessive work tasks that usually exceed working hours, or even psychological pressures and job insecurity, create an unfavorable psychosocial environment, not only in the workplace but also in the privacy of the teacher due to the blurring of the boundaries between work and private life.

Data and Methods

The aim of the study is a critical analysis of the legal regulation of unlimited repetition of fixed-term employment contracts with certain categories of university teachers and the search for answers to several research questions. These relate to the quality of the law enabling the negotiation of fixed-term employment contracts without a limit on their number, as well as the possible effects on the psychological experience of re-concluding employment contracts. One of the authors dealt with this issue in a separate study (Barinková, 2018). There is no aim to pay special attention to this secondary effect, but although we state that the psychological consequences of temporary employment, this issue problem is not investigated in this study, but postulated as a normative assumption.

The answers are sought both through the argumentation of the critical attitude to the legislation, the results of the settled case law of the Court of Justice of the EU (hereinafter also the Court), and through quantitative data analysis on selected indicators of employment of university teachers (including research and artistic workers of universities).

With regards to the given aim of the article, we specified research questions that focus on the selected topic of the quality of the law enabling the negotiation of fixed-term employment contracts without a limit on their number, as well as possible effects on the psychological experience of re-concluding employment contracts:

1. We are considering whether the transposition of Directive 1999/70/EC on the framework agreement on fixed-term work (hereinafter referred to as the Temporary Work Directive or the Directive) has been done correctly,

in line with its objective and whether the legal status is based on fundamental principles of Slovak public law as well as European labor law standards?

2. Is it possible to assume a connection between the absolute increase in the number of professors and associate professors in comparison with the decrease in the number of professional assistants and assistants in the same observed period?
3. The changes in the age structure of university teachers, taking into account different qualifications, determine at which age teachers face a breakthrough in qualification improvement and possible termination of employment due to the instability of the job. Is it possible to conclude that the instability of fixed-term employment with teachers contributes to the decision to terminate employment?

In terms of the use of scientific research methods (as well as sociological method), for the merits of the definition, we proceeded from the *de lege lata* legal status analysis using a systematic qualitative analysis of legislation that examines the dynamics of a particular event in terms of its legislation. The researched issue is quite extensive, for its explication we used the valid legislation. Among other methods of scientific knowledge, generalized abstraction was used to draw conclusions, comparison method, analytical-synthetic method, mostly in the part of the penetration into legislative sources, as well as citation content analysis used in the interpretation of case law and other related documents. We have also applied a semantic analysis, which makes it possible to penetrate the terminology of the researched issue as the basic postulate necessary for interpreting the content of the legal text.

In the presentation of evaluation attitudes and conclusions, in addition to logical procedures, the method of causality and deduction, generalization and the search for analogies were applied. The system approach was also used. Descriptive statistical and imaging methods were used to express trends in the development of quantitative indicators characterizing selected aspects of employment of university teachers. Besides the above given methods, we used methods typical for sociological research, such as methods of induction, deduction, abstraction, generalization and analogy.

The data sources were drawn from the database of the Center of Scientific and Technical Information of the Slovak Republic (CVTI) and the Register of University Employees maintained by the Ministry of Education, Science, Research and Sport of the Slovak Republic in accordance with Section 80b par. 1 of Act no. 131/2002 Coll. on universities as amended. The study was conducted for the reference term of 2011–2019.

Preventing the chaining of employment in the decision-making activities of the EU Court of Justice

A Fixed Term Work Directive provides a framework to prevent the unlawful use of recourse to fixed-term employment contracts and relationships and also aims to prevent discrimination. An EU Member State may, in agreement with the social partners, take into account the conditions in each sector and

profession, including activities of a seasonal nature (General Aspects, Point 8 of the Framework Agreement).

However, according to the judgment in Case C-238/14 *European Commission v Grand Duchy of Luxembourg*, paragraph 51, when implementing clause 5(1) of the Framework Agreement, the State cannot interpret its right to take into account the needs of relevant fields as a right that is provided by this field to the state and, as such, the possibility to get rid of the obligation to accept relevant measures to eliminate the abuse of enclosing fixed-term contracts or eventually the punishment. If the state is referring to an objective such as the flexibility of fixed-term employment and thus relieving itself of the obligation to take safeguard measures, it is contrary to one of the objectives of the framework agreement, which is the stability of employment as a paramount element of employees' protection. Contrary to the objective of the Framework Agreement, is the reduction of the category of persons benefiting from safeguard measures under Clause 5.

Under Clause 5(1), Member States which do not have equivalent legal measures to prevent unlawful conduct are required to take at least one of the preventive measures provided for in clause 5(1) (a), (b), (c) of the Framework Agreement. Apart from two of these measures, which the Slovak legislature has not included in the legal act on universities in relation to university teachers in positions lower than associate professor and professor (see text above), there is still the possibility of extending employment contracts for objective reasons.

