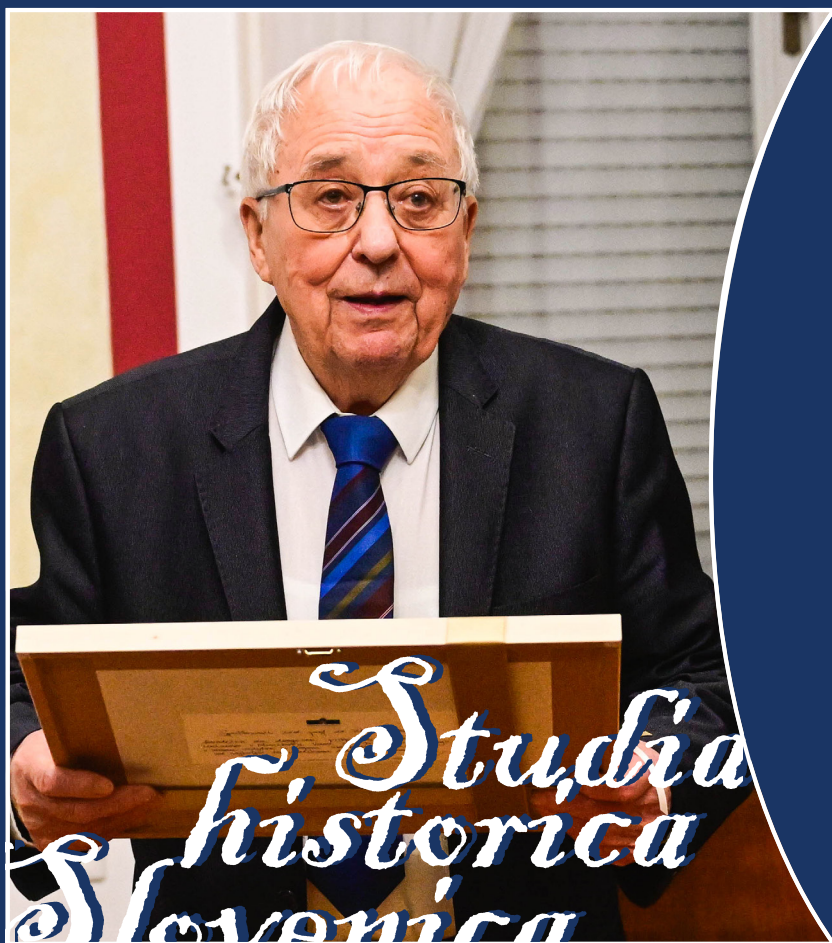


# *Studia Historica Slovenica*



*Časopis za humanistične in družboslovne študije  
Humanities and Social Studies Review*

2024

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**S** *Studia*  
**H** *Historica*  
**S** *Slovenica*

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*Humanities and Social Studies Review*

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## **Kazalo / Contents**

### **Jubilej / Anniversary**

- ALEŠ ARIH: Slavnostna akademija ob 90-letnici zaslužnega profesorja Univerze v Mariboru red. prof. dr. Elka Borka.....589

### **Članki in razprave / Papers and Essays**

- JERNEJA FERLEŽ und ALJA LIPAVIC OŠTIR: **Alltag der Bewohner auf dem Poßruck/Kozjak Gebirge im Kontext der neuen Grenze nach dem Ersten Weltkrieg**.....597  
*Prvine vsakdanjika prebivalcev pobočij severno od Drave v kontekstu novonastale meje po koncu prve svetovne vojne*
- GORAZD BAJC in VERONIKA MEŠIČ: **Nekateri vidiki spolnega nasilja nad ženskami v Kraljevini Jugoslaviji v luči civilnega in kazenskega prava**.....641  
*Some Aspects of Sexual Violence against Women in the Kingdom of Yugoslavia Considering Civil and Criminal Law*
- MIRA MILADINOVIĆ ZALAZNIK: **Joseph Roth in Slovenci** .....669  
*Joseph Roth and Slovenes*
- MATEJA ČOH KLADNIK and JELKA PIŠKURIČ: **The World of Convicts: Conditions and Irregularities in Penal Institutions in Slovenia between 1945 and 1951**.....699  
*Svet kaznjencev: razmere in nepravilnosti v kazenskih ustanovah v Sloveniji med letoma 1945 in 1951*
- MARTA RENDLA in JANJA SEDLAČEK: **Onesnaženost zraka v socialistični Sloveniji – vzroki in odzivi**.....739  
*Air Pollution in Socialist Slovenia – Causes and Responses*

# **S** *tudia* **H** *istorica* **S** *lovenica*

MOJCA TANCER VERBOTEN: Comparative Analysis of University  
Staffing Autonomy ..... 777  
*Primerjalna analiza kadrovske avtonomije univerz*

**Avtorski izvlečki / Authors' Abstracts** ..... 801

**Uredniška navodila avtorjem /**  
*Editor's Instructions to Authors* ..... 807

***Studia Historica Slovenica* /**  
*letnik / year 24 (2024)* ..... 817

**S** *tudia*  
**H** *istorica*  
**S** *lovenica*

*Studia  
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Slovenica*



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# ***Comparative Analysis of University Staffing Autonomy***

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*Abstract:*

Based on the analysis of selected material that considers university autonomy as the most important foundation for its operation, the article presents four areas of autonomy, namely academic autonomy, financial autonomy, organizational autonomy and staffing autonomy. Individual aspects of staffing autonomy are analyzed in more detail: employment procedures, salary system and salary setting policy, termination of employment, and procedures and criteria for promotion. The basic hypothesis of the article is that staffing autonomy is limited by the provisions of national legislation, which limit university autonomy as enshrined in European documents and constitutional provisions. Appropriate legal regulation should take into account the special position of the university and define the area of staffing autonomy of the university accordingly.