Approaches to the explanation of the concept of 'objective grounds' for recurrent fixed-term employment contracts have been clarified by the Court of Justice in a number of cases. Several decisions are known from the older matters discussed, for example, in Case C-364/07 *Vassilakis*. The EU Court of Justice has stated that, where national law does not contain other effective measures to prevent abuse of fixed-term contracts, it is not consistent with the Temporary Work Directive. If the law of the State, as in the *Vassilakis* case, prohibits the reclassification of fixed-term employment contracts exclusively in the public sector, which are intended to satisfy the employer's long-term and long-term needs for contracts of indefinite duration, they must be regarded as an abuse of rights. However, it is for the national court to determine whether the national legal order contains such effective measures, on the basis of the obligation to interpret in conformity.

More recent cases, for example, in *Joined Cases C-22/13, Mascolo, C-61-13, Forni, C-62/13, Racca* (hereinafter – *Mascolo and others*), show that 'objective grounds' – under clause 5(1) (a); (a) of the framework agreement must be understood as referring to the precise and specific circumstances characterizing the intended activity and can therefore justify the repeated conclusion of fixed-term employment contracts. Those circumstances may arise, in particular, from the specific nature of the tasks for which the contracts were awarded and the characteristics attached to them or, where appropriate, from the pursuit of a legitimate social policy objective of a Member State. (The decision of the EU Court of Justice linked cases *Mascolo and others C-22/13, C-61/13, C-62/13.*, Point 87 dated November 26, 2014. Also, the decision of the EU Court of Justice, dated January 26, 2012, in the case C-586/10 *Kücük*, Point 27).

The Court also stated in *Mascolo* and others that a national provision which, in general and abstract terms only permits the conclusion of fixed-term employment contracts on the basis of legal and sublegal norm, does not comply with the requirements of the concept of 'objective reasons'. Such a provision is purely formal, it does not make it possible to establish objective and transparent criteria in order to ascertain whether the renewal of such contracts satisfies a genuine need, whether it is capable of attaining the objective pursued and necessary for that purpose. Such a provision carries a real risk of abuse of this type of contract and is therefore incompatible with the objective and necessary effect of the Framework Agreement. (Decision of the EU Court of Justice in the case of *Mascolo*, Point 88; Decision in the case of *Küçük*, Point 28 and 29; Decision in the case C-364/07 *Vassilakis*.)

We believe that the Slovak Legal Act on universities does not fulfil the purpose of Clause 5, Point 2, letter a) and (b), which requires the State to determine the conditions under which fixed-term contracts are to be regarded as being concluded and concluded for an indefinite period. However, as is apparent from the judgment in *Mascolo*, paragraph 80, the Directive does not impose an obligation on States to provide for an amendment to a fixed-term employment contract of indefinite duration. General legislation on fixed-term employment, contained in the provisions of Section 48 of the Labor Code permits the extension or renewal of employment for a fixed term of up to two years or more than two years with a university teacher or an employee of science, research and development, even if there is an objective reason of science, research and development established by a special regulation. Thus, the diction of the Labor Code refers to an objective reason which, according to its wording, should be laid down by the legal act on universities.

However, this law does not specify or even suggest an objective reason for the eligibility of the chain of fixed-term employment contracts. What legitimate social policy objective is pursued by allowing uncontrolled chaining of fixed-term contracts? However, the absence of an explicit target does not necessarily mean that no target is being tracked. The Court also dealt with cases in which the national legislation did not express an opinion on the objective it would pursue. However, this does not mean that it did not pursue such an objective.

In the *Georgiev* case as well as in *Petersen*, in the absence of an objective in law, the Court stated that the underlying objective can be inferred from other circumstances based on the general context of the measure. That is for the purposes of examining by the national court whether the objective is justified and if the used means are necessary to attain it. (Decision of the EU Court of Justice, in the case of *Georgiev*, Point. 40; also the decision of the EU Court of Justice dated January 12, 20210 in the case of C-341/08 *Petersen*, Point 40.)

In *Petersen*, paragraph 56 it was made clear that from Article 6(1) of Regulation No.2000/78/ES establishing a general framework for equal treatment in employment and occupation (hereinafter the Equal Treatment Directive) that the absence of a well-defined objective pursued in national legislation would automatically preclude it not being justified pursuant to this provision.

Prohibition of discrimination due to age – legal limitation of the duration of the employment

Slovak legislation allows an unlimited number of renewal of fixed-term employment contracts, with the exception of contracts relating to the appointment of associate professor and professor. We recall that the posts of associate professor and professor are, according to the law, at the same time classed by occupation as university teachers. In addition, a minimum of nine year duration of the position and at least three times repeated resettlement do not lead to the transformation of fixed-term employment contracts of associate professors and professors into an indefinite period of employment. They are legally entitled to a (further) contract (and again) for a fixed period of time. This is defined by a longer period of time until the age of 70.