*Key words:*

university, autonomy, staffing autonomy, legal regulation of labor law procedures, constitutional regulation

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## Introduction

The term autonomy is a compound of two Greek words, "autos", meaning self, and "nomos", meaning law. Autonomy encompasses a variety of definitions, as indicated by global research on the term autonomy, which are usually associated with cooperation, responsibility, leadership, and quality.<sup>1</sup> Universities are institutions that, for their operation, the development of science, new fields of study, are based on a special status that guarantees autonomy of action. The first principle, which the rectors of European universities gathered in Bologna included in the *Magna Carta Universitatum*, defined the university as an autonomous institution at the heart of societies, which is diversely organized due to its geographical and historical heritage, and above all, it transmits, verifies, evaluates and transmits culture through research and teaching. In order for a university to meet the needs of the environment, its research and teaching must be morally and intellectually independent of all political authorities and economic forces.<sup>2</sup>

From a historical perspective, university autonomy can also be linked to the autonomy of private or civil law, as a branch of law that originates from civil society and is determined by the autonomy of legal entities, which allows them to freely form rights and duties. Universities were initially exempted from public law as non-state institutions and were allowed freedom in the sense of negative rights, which the state was not allowed to interfere with.<sup>3</sup>

Autonomy is thus of key importance for the achievements of European higher education, and is listed in numerous documents from global and European institutions as one of the important priorities for achieving a knowledge society.<sup>4</sup> University autonomy can be expressed in several forms, namely as substantive autonomy, which represents academic freedom, freedom of research

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<sup>1</sup> Šefika Šule Erčetin and Leyla Yılmaz Fındık, "Autonomy in Higher Education", in: Šefika Šule Erčetin (ed.), *Chaos, Complexity and Leadership 2016*, Springer Proceedings in Complexity, Springer International Publishing AG, part of Springer Nature (2018), p. 464, 465, available at: [https://doi.org/10.1007/978-3-319-64554-4\\_32](https://doi.org/10.1007/978-3-319-64554-4_32), accessed: 23. 10. 2023 (hereinafter: Šule Erčetin and Yılmaz Fındık, "Autonomy in Higher Education").

<sup>2</sup> *Magna Carta Universitatum* (1988), available at: <http://www.magna-charta.org/magna-charta-universitatum>, accessed: 30. 10. 2023.

<sup>3</sup> Albin Igličar, "Avtonomija univerze v luči slovenske in evropske ustave ter bolonjske deklaracije", *Revus – Revija za ustavno teorijo in filozofijo prava* 4, No. 5 (2005), p. 92 (hereinafter: Igličar, "Avtonomija univerze v luči slovenske in evropske ustave ter bolonjske deklaracije").

<sup>4</sup> Astrid Prašnikar and Nina Tomaževič, "Vpliv pravne ureditve organiziranosti univerz na njihovo avtonomnost. Primerjalna analiza pravne ureditve univerz v Sloveniji in izbranih evropskih državah", *Annales, Series Historia et Sociologia* 25, No. 2 (2015), p. 400 (hereinafter: Prašnikar and Tomaževič, "Vpliv pravne ureditve organiziranosti univerz na njihovo avtonomnost. Primerjalna analiza pravne ureditve univerz v Sloveniji in izbranih evropskih državah").

and education.<sup>5</sup> An important component is also the sovereignty of teachers in determining study programs and assessing student achievements.<sup>6</sup>

Unlike substantive autonomy, institutional autonomy is a condition for the emergence and enjoyment of true academic freedom and represents the level of making independent decisions about academic work, criteria, management and other activities, while maintaining the responsibility that institutions have towards the public.<sup>7</sup> Institutional autonomy is included in individual European documents and envisaged in the operation of universities in Europe. In particular, the *Graz Declaration* envisages increasing autonomy by strengthening the role of universities and providing them with adequate budgetary resources for their operation.<sup>8</sup> The basic answer to the question of why universities need autonomy, is the fact that there is broad consensus among stakeholders in higher education that institutional autonomy is important for modern universities and is a key prerequisite that enables universities to achieve their missions in the best possible way.<sup>9</sup> Already in 2012, the Council of Europe adopted a Recommendation on the Protection of Academic and Institutional Freedom, which guarantees competent institutions in European countries the right to research, freely express opinions and disseminate knowledge without censorship or retaliation.<sup>10</sup>

In 2020, by adopting the Rome Communiqué,<sup>11</sup> European ministers confirmed their commitment to promoting and protecting their common fundamental values in higher education by supporting institutional autonomy, academic freedom and integrity, and the participation of students and staff in higher education.

Higher education and science, given the situation in all areas, are experiencing extraordinary development and at the same time changes in their operations. An integral part of these changes is ensuring greater autonomy for higher education institutions by giving them the opportunity to self-organize. The

<sup>5</sup> Nejc Brezovar, "Pravni vidiki avtonomije državnih univerz in visokih šol", *Uprava* 10, No. 2 (2012), p. 90 (hereinafter: Brezovar, "Pravni vidiki avtonomije državnih univerz in visokih šol").

<sup>6</sup> Igličar, "Avtonomija univerze v luči slovenske in evropske ustave ter bolonjske deklaracije", p. 93.

<sup>7</sup> Brezovar, "Pravni vidiki avtonomije državnih univerz in visokih šol", p. 91.

<sup>8</sup> *Graz Declaration* (2003), available at: <https://www.eua.eu/publications/positions/graz-declaration-2003.html>, accessed: 29. 10. 2023.

<sup>9</sup> Thomas Estermann and Monika Steinel, "University autonomy in Europe", *Beiträge zur Hochschulforschung* 33, No. 2 (2011), p. 87 (hereinafter: Estermann and Steinel, "University autonomy in Europe").

<sup>10</sup> *Recommendation CM/Rec(2012)7 of the Committee of Ministers to member States on the responsibility of public authorities for academic freedom and institutional autonomy* (2012), available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016805ca6f8](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805ca6f8), accessed: 28. 10. 2024.