The legislation, as set out here, makes it necessary to reflect and consider the unequal treatment of two categories of university teachers (associate professors and professors) in comparison with other categories, generally beginner or younger colleagues. Council Directive 2000/78/EC permits different treatment only in very limited circumstances where religion or belief, disability, age or sexual orientation is an essential and decisive requirement of the profession and where the objective is justified and the requirement of proportionate (paragraph 23). Under Point 25 of the Directive, the difference in treatment on grounds of age may, in certain circumstances, be justified, in particular, by legitimate employment policy objectives in the field of employment, labour market and professional training and discrimination which must be prohibited.

Judgment of the ECJ in Joined Cases C-250/09 and C-268/09 Georgiev and other contains a statement according to which national legislation provides for compulsory retirement for university professors who have reached the age of 68 and allows them, after reaching the age of 65, to continue their activities only through fixed-term contracts of one year, with the possibility of extending them twice as long as it pursues the legitimate objective of employment policy and the labor market, namely to ensure the quality of education and to optimize the allocation of professions between generations, and does not conflict with Council Directive 2000/78 / EC.

In Case C-45/09 Rosenbladt, the Court of Justice of the EU stated that Article 3 (1) of Directive 2000/78 / EC is to be interpreted as not precluding a measure such as the automatic termination of employment contracts of workers who have reached the retirement age of 65 years, provided that this regulated in a collective agreement of general application for employees of companies providing building cleaning services. The automatic termination of contracts of employment for workers who qualify for a retirement pension has long been part of the labor law of many Member States.

This mechanism relies on a balance between political, economic, social, demographic and/or budgetary reasons and depends on the decision to either extend the working life of employees or to adjust their early retirement (Rosenbladt, paragraph 44). The provisions on the automatic termination of employment contracts by reason of the retirement age cannot, in principle,

be regarded as a disproportionate interference with the legitimate interests of the concerned employees.

Such legislation takes account of the fact that the persons concerned receive a retirement pension at the end of their professional career (Rosenblatt, paragraph 48; Palacios de la Villa, paragraph 73). Competent authorities must be able to change the means to achieve a legitimate objective, e.g., by adapting them to the employment situation in the state. It is not substantial that compulsory retirement (in Spain) was reintroduced after it had been abolished for several years (Palacios de la Villa, paragraph 70). The task of finding a fair balance between the various interests involved lies with the Member States, using the means appropriate and necessary to achieve the objective pursued (*ibid.*, paragraph 71). The use of labor market policy instruments is at the discretion of the national court.

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We believe that the purpose of the Equal Treatment Directive is not contradicted by the substance of the Slovak legislation on the termination of employment of university teachers by reaching the age limit. We consider it an expression of a compromise between the needs of universities to renew the teaching staff, to balance its age structure and to create conditions for cooperation of different age categories. In our opinion, the practical implementation of § 77 par. 4 and par. 6 of the Legal act on universities: acquires the right to an employment contract with that university as a university teacher and to be assigned to that post (professor or associate professor) for a fixed term up to the age of 70. This means that at the age of 70, a professor or associate professor is legally terminated in one of these positions, but does not end his employment. This will not end until the end of the academic year in which he/she has reached 70, unless he/she has finished earlier for various reasons. There may be several days, weeks, or months between the age of the academic year and the end of the academic year.

The law does not give an answer as to what position the teacher will remain in until the end of the academic year, when it says elsewhere that teachers work in positions ranging from lecturer, assistant, assistant professor, associate professor to professor. And the functions in which they operate are filled by selection. It is unreasonable for a teacher to pass a selection procedure to fill a post lower than associate professor or professor for a period until the end of the academic year. We believe that it would be more appropriate to combine the function of professor and associate professor with the termination of employment

by the end of the academic year in which he/she has reached the age of 70. This can be justified by the fact that the post of associate professor and professor is at the same time the occupation of the job, so it could also be the other way round – by terminating the function due to the age – also the occupation of the position would end.

Termination of employment by reaching the age limit laid down by the national legislation has on several occasions been the subject of an assessment of its compliance with European law, prohibiting age discrimination. In the Mangold case the EU Court of Justice stated that the prohibition of discrimination is a fundamental human right already contained in primary law of the Union and constitutes one of its fundamental principles (Mangold, paragraph 75). The Court has held that legislation which, as the sole criterion for the application of a fixed-term employment contract, considers the age of the worker without proving that the age limit is not dependent on other criteria linked to the labor market policy and personal situation of the person and it is not objectively necessary for the achievement of the objective of professional integration of older unemployed workers, shall be considered as exceeding the framework of proportionality and necessity.

Proportionality expresses that any exception to subjective law must, as far as possible, comply with the requirements of the principle of equal treatment and the objective pursued (Mangold, paragraph 65). General advocate Mazák did not agree with some of the Court's conclusions in Mangold and expressed his views in the Statement of the case Palacios de la Villa. It concerned the possible impact of the general principle of non-discrimination on grounds of age as applied in Mangold, doubting the correctness and convincing nature of that construction. The conclusion that the existence of the prohibition of age discrimination on the general principle of equality, as the EU Court of Justice said, is not convincing. Only a few states recognize in their legislation the specific principle of age discrimination, for example, it is contained in the Finnish Constitution. Other countries regulate the general legal principle of equal treatment. In this respect, it is worth noting that at the age of 70, a professor and associate professor at a Slovak university are materially secured by an old-age pension due to the fulfilment of legal conditions; therefore any worries about social security at old age are not relevant. (Statement of the General advocate Mazák dated February 15, 2007 in the case C-411/05 Palacios de la Villa).