<sup>11</sup> *Rome Ministerial Communiqué* (2020), available at: [http://www.ehea.info/Upload/Rome\\_Ministerial\\_Communique.pdf](http://www.ehea.info/Upload/Rome_Ministerial_Communique.pdf), accessed: 28. 10. 2023.

autonomy of universities has been of central importance for intense discussions in today's world. Autonomy is being intensively discussed as a key driver for improving the overall efficiency of the higher education system.<sup>12</sup>

### Areas of university autonomy

In accordance with Article 3 of the Higher Education Act (*Zakon o visokem šolstvu*, hereinafter: ZVis),<sup>13</sup> the university ensures the development of science, professionalism and art and, through faculties, art academies or higher professional schools, conveys knowledge from several scientific or artistic fields or disciplines in the educational process. The university may directly organize the implementation of scientific research and interdisciplinary study programs. University autonomy is a constitutional standard in the Republic of Slovenia, namely Article 58 of the Constitution of the Republic of Slovenia (*Ustava Republike Slovenije*, hereinafter: URS)<sup>14</sup> it is stipulated that state universities and state colleges are autonomous. The method of their financing is regulated by law. The commentary to the Constitution supplements the content of the fundamental starting point of the constitutional protection of the autonomy of universities. Universities are independent and decide on their organization and operation without interference from the state. Autonomy also contains elements of the right of positive status, which create an obligation for the state to provide the basic organizational framework for the operation of state universities within the framework of organizational, legal and institutional guarantees. The principle and constitutional norm, with an extensive and life-giving interpretation, must be understood primarily in terms of content and functionality and not only in terms of normative.<sup>15</sup>

The *Magna Carta Universitatum* (2020)<sup>16</sup> redefined the commitments that are essential for universities and determined that intellectual and moral auton-

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<sup>12</sup> Sule Erçetin and Yılmaz Findik, "Autonomy in Higher Education", p. 472.

<sup>13</sup> "Higher Education Act" (*Zakon o visokem šolstvu*, ZVis), *Uradni list Republike Slovenije (Official Gazette of the Republic of Slovenia)*, No. 32 (2012) – official consolidated text, changes and additions to No. 123 (2023).

<sup>14</sup> "Constitution of the Republic of Slovenia" (*Ustava Republike Slovenije*, URS), *Uradni list Republike Slovenije I. (Official Gazette of the Republic of Slovenia I.)*, No. 33 (1991); *Uradni list Republike Slovenije (Official Gazette of the Republic of Slovenia)*, No. 42 (1997) – UZS68 (Ustavni zakon o spremembi 68. člena URS / Constitutional Law Amending Article 68. URS), No. 66 (2000) – UZ80 (Ustavni zakon / Constitutional Law), No. 24 (2003) – UZ3a, No. 47 (2004), No. 68 (2004), No. 69 (2004) – UZ14, No. 69 (2004) – UZ43, No. 69 (2004) – UZ50, No. 68 (2006) – UZ121,140,143, No. 47 (2013) – UZ148, No. 47 (2013) – UZ90, 97, 99 and No. 75 (2016) – UZ70a.

<sup>15</sup> Igličar, "Avtonomija univerze v luči slovenske in evropske ustave ter bolonjske deklaracije", p. 92.

<sup>16</sup> *Magna Carta Universitatum* (2020), available at: <https://www.magna-charta.org/magna-charta-universitatum/mcu2020>, accessed: 30. 10. 2023.

omy is a characteristic of every university and a prerequisite for it to fulfill its obligations to society. This independence must be recognized by the governments of individual countries and society in general. In order for universities to fulfill their potential, they need a reliable social contract with civil society that supports the pursuit of the highest possible quality of academic work while respecting institutional autonomy. Autonomy is not a concept with a clear and evident legal definition, and a constitutional provision in just one article is not enough to fill the content for the competence and operation of universities. The constitutions of individual European countries also stipulate that universities enjoy autonomy and in various ways determine legal reservations, such as Italy and Portugal, while some do not have explicit provisions on autonomy and implement this from other provisions, such as Germany, which guarantees freedom of science and the arts.<sup>17</sup>

Based on Article 6 of the ZVis, it is determined that a university is an autonomous, scientific-research, artistic and educational higher education institution with a special status and that universities and independent higher education institutions established by the Republic of Slovenia operate according to the principles of autonomy.

Within the framework of the European University Association, the *Lisbon Declaration*<sup>18</sup> was adopted at the Convention of Higher Education Institutions, which in Chapter IV, point 26 defined four areas of autonomy as key to achieving institutional autonomy, namely:

- academic autonomy,
- financial autonomy,
- organizational autonomy,
- staffing autonomy.

In 2009, within the framework of European University Association (hereinafter: EUA) was issued exploratory study with the title *University Autonomy in Europe I*,<sup>19</sup> which defined in more detail the indicators of all four areas of

<sup>17</sup> Mojca Tancer Verboten, *Posebnosti delovnopravnega položaja visokošolskih učiteljev*, doktorska disertacija, Univerza v Mariboru, Pravna Fakulteta (Maribor, 2021), p. 46.

<sup>18</sup> *Lisbon Declaration* (2007), available at: <https://www.eua.eu/publications/positions/lisbon-declaration.html>, accessed: 22. 10. 2023. The details of the origin are as follows. The *Lisbon Declaration* results from the discussions that took place during the fourth EUA Convention of Higher Education Institutions hosted by the five Lisbon universities and the Portuguese Rectors' Conference from 29–31 March 2005. This was formally adopted by the Council of the EUA on 13 April 2007. The more than 700 universities and partners present at the Convention debated the theme "Europe's Universities beyond 2010: Diversity with a Common Purpose".

<sup>19</sup> Thomas Esterman and Terhi Nokkala, "University Autonomy in Europe I", European University Association (2009), p. 7, available at: [https://www.academia.edu/4078227/UNIVERSITY\\_AUTONOMY\\_IN\\_EUROPE\\_I](https://www.academia.edu/4078227/UNIVERSITY_AUTONOMY_IN_EUROPE_I), accessed: 30. 1. 2024 (hereinafter: Esterman and Nokkala, "University Autonomy in Europe I").

autonomy. The study specifically looked to the following indicators. The Organisational Autonomy in particular, the ability to establish structures and governing bodies, university leadership and who is accountable to whom. The Financial Autonomy – in particular the different forms of acquiring and allocating funding, the ability to charge tuition fees, to reporting procedures as accountability tools, to accumulate surplus, to borrow and raise money from different sources and the ownership land and buildings. Within the framework of Staffing Autonomy, the following should be addressed: the capacity to recruit staff, the responsibility for terms of employment such as salaries and issues relating to employment contracts such as civil servant status and Academic Autonomy represents capacity to define the academic profile, to introduce or terminate degree programmes, to define the structure and content of degree programmes, the extent of control over student admissions, roles and responsibilities with regard to the quality assurance of programmes and degrees.

In the latest report produced under the auspices of the EUA, in the field of academic autonomy, the analysis focuses on the educational activities of universities: student intake, quality assurance, introduction of programmes, language of instruction and curriculum design. Although academic autonomy as defined in EUA's *Lisbon Declaration* (2007) also includes the capacity to decide on areas, scope, aims, and methods of research, early analysis of these aspects in 2009 showed that they may not be adequately reflected.<sup>20</sup>

In accordance with Article 6, paragraph 2 of the ZVis, the autonomy of the University and independent higher education institutions is also envisaged in the Republic of Slovenia, in terms of freedom of research, artistic creation and dissemination of knowledge, the development and adoption of study and scientific research programs, determining the study regime and determining the forms and periods of testing students' knowledge, which are also specifically highlighted by the Constitutional Court of the Republic of Slovenia in its decisions.<sup>21</sup>

The financial aspect of university autonomy has an impact on the scope of university operations, as well as on other areas of university autonomy, both academic and personnel, as it determines the possibilities for designing study

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<sup>20</sup> Enora Bennetot Pruvot, Thomas Estermann and Nino Popkhadze, "University Autonomy in Europe IV", European University Association (2023), p. 44, available at: <https://www.eua.eu/publications/reports/university-autonomy-in-europe-iv-the-scorecard-2023.html>, accessed: 30. 1. 2024 (hereinafter: Bennetot Pruvot et al., "University Autonomy in Europe IV").

<sup>21</sup> According to the Constitutional Court of the Republic of Slovenia, determining the study regime and determining the periods of student testing falls within autonomy. The technology of implementing the pedagogical process also falls within autonomy, therefore this area is regulated only by an act adopted within the framework of university autonomy. The legislator has no right to intervene in this area (Brezovar, "Pravni vidiki avtonomije državnih univerz in visokih šol", p. 102).

programs, student enrollment, and of course the personnel structure necessary for the operation of the university. From the perspective of social life, the financing of university operations is the most important issue in the relationship between the university and the state, as it involves a direct and active role of the state in the institutionalization of scientific and artistic creation and education.<sup>22</sup> Financial autonomy is strongly linked to the possibility of obtaining additional funding on the market. Especially in times of financial crises, there are tendencies for the government to take greater control over the financial autonomy of the university, which would prevent the university from operating autonomously in both the educational and pedagogical fields.<sup>23</sup>

It is important to point out that university financing systems is also different within EU countries. In a majority of countries, universities receive their funding in the form of block grants. In some systems, line-item budgets are still used, and institutions are thus unable to shift funds between budget lines. In a small number of cases, even self-generated revenue is strictly regulated. While universities in most systems are allowed to borrow money, laws specify certain restrictions, especially in Northern Europe.<sup>24</sup>

The Constitution of the Republic of Slovenia also stipulates that the method of financing universities is determined by law. This provision should not reduce the autonomy of universities in their scientific and pedagogical component. The legislator's intention was clearly to ensure a permanent, sustainable source of financing that would not depend on the current holders of the executive branch of power.<sup>25</sup> In accordance with the authority of the Constitution, the legislator has legally regulated the financing of public universities in the Republic of Slovenia and included it in the ZVis, which determines the areas and scope of activities covered by the Budget of the Republic of Slovenia.

The university must also be granted autonomy in terms of regulating and implementing management and decision-making procedures. In this area, determining the type of competence and responsibility of university bodies, the relationship between them and to the founder, the composition and number of members should be within the competence of the university. Only the most fundamental issues should be regulated by law.<sup>26</sup> The decision of the Con-

<sup>22</sup> Andraž Teršek and Matija Žgur, "(Finančna) Avtonomija univerze", *Revus – Revija za ustavno teorijo in filozofijo prava* 8, No. 14 (2010), p. 77 (hereinafter: Teršek and Žgur, "(Finančna) Avtonomija univerze").

<sup>23</sup> Brezovar, "Pravni vidiki avtonomije državnih univerz in visokih šol", p. 92.

<sup>24</sup> Estermann and Steinel, "University autonomy in Europe", p. 89.

<sup>25</sup> Brezovar, "Pravni vidiki avtonomije državnih univerz in visokih šol", p. 94.

<sup>26</sup> Rado Bohinc, "Sodobna zakonska ureditev visokega šolstva. Kako povrniti zaupanje države v univerzo in univerzo v državo," *Teorija in praksa* 54, No. 3–4 (2017), p. 522 (hereinafter: Bohinc: "Sodobna zakonska ureditev visokega šolstva. Kako povrniti zaupanje države v univerzo in univerzo v državo").

stitutional Court of the Republic of Slovenia U-I-34/94<sup>27</sup> of 22 January 1998 states that the bearer of the right to autonomy under the constitutional provision is a state university. Autonomy is not supposed to include the right to self-organization. In order for a university to start operating autonomously, the state must adopt rules and an act on its establishment, which also includes fundamental provisions on the method of management and administration, tasks or activities. Only after the adoption of these provisions can it be said when a university is autonomous.

Individual EU countries have higher education regulated by *lex specialis* laws on universities, such as Austria Universities Act (*Universitätsgesetz*, hereinafter: UG).<sup>28</sup> The differences between state regulations arise from the concept of the admissibility of interference with the autonomy of universities or the legal regulation of autonomy and internal acts of universities. In the Republic of Slovenia, despite a binding constitutional norm with a legal reservation exclusively for the area of financing, we have basic legislation that provides for state regulation down to every detail in the area of organizational autonomy. Excessive regulation does not allow universities autonomy in regulating their operations and organization and in itself expresses distrust among all stakeholders in higher education.<sup>29</sup>

### University staffing autonomy

University autonomy does not mean that the university does not follow regulations, but rather that they must be meaningful and consistent with the standards of autonomy set within the EU and the Constitution of the Republic of Slovenia. Greater staff autonomy represents greater responsibility and greater creativity and excellence.<sup>30</sup>

It should be emphasized that the degree of autonomy of a university depends on the level of state regulation in the field of higher education. The self-governing operation of a university depends on the legal regulation of specific areas important for the operation of the university. If the state determines only the basic framework for operation by law, and the university regulates the

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<sup>27</sup> U-I-34/1994 from 22. 1. 1994, ECLI:SI:USRS:1998:U.I.34.94. [o](#)

<sup>28</sup> "Universities Act" (*Universitätsgesetz, UG*), StF (published): *BGBl (Bundesgesetzblatt für die Republik Österreich / Federal Law Gazette of the Republic of Austria)*, No. 120 (2002), last amended by BGBl, No. 50 (2024).