Analysis of the development of the number of university teachers in the Slovak Republic

The above-mentioned legislative bases also significantly influence the trends in the development of the number of internal university teachers taking into account changes in their positions (assistant, assistant professor, associate professor and professor) and qualifications (secondary and tertiary education, associate professor with tertiary education and professor with tertiary education) at public and state universities in Slovakia. The analysis does not include private universities operating in Slovakia, as they are not subject to statutory restrictions in terms

of the length of service for a fixed term. The legislature permits the conclusion of employment contracts for an indefinite period of time. Therefore, in the context of social stability of employment, we focus only on public and state universities operating in Slovakia.

In the analyses we focused on the changes in the age structure of university teachers, taking into account different qualifications, to determine at which age teachers face a breakthrough in qualification improvement and possible termination of employment due to the instability of the job. In this section we will present a descriptive analysis of selected laboratory indicators for the Slovak Republic in 2011–2019 (the most recent year as of writing this paper). The development of the year-on-year percentage change in the number of internal university teachers by qualification (Fig. 1) is used. For the analysis we have used data from CVTI and the Register of the university employees.

When assessing the total number of university teachers (regardless of qualifications), there is no significant quantitative decline (Figure 1, Table 1) throughout the reference period (the percentage change varies from -2.24% to +0.51% over the reference period). We only see a slight downward trend. In the period under review, there was a significant decline after 2014 (-77 university teachers), with the most significant decrease in 2016 (compared to 2015, the number of university teachers fell by 2.24%, i. e. 220,220 teachers).

Figure 1: Development of the year-on-year percentage change in the number of internal university teachers by function at public and state universities in the SR



Source: CVTI SR

Table 1

Development of the number of internal university teachers by function at public and state universities in the Slovak Republic

Year	Universities	Faculties	Total		Professors		Assistant professors		Assistants		Others	
			Between year difference	Total % change	Between year difference	% change professors	Between year difference	% change assistant professors	Between year difference	% change assistants	Between year difference	% change others
2012/2011	23	111	-28	-0,28	14	0,98	96	4,44	-133	-2,30	-5	-0,98
2013/2012	23	111	50	0,51	33	2,29	14	0,62	-13	-0,23	16	3,16
2014/2013	23	111	17	0,17	50	3,39	162	7,12	-176	-3,13	-19	-3,64
2015/2014	23	111	-77	-0,78	-40	-2,63	8	0,33	-69	-1,26	24	4,77
2016/2015	23	111	-220	-2,24	-11	-0,74	-14	-0,57	-140	-2,60	-55	-10,44
2017/2016	23	111	-127	-1,32	-35	-2,38	41	1,69	-131	-2,50	-2	-0,42
2018/2017	23	111	2	0,02	-16	-1,11	22	0,89	-16	-0,31	12	2,55

Source: CVTI SR.

From the beginning of the monitored period from 2011 to 2014, the number of professors increased (by 97 professors). In the following period (until 2018) the number of professors decreased by 102. In the same period, there was a significant increase in the group of associate professors (by 272), while the number of assistant professors decreased overall by 322. The given quantitative changes indicate a trend in the qualification growth of assistant professors and assistants with a higher growth in the number of associate professors. The most significant change is the increase in the number of associate professors in 2014 (in comparison with 2013, the number of associate professors increased by 162, which is an increase of 7.12%). During the whole monitored period the number of assistant professors has been decreasing with the most significant decrease in 2014 (a decrease of 176 assistant professors); a decrease in assistant professors is monitored also following the year 2015.

If we assume that the group of assistant professors have increased their qualifications and become associate professors, the associate professors group would have to increase. According to the data (Table 1) we conclude that this decrease is not compensated by an aliquot increase in the number of associate professors and professors, suggesting that probably not all assistant professors have habilitated as associate professors, but rather some of them have probably terminated their employment. Based on the quantitative data presented in Table 1 we can confirm the assumption expressed in research question no. 2, that we found a connection between the absolute increase in the number of professors and associate professors in comparison with the decrease in the number of professional assistants and assistants in the same monitored period. The same findings are also in the group of professors and associate professors in the same reference period, while the recorded decreases are in the number of professors and associate professors.