<sup>29</sup> Prašnikar and Tomažević, "Vpliv pravne ureditve organiziranosti univerz na njihovo avtonomnost. Primerjalna analiza pravne ureditve univerz v Sloveniji in izbranih evropskih državah", p. 410.

<sup>30</sup> Bohinc: "Sodobna zakonska ureditev visokega šolstva. Kako povrniti zaupanje države v univerzo in univerzo v državo", p. 527.



remaining contents by internal acts, the degree of autonomy is high. On the other hand, if the state regulates excessively and adopts precise instructions, the university does not have the room for maneuver to autonomously regulate its own affairs.<sup>31</sup>

Countries have various types of autonomy in institutions of higher education, and some universities may have more autonomous system than the other universities. Being autonomous is an important alternative for the universities which are responsible to the changing need of the society and economy and contribute to find answers to global problems.<sup>32</sup>

It is therefore extremely important for a university to have its own staffing autonomy, or the authority of self-management in the field of personnel. Staffing autonomy is supposed to reflect the fact that the university itself selects its employees and negotiates with them about working conditions.<sup>33</sup> In the area of staffing autonomy within the EU, there are several different systems, which will be presented below according to individual indicators.

## Employment procedures

The possibility of proper implementation of employment procedures is extremely important for universities, as it is essential for the quality implementation of both the educational and scientific research process. The status that an individual employee at the university receives or acts in the status of an employee or civil servant is also important in the employment process as a whole. In EUA studies that measured the autonomy process from the perspective of personnel procedures in 2009, 2011,<sup>34</sup> 2017<sup>35</sup> and 2023, slow changes are visible within the EU space.

Studies have shown that the number of countries where universities are independent in the recruitment of teaching staff is growing, with a particularly noticeable increase in 2011, when 18 countries are said to have opted for inde-

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<sup>31</sup> Prašnikar and Tomažević, "Vpliv pravne ureditve organiziranosti univerz na njihovo avtonomnost. Primerjalna analiza pravne ureditve univerz v Sloveniji in izbranih evropskih državah", p. 404.

<sup>32</sup> Sule Erçetin and Yılmaz Findik, "Autonomy in Higher Education", p. 472.

<sup>33</sup> Brezovar, "Pravni vidiki avtonomije državnih univerz in visokih šol", p. 101.

<sup>34</sup> Thomas Esterman, Terhi Nokkala and Monika Steinel, "University Autonomy in Europe II", European University Association (2011), p. 7, available at: <https://www.eua.eu/downloads/publications/university%20autonomy%20in%20europe%20ii%20-%20the%20scorecard.pdf>, accessed: 30. 1. 2024 (hereinafter: Esterman et al., "University Autonomy in Europe II").

<sup>35</sup> Enora Bennetot Pruvot and Thomas Esterman, "University Autonomy in Europe III", European University Association (2011), p. 7, available at: <https://www.eua.eu/publications/reports/university-autonomy-in-europe-iii-the-scorecard-2017.html>, accessed: 22. 10. 2023 (hereinafter: Bennetot Pruvot and Esterman, "University Autonomy in Europe III").

pendence in this area. In 2009, there were 12 of these, as well as in 2017, and in 2023 the number has risen to 13. In particular, in 2023, it was highlighted for countries Croatia, Czechia, France, and Romania, appointments of certain categories of senior academic staff, usually full professors, need to be confirmed by an external authority. Universities are more often able to recruit senior staff independently. Some significant developments in the area of recruitment or contractual relationships have been reported from the following countries Austria, Estonia, France, Netherlands, Latvia and Sweden. In Austria: the 2019 University Act introduced a simplified process, called 'opportunity hiring', to hire a maximum of 5% of academic staff. This flexible route is mainly targeted to attract top researchers to Austrian universities. Furthermore, under this condition, universities are at liberty to offer unlimited contracts instead of short-term contracts. France is an example where in year 2018 Civil Service Transformation Law enabled universities to hire both junior and senior administrative staff on a contractual status. In Netherlands Public Servants Act was in year 2020 abolished the civil servant status; therefore, employees of public universities now fall under regular Dutch labour law. The law replaced unilateral appointments with bilateral appointments, and any future conflicts arising between the universities and staff will be taken to the civil court instead of the administrative court. In Slovenia, in accordance with the 5th indent of paragraph 2 of Article 6 of the ZVis, it is determined that the university, in accordance with the principles of autonomy, conducts the selection of higher education teachers, scientific workers and higher education associates for filling positions. Public universities in the Republic of Slovenia are limited in their employment procedures by the rules of operation of the public sector. Since 2002, higher education teachers employed at public universities in the Republic of Slovenia have the status of public employees, which has been granted under the second point of the second paragraph of Article 1 of Public Employees Act (*Zakon o javnih uslužbencih*, hereinafter: ZJU)<sup>36</sup> and is tied to the status of legal entities, state universities, as public institutions. ZJU binds universities only up to and including Article 21, the rest of the act does not apply to universities.<sup>37</sup> Before employment, they are bound to permitted employment in accordance with the respective provisions of the Budget Execution Act in the Republic of Slovenia, which sets out restrictions on the employment of civil servants financed from

<sup>36</sup> "Public Employees Act" (*Zakon o javnih uslužbencih*, ZJU), *Uradni list Republike Slovenije (Official Gazette of the Republic of Slovenia)*, No. 63 (2007), No. 65 (2008) – official consolidated text, No. 69 (2008) – ZTFI-A (*Zakon o trgu finančnih instrumentov / Market in Financial Instruments Act*), No. 69 (2008) – ZZavar-E (*Zakon o zavarovalništvu*, Insurance act) and No. 40 (2012) – ZUJF (*Zakon za uranoteženje javnih financ / Fiscal Balance Act*).

<sup>37</sup> Mojca Tancer Verboten, "Specifics of the Employment of Higher Education Teachers", *Studia historica Slovenica, Časopis za humanistične in družboslovne študije* 22, No. 1 (2022), p. 262.

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the budget of the Republic of Slovenia. Universities are thus limited to the level of annual planning in the preparation of work programmes, of which staffing plans are also integral parts. This is also specifically highlighted in the EUA Report in 2017 for Slovenia and for some universities, of the French speaking community of Belgium.

The employment procedure in the Republic of Slovenia is also linked to fulfilling the condition of employment in a title, which is a mandatory provision of higher education legislation and individual universities do not have the possibility of autonomous decisions in this area.

The employment procedure therefore shows that the situation in the area of staffing autonomy is improving in countries that are not bound by the provisions of the status of civil servants. For Slovenia, it is clear that although legal provisions allow autonomy in the procedures for selecting higher education teachers to fill positions, public universities are limited by mandatory provisions related to the status of civil servants and the rules of financing within the public sector.

### **Salary determination**

The determination of salaries for university employees is extremely important, linked to the financial resources provided for the operation of universities, and also related to the status of civil servants. Studies conducted within the framework of the EUA show a situation that, although numerically, does not change much, different countries are covered in each section. In 2009, it is expected that countries that independently determine individual salary levels Czech Republic, Bulgaria, Estonia and Norway. The 2009 analysis highlights the link university's ability to determine overall salary costs is correlated with the form in which the university receives its funding. Slovenia is listed as a country in 2009 in which the universities receive block-grant funding, but are not able to determine their overall salary costs. The situation is the same in Croatia and Malta. EUA analysis for 2011 presents Czech Republic, Estonia, Sweden and Switzerland as countries in which salaries for senior academic staff can be determined by universities. The situation is different for senior administrative staff. Salaries are decided freely by universities in the Czech Republic, Estonia, Italy, Latvia, Lithuania, Luxembourg, Norway, Sweden, Switzerland and the United Kingdom.<sup>38</sup> It is worth highlighting as an interesting fact in Norway, where are salary bands are negotiated and there is a ceiling for professorial salaries.

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<sup>38</sup> Slovenia was not included in the analysis for 2011 because no data was provided.

However, this ceiling is so high that it is rarely reached. The analysis for 2017 presents that it can be considered only universities in Estonia, Luxembourg, Poland, Sweden and Switzerland can determine the salaries for both categories. The fact remains unchanged that in over half of the systems, salaries are set or framed by an external authority. These tend to correspond to countries where a majority of senior university staff has civil servant status. Austria, where around 30% of senior staff retain civil servant status, therefore reports that salaries are set externally for part of senior academic and administrative staff.

In Slovenia, the situation in this area has remained unchanged since the first EUA study conducted in 2009, as both higher education teachers and other public servants remain employed. In accordance with Article 5 of the ZJU, public universities are part of the common salary system in the public sector, which means that the salary for all jobs at a public university is determined by Public Sector Salary System Act (*Zakon o sistemu plač v javnem sektorju*, hereinafter: ZSPJS).<sup>39</sup> The rigidity in determining salaries and adopting internal acts within individual public universities is further confirmed by the decision of the Supreme Court of the Republic of Slovenia in issuing the judgment VSRS VIII 301/2015 of 15 November 2015, which very narrowly interprets the determination of the promotion system and consequently higher salaries, while at the same time equating the position of a higher education teacher with that of a civil servant.<sup>40</sup>

The analysis for 2023 shows that only universities in Czechia, Estonia, Luxembourg, and Sweden can determine salaries for both categories. For 2023, it was announced developments in the capacity of universities to set salaries include in Austria where the civil servant model has been discontinued, salaries are no longer set by public authorities. France is a country, where salaries are comprised of fixed and variable parts. The former is common to all civil

<sup>39</sup> "Public Sector Salary System Act" (*Zakon o sistemu plač v javnem sektorju*, ZSPJS), *Uradni list Republike Slovenije (Official Gazette of the Republic of Slovenia)*, No. 108 (2009) – official consolidated text, No. 13 (2010), No. 59 (2010), No. 85 (2010), No. 107 (2010), No. 35 (2011) – ORZSPJS49a (*Avtentična razlaga 49. člena ZSPJS / authentic interpretation article 49. ZSPJS*), No. 27 (2012) – odl. US., No. 40 (2012) – ZUJF, No. 46 (2013), No. 25 (2014) – ZFU (*Zakon o finačni upravi / Financial Administration Act*), No. 84 (2018), No. 95 (2014) – ZUPPS15 (*Zakon o ukrepih na področju plač in drugih stroškov dela za leto 2017 in drugih ukrepov v javnem sektorju / Act Regulating Measures Relating to Salaries and Other Labour Costs for 2017 and other Measures in the Public Sector*), No. 82 (2015), No. 23 (2017) – ZDOdv (*Zakon o državnem odvetništvu / State Attorney's Office Act*), No. 67 (2017) and No. 84 (2018), No. 204 (2021), No. 139 (2022), No. 38 (2024), No. 48 (2024) – decision of the Constitutional Court of the Republic of Slovenia.

<sup>40</sup> VSRS verdict VIII Ips 301/2015 from 15. 11. 2015, ECLI:SI:VSRS:2016:VIII.IPS.301.2015. The position of the Supreme Court of the Republic of Slovenia is that in the case of achieving a higher habilitation title, it is not formally a promotion in the sense of the envisaged horizontal promotion in salary grades, but rather a determination of a higher salary due to the higher title. Such a decision also did not take into account the fact that the acquisition of an official title is permanent, while the acquisition of a habilitation title, except for full professors, is temporary.

servants, while the latter, in the case of academics, can be decided by the institution within a band defined by the ministry. In Slovenia is the case that in the 2022 law on research allows universities and other research institutes to increase salaries for researchers by a maximum of 100%. That option is related exclusively to scientific research work and special projects and not to educational qualifications.