These findings confirm, among other things, that the profession of university teacher reflects social instability and a lack of attractiveness of employment. We do not exclude, however, that there may be several causes of disproportionate changes in the number of teachers by function. For example, the development of the student population, changes in the habilitation and inauguration criteria, etc. It would be expected that even with an overall decline in the number of teachers, there would be a qualitative shift towards a higher qualification level, but the data from Fig. 1 and Table 1 indicate that there is no natural increase in the number of higher-level university teachers (associate professor and professor). With a certain degree of generalization, we can state that there is a tendency in the group of assistant professors to disregard the pursuit of this profession. One of the reasons influencing the decision of an assistant professor to stay in employment may be the examined legislative aspect – instability of fixed-term employment as well as unpredictably changing conditions of habilitation, time limits of acquired rights to carry out habilitation procedures at public universities, as well as difficult access habilitation for teachers from workplaces that do not have habilitation rights.

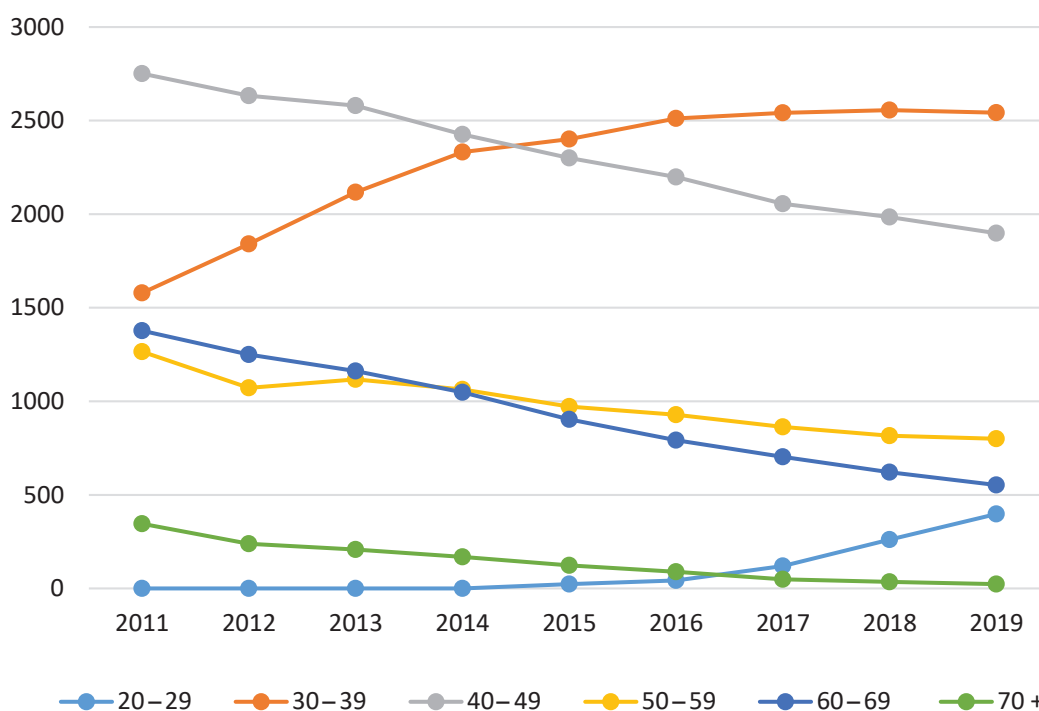
In this context, it is requested to supplement the examination with an analysis of the age structure of university teachers according to the highest qualifications, taking into account the type of full-time employment (men and women together). We used data on the number of university teachers by age category, whereas data were only available in the database if they were over 20. Table 2 shows the year-on-year changes in the number of university teachers by qualification and function (A – assistant professor, AP – associate professor, P – professor).

Table 2

University teachers by age group

Age group (year)	2012/2011			2013/2012			2014/2013			2015/2014			2016/2015			2017/2016			2018/2017			2019/2018		
	A	AP	P	A	AP	P	A	AP	P	A	AP	P	A	AP	P	A	AP	P	A	AP	P	A	AP	P
20-29	-	-	-	-	-	-	-	-	-	23	-	-	20	-	-	77	-	-	141	-	-	137	-	-
30-39	262	25	-	276	9	-	215	43	-	69	21	-	110	32	-	30	42	-	15	68	-	-14	72	-
40-49	-118	93	-	-53	91	-	-154	134	37	-126	55	17	-102	35	20	-143	53	21	-71	45	29	-86	54	33
50-59	-193	46	35	45	-3	30	-54	34	28	-91	14	21	-44	-4	20	-65	13	23	-47	-33	29	-16	-8	26
60-69	-127	9	21	-88	-10	36	-114	-21	15	-145	-19	32	-111	-50	12	-89	-31	-21	-82	-55	33	-68	-45	-11
70 +	-107	-51	-18	-31	-55	-21	-39	-39	-5	-46	-61	-64	-34	-60	-31	-40	-56	-38	-14	-50	-51	-12	-63	-54

Source: Register of University Employees of the Slovak Republic, Author's calculation.

Figure 2: Assistant professors by age groups (years)

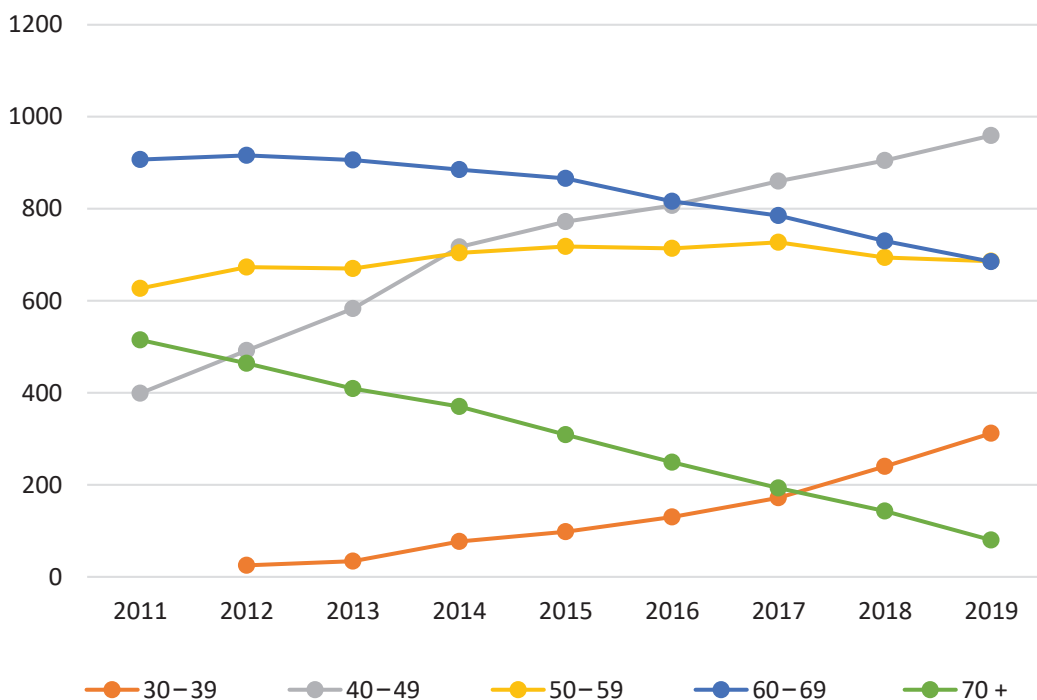
Source: Register of University Employees of the Slovak Republic, Author's calculation.

By analyzing the time series of the number of university teachers by qualification, we found that the breakthrough age occurs around the age of 40 (Tab. 2). The age of 40+ is a period of social responsibility in relation to family, material security and the future. It is a period of the most significant economic activity also in the context of reconciliation of work and family life. It is also a period of necessity of social stability of employment also in the context of responsibility for material security in old age, i.e. in retirement age. It is therefore alarming that the number of university teachers with second and tertiary degrees (assistants, assistant professors) is decreasing, and this decline does not follow the increase in the number of associate professors with a tertiary degree of education (Fig. 2; Tab. 2).

This phenomenon is particularly evident after 2014 (for example, in 2015, the increase of associate professors and professors compared to the number of assistant professors is lower by 54, in 2016 it is lower by 47, and in 2017 it is lower by 69 professors and associate professors compared to the decrease in the number of assistant professors). When examining trends in associate professor qualifications, there is a visible trend towards an increase in the number of associate professors in the 30–39 age range, but also in the 40+ age range (Fig. 3; Tab. 2), confirming our assertion that at the age of 40- the university teacher is at his life's crossroads when deciding whether to upgrade his qualifications (if available). If this is not possible, it will also terminate the

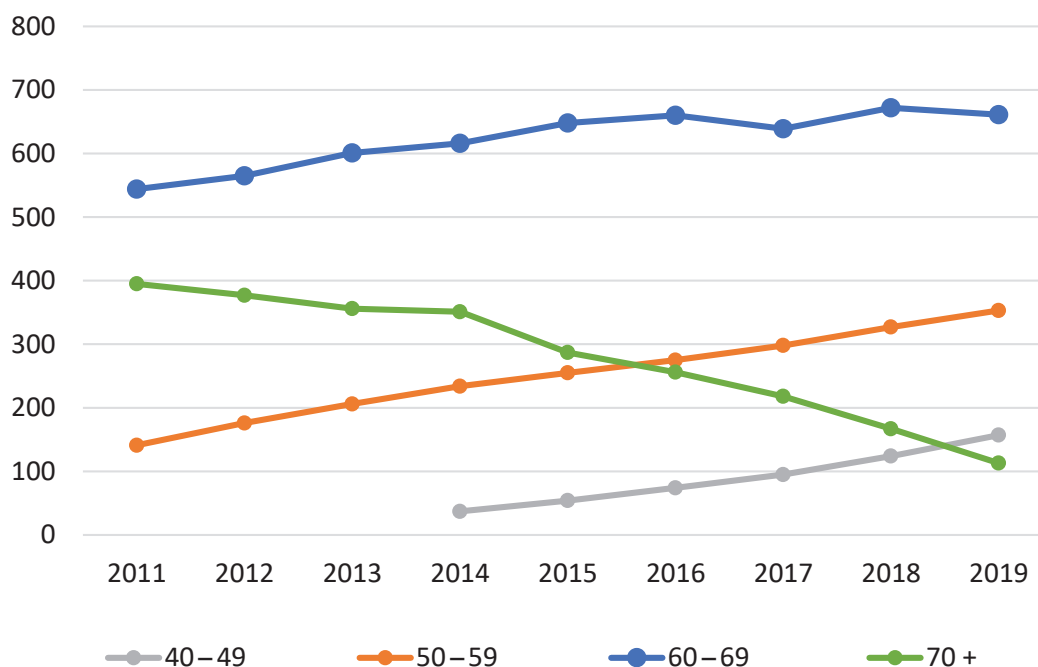
employment in the context of the aforementioned connections with the social stability of employment. In the age category of university teachers 30–39 years, but also in the age category over 40 years, the assumption expressed in the research question no. 3, i.e., that the instability of fixed-term employment with teachers contributes to the decision to terminate employment in selected age categories of university teachers.