### **Termination of employment**

The third criterion related to staffing autonomy and was not the subject of the first EUA analysis, but was only included in 2011, is termination of employment. The 2011 EUA analysis highlighted that 11 countries did not have specific regulations for the termination of employment for both teaching and professional staff at universities. Universities in these countries used general labour law regulations for the termination of employment. Termination of employment was strictly regulated for both teaching and professional staff in France, Greece, Hungary, Italy, Iceland, Norway and Slovakia.

In 2011, national labour law and the general collective agreement were used for the termination of employment at universities in Austria, but certain special rules applied to those employees who still had the status of civil servants at that time. Cyprus was highlighted as a special case, where full professors cannot be dismissed from their employment at all. In 2017, the EUA analysis also highlighted that the rules of general labour law or civil service law are applied to the status of university employees. The same seven countries as in 2011 strictly regulated termination of employment. The 2017 analysis found that there had been no major changes or progress towards greater staff autonomy in this area within the EU countries.

Regarding termination of employment, the 2023 analysis also noted that there were generally no specific provisions for higher education, and that labour law or civil service law rules were mainly applied. Dismissal is strictly regulated for both academic and professional staff in eleven countries. Latvia is particularly highlighted in the 2023 EUA analysis, where a reform was implemented in 2021, which also affected the labour law for academic staff. The work of teaching staff is evaluated every six years, with individual assessments being obtained every two years. An inadequate assessment can be a reason for termination of the employment contract. The status of university employees who are no longer civil servants has also changed in the Netherlands, which has consequently also affected changes in the rules for termination of employment. For comparison, in the Republic of Slovenia, the Employment Relationship Acts (Employment

Relationship Act, hereinafter: ZDR-1)<sup>41</sup> are used to terminate the employment relationship of all employees at public universities, despite their status as civil servants, without any specific provisions that would apply to higher education teachers. Regarding the reasons for termination of employment, it is necessary to take into account that the possibility of termination of employment is also based on the 2nd indent of paragraph 1 of Article 89 of the ZDR-1. The use of the reason of incapacity due to failure to meet the conditions for performing work, set out in laws and other regulations issued on the basis of the law, due to which the employee does not meet or cannot meet contractual or other obligations from the employment relationship has been confirmed by case law. In this regard, the competent labor courts followed the university's staffing autonomy in determining the conditions for filling a job position.<sup>42</sup>

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<sup>41</sup> "Employment Relationships Act" (*Zakon o delovnih razmerjih*, ZDR-1), *Uradni list Republike Slovenije (Official Gazette of the Republic of Slovenia)*, No. 21 (2013), No. 78 (2013) – official consolidated text, No. 47 (2015) – ZZSDT (*Zakon o zaposlovanju, samozaposlovanju in delu tujcev / Employment, Selfemployment and Work of Foreigners Act*), No. 33 (2016) – PZ-F (*Pomorski zakonik / Maritime Code*), No. 52 (2016) and No. 15 (2017) – odl. US (*odločba Ustavnega sodišča / decision of the Constitutional Court*), No. 22 (2019) – ZposS (*Zakon o poslovni skrivnosti/Trade Secret Act*), No. 81 (2019), No. 203 (2020) – ZIUPOPVDVE (*Zakon o interventnih ukrepih za pomoč pri omilitvi posledic drugega vala epidemije COVID-19/ Act on intervention measures to help mitigate the consequences of the second wave of the COVID-19 epidemic*), No. 119 (2021) – ZČmIS-A (*Zakon o spremembah in dopolnitvah Zakona o čezmejnem izvajanju storitev/ Act on Amendments to the Act on the Cross-Border Provision of Services*), No. 202 (2021) – odl. US (*odločba Ustavnega sodišča / decision of the Constitutional Court*), No. 15 (2022), No. 54 (2022) – ZUPŠ-1 (*Zakon za urejanje položaja študentov/ Act regulating the status of students*), No. 114 (2023), No. 136/2023 – ZIUZDS (*Zakon o interventnih ukrepih na področju zdravstva, dela in socialne ter z zdravstvom povezanih vsebin/ Act on intervention measures in the field of health, labor and social affairs and health-related matters*).

<sup>42</sup> In point 11 of the reasoning of the judgment of the Supreme Administrative Court Pdp 989/2016, it is written (literally) that it follows from the first paragraph of Article 58 of the Constitution of the Republic of Slovenia that state universities and state colleges are autonomous. The second paragraph of Article 6 of the ZVis stipulates, among other things, that the university (the defendant) operates according to the principles of autonomy, which also ensures the adoption of criteria for election to the title of higher education teachers, scientific workers and higher education associates. According to the seventh paragraph of Article 55 of the ZVis, in addition to the conditions from this article, higher education teachers must also meet the conditions determined in accordance with the criteria for election to the title. These criteria are determined by the senate of the higher education institution in accordance with the law, whereby the senate of the university determines the criteria for higher education institutions that are members of the university (eighth paragraph of Article 55 of the ZVis). These criteria must be internationally comparable and be publicly published (ninth paragraph of Article 55 of the ZVis). The adoption of the criteria, including the definition of the timeliness of the request for further or re-election to the title, is therefore a reflection of the defendant's autonomy. And additionally, in point 17 of the reasoning of the same judgment, that (literal statement) since the court of first instance established that the plaintiff did not meet the conditions for performing work in the position of higher education teacher in the title of assistant professor (since the validity of his title of assistant professor expired on 17 March 2016, and the conditions for extending the validity of the title until a final decision under Article 227 of the Statute were also not met), it correctly concluded that the defendant had justified the plaintiff's contested regular termination of the employment contract on the grounds of incapacity under the 2nd indent of Article 89 of the ZDR-1. In view of this, his claim for the determination of the illegality of this regular termination of the employment contract was dismissed on a reasonable basis, and consequently the remaining part of his claim, in

Termination of employment also occurs when an individual employee at the university reaches the required age. The higher education teacher himself may apply for termination of employment due to the fulfillment of the conditions for retirement, but the Republic of Slovenia has also adopted legal bases for "mandatory retirement" linked to a certain age. Two decisions of the Constitutional Court of the Republic of Slovenia have been adopted on the grounds for "mandatory retirement". In decision U-I-22/94,<sup>43</sup> point 14 of the reasoning states that "such special reasons exist for full professors as workers on whom the pedagogical process at universities and colleges is based, especially the education of new pedagogical workers. However, regulating the question of whether and in which cases, for special reasons, higher education teachers, researchers and higher education associates who have already fulfilled the conditions for obtaining the right to a full old-age pension can continue their employment relationship falls within the framework of the autonomy of universities and colleges." Decision U-I-146/12<sup>44</sup> of 14 November 2013, where it was also emphasized that universities are recognized as having autonomy in the retirement procedures of higher education teachers.