Figure 3: Associate professors by age group (years)



Source: Register of University Employees of the Slovak Republic, Author's calculation.

At the same time, in every year of the monitored period, there has been a significant decrease in associate professors with a tertiary level of education over the age of 70, which is a logical reflection of a compromise between the needs of universities to renew the teaching staff and balance its age structure. The legislation is also oriented in this respect (Section 77 of the legal act on universities). Already after the age of 50, the number of associate professors stagnates then respectively decreases. However, it is worth noting the category of associate professors at the age of 50–59, where stagnation is clearly proven (in 2018 a decrease of up to 33 associate professors was recorded, while the number of new professors did not increase proportionally). This implies an interest in raising the qualification to the level of associate professor up to the age of 50. In the age range beyond the age of 50, the trend is stagnation and with the increasing age of university teachers their ambitions for increasing the qualification in the category of associate professors decrease.

Figure 4: Professors by age group (years)

Source: Register of University Employees of the Slovak Republic, Author's calculation.

Upon acquiring the qualification, a professor with a tertiary level of university education (Fig. 4, Tab. 2) is again experiencing an increase in the 40+ age group, while over the age of 60 we see a trend of stagnation and decline. In the group of professors there was a positive trend of shifting qualification growth in lower age categories, where we have seen a significant increase in the number of professors over 40 since 2014 (in 2019 the number of professors in this age category increased by 33 new professors), whereas this trend also persists in the age categories up to 59.

Discussion

European Union labor law refers to temporary employment as so-called precarious employment (Barancová, 2014). Olšovská and Bellan (2012) add that these are situations where employees are involuntarily employed in these forms of employment (if they would be able to choose, they would prefer to work for an indefinite period of time) while their job position is characterized by a low level of remuneration as well as low level of job security. The performance of teachers' work is certainly not an occasional job. Although there is no justification of causality or relations between legal norms, actual practices and changing staff structure, the legislation allows such a process. We consider such legislation critically.

If the Slovak legislature denied the right of university teachers to freely agree with the university on the duration of their work obligation (and at the same time they refused this right to their employers), it is reasonable to assume that it pur-

sued some fundamental goal and had a serious reason for doing so. If we consider that the legislator's objective reason for repeated fixed-term employment contracts is to press for continuous education and to obtain the title of associate professor and professor, we find that the results of the analysis do not indicate this.

Assistant professors around the age of 40 often resign (for objective or subjective reasons) and abandon the teaching profession in order to achieve social security, as evidenced by data on the change in the number of assistant professors, associate professors and professors at the age of 40–49 (Table 2). At this stage of the working life of the university teacher, there is a significant decrease in the number of assistant professors, which is not covered by the increase in the number of associate professors and professors in the same age category. This legislation also has negative effects on the personal and family life of individuals. In this context, we perceive that the legislator – a subject of public law – with this legislation creates space for undesirable psychological aspects. And we are critical of such legislation. It allows *lege artis* universities to exploit the weaknesses of the law.

They lack the need for acceptance and belonging, and on the upper floor of the pyramid the need for recognition, respect and appreciation. The feeling of significant instability and emotional burden as psychosocial factors influence their work and efforts after scientific success and self-education.

Anxiety, fear and negative emotional experience cannot be a stimulating factor for higher quality performance. On the contrary, a certain amount of tasks in the research and scientific work of several scientific disciplines, which are not carried out in laboratories or clinical workplaces, are transferred to the home environment and take place outside working hours. The undesirable effect is the psychological burden of wiping out the differences between working time and personal leisure time, abandoning family activities for work duties, without the possibility of a more efficient use of leisure time compared to how someone in another profession can (freely) organize their time.

The constant onslaught of workloads and their intensity, the loss of a sense of joy from work, fear of terminating a job without a vision of prolonging it lead to exhaustion, frustration, an increase in psychosomatic diseases, create a tense working environment and affect people's psychological resilience. The impact of consequences of short-term employment are multiplied in the case of employees who are breadwinners or those with family responsibilities. Employees with fixed term employment contracts suffer from stress due to exposure to labor and social insecurity. Occupational psychology and public health literature present the findings that work insecurity can be harmful to health through increased stress (Caroli, Godard, 2014).

Young teachers starting families in Slovakia are a group of employees with low salaries, and temporary employment is an obstacle to ensuring adequate housing, material security of the family, but also personal development. The necessity to move in parallel to another job has a counterproductive effect on the performance of duties in employment with a university. With little time to relax, the objective impossibility of relaxation is a predisposition for mental health lability. Many are looking for a job elsewhere. Expert studies state the relationship between the type of labor involvement – working conditions on the one hand, and workers' health on the other – show that employees working in fixed-term contracts have assessed

this form of employment negatively in relation to their mental health in comparison with employees with contracts of indefinite duration (Barnay, 2016).

The issue of labor law, psychological and other aspects of employment of university teachers in the European Union will be influenced in the future by the implementation of the so-called ESG standards in the academic environment of universities. "The ESG are a set of standards and guidelines for internal and external quality assurance in higher education" (ESG 2015). The main objective of the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG) is to contribute to a common understanding of quality assurance in learning and teaching regardless of geographical boundaries, by all interested parties.

Also, university teachers have an important role in providing quality university education. ESG standards in relation to university teachers emphasize in particular the efforts of universities to have sufficient competencies for their teachers, while they should use fair and transparent processes for the recruitment and personal development of staff.

The teacher's role is essential in creating a high-quality student experience and enabling the acquisition of knowledge, competences and skills. The diversifying student population and stronger focus on learning outcomes require student-centred learning and teaching and the role of the teacher is, therefore, also changing. Higher education institutions have primary responsibility for the quality of their staff and for providing them with a supportive environment that allows them to carry out their work effectively.

Following on from the most important employment aspects of the employment of university teachers in this study, as outlined, as well as the content context of ESG standards, which strengthens the position of university teacher, this opens the way for further interdisciplinary scientific research of university teacher employment. Scientific questions: Does the instability of the employment relationship of university teachers have a negative effect on their motivation to further increase their pedagogical qualifications? Can the profession of university teacher be considered unattractive because of its instability caused by the chaining of fixed-term employment contracts? Does the temporal instability of university teachers employment affect the teachers' mental health and well-being?

Conclusions

We stated that the study did not aim to bring the results of detailed research to the fore, but rather the authors worked in an effort to excite other researchers and scientists to explore this topic. The topic has so far been little explored, and it is such an important area – the stable performance of the work of a public university teacher in a 'protective' legislative environment. It is an incentive for wider research across several scientific disciplines and individual countries. It would be appropriate to build on our study and open it to rational research.

The performance of dependent work must be commensurate with the dignity of individuals, even more so in professions which deserve respect for the profession, including the work of university teachers (Frťalová, 2014). The introduction of only fixed-term employment contracts for university teachers negates the underlying

principle of the Temporary Work Directive, namely that only permanent employment can ensure the stability of employment relationships and only objectively justified use of fixed-term employment contracts is a way of preventing their abuse. Based on our examination of the compliance of the Slovak Higher Education Act with the principles of the Temporary Work Directive and with the support of the case law of the Court of Justice of the EU, we came to the answer to the first research question. Fixed-term employment of university teachers in Slovakia does not fully implement the Directive and it requires further intervention in order to bring it into line with it.

Finally, we also admit a slight amount of speculation that Slovak universities are generally satisfied with the arrangements allowing repetition of fixed-term contracts with teachers.

This can also be understood from the perspective of school managers. At the same time, the Labor Code provides legal solutions in the case of non-fulfilment of work obligations or achievement of weaker work results. It wants to take advantage of the Slovak Labor Code's exhaustively defined reasons for unilateral termination of employment by the school, which is, however, much more complicated, unpopular and at risk of bringing an action for invalid termination of employment by the employee. This is why schools choose to simply let time-term contracts expire.

The connection of analyses of the legislative regulation and descriptive statistics of staff structures in Slovakian universities is one of the most important things we have dealt with. Analyses of the legal acts produces a clear picture of the discrimination of fixed-term teachers that is inconsistent with the European Union regulations and requirements on the concept of objective reasons.

In our opinion, the legal norms of temporary employment contracts with university teachers disadvantage this category of employees. The legislator has not yet identified the need for legislative change. Our conclusions also confirm the results of a descriptive analysis, stating that there is a decrease in the number of university professors qualified as assistant professors in the 40–49 age category, and this change does not reflect the increase in the number of associate professors in the same age category.

It is therefore reasonable to assume that the profession of university teacher becomes unattractive to this age category of staff and for personal reasons, and in respect of the legislative reasons described above, these employees are forced to look for a new job. In view of such a position in the labor market, university teachers at the age of 50 are becoming a critically disadvantaged group of employees. The authors express the wish that the legislator will make the necessary change towards ensuring dignity and strengthening the principle of contractuality when negotiating employment contracts with university teachers.

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