When defining the staffing autonomy of universities in the process of terminating the employment contract of university employees, additional care must be taken to ensure that determining excessive autonomy does not constitute an interference with the rights of employees.

## **Promotions**

The promotion system within the framework of staffing autonomy deals with promotion or assignment to a higher position and not with promotion within the same position. This was also the content of the indicator when considering the promotion system within the framework of the EUA analysis. For 2011, it was found that there were a total of 12 countries where universities could independently decide on the promotion of both academic and administrative staff in accordance with their own rules (this group included, among others, Austria, Czech Republic, Estonia, Hungary). In Portugal, in 2011, promotion procedures were linked to the type of employment contract, whereby civil servants could only be promoted if there was a new position at a higher level. In 2011, univer-

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which he claimed his rights under the employment relationship for the period from 2 October 2016 onwards, was also dismissed as unfounded.

<sup>43</sup> U-I-22/94 from 17. 2. 1994, ECLI:SI:USRS:1995:U.I.22.94.

<sup>44</sup> U-I-146/12 from 14. 11. 2013, ECLI:SI:USRS:2013:U.I.146.12

sities in France did not have staffing autonomy in the area of the promotion of academic staff in the highest ranks. In France, the quotas for promotion are set by the state, which also decides on the names for promotion to higher positions. In Ireland, in 2011, universities had complete autonomy in making decisions on the promotion of employees, which was otherwise impossible during the financial crisis. After reviewing the EUA analysis for 2017, it was found that the state of autonomy in the field of promotion had not changed significantly. There were still 12 countries in which universities could independently decide on the promotion of both academic and administrative staff in accordance with their own rules. Similarly, there were no changes in the promotion of employees at universities in France. In Portugal, universities were limited in promotion for financial reasons, meaning that they could only decide on promotion where there were no increases in salary funds, i.e. in the case of retirements or vacancies.

The EUA analysis shows that in 2023, there will be an increase in the number of countries in which universities can decide independently on the promotion of both academic and administrative staff, in accordance with their own rules, with the number increasing by 2 in six years. In Latvia, Luxembourg, Norway, Romania and Slovakia, universities can decide independently on the promotion of administrative staff, while for academic staff a vacancy is a prerequisite for making a decision on promotion. Countries that were highlighted in the EUA analysis for 2023 with some progress were Austria, where we have the possibility of permanent employment after four to six years, Finland, Germany and Ireland, where the moratorium on promotions has been lifted.

In the EUA analysis in 2017, Slovenia was placed in the same group as Austria, and in 2023 it was reclassified to the second group, i.e. the group that does not have the possibility of independent decision-making on the promotion of both academic and administrative staff. In accordance with the 2nd, 3rd and 4th indents of paragraph 2 of Article 6 of the ZVis, universities established by the Republic of Slovenia on the basis of autonomy have the authority to adopt criteria for election to the title of higher education teachers, scientific workers and higher education associates, to hold elections for the titles of higher education teachers, scientific workers and higher education associates, and to select higher education teachers, scientific workers and higher education associates to fill positions. Regardless of what is written, universities are limited by the jurisdiction of the National Agency for Quality in Higher Education, which sets the Minimum Standards for Elections to Titles of Higher Education Teachers and Higher Education Associates. The ZVis sets a requirement that the internally determined criteria for elections to titles are in accordance with the minimum standards for election, which means a direct limitation of the autonomy of the university in the area guaranteed to it by the Constitution of



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the Republic of Slovenia as the ZVis. The state thus does not only regulate what is required of it by the constitutional regulation of the position of universities, but also interferes with the university's staffing autonomy with rules, instructions and agencies.<sup>45</sup>

## Conclusion

Higher education and science are experiencing changes in their operations due to the situation and rapid development in all areas. An integral part of these changes will also have to be greater provision of autonomy to universities, so that they will not only follow new guidelines but also be carriers of development. University autonomy means the possibility of self-regulation, determining the free formation of rights and obligations in individual areas. The Lisbon declaration defined four areas of autonomy as key to achieving institutional autonomy, namely academic autonomy, financial autonomy, organizational autonomy and staffing autonomy.

The paper specifically analyses staffing autonomy, which is extremely important for a university, as it defines the competence of self-management in the field of personnel. Staffing autonomy is supposed to reflect the fact that the university itself selects its employees and negotiates with them on working conditions. The level of staffing autonomy is analysed within the EUA according to the degree of independence of universities in each country in recruitment procedures, salary determination, termination of employment and the promotion system.

The EUA analyses, which have been prepared for fourteen years now, show that changes in the area of staffing autonomy are occurring very slowly and are to a large extent linked to the status of employees. The highest level of staffing autonomy is achieved by 15 countries, which were joined by three newcomers in the latest analysis, namely Georgia, Romania, and Scotland. All countries in the highest group for university employees no longer have the status of civil servants, which gives universities greater staffing autonomy in determining salaries, hiring, termination of employment, and promotion. In the second group, which has staffing autonomy from 61 to 80%, there are 8 countries, let me mention only Austria, where in 2023 less than 20% had the status of civil servants and universities had greater autonomy in determining salaries. In the third group, which has autonomy from 41 to 60%, there are 8 countries, including Slovenia, where the reason for the minimal increase was stated to be the

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<sup>45</sup> Teršek and Žgur, "(Finančna) Avtonomija univerze", p. 74.

possibility of double salaries for researchers. In the last lowest group, there are countries with a level of staffing autonomy lower than 41%, the group is closed by Croatia, which reaches 12%, which is explained by the fact that hiring and promotion are supposed to be more strictly defined.

The financial aspect of university autonomy has an impact on the scope of university operations, as well as on other areas of university autonomy, both academic and personnel, as it determines the possibilities for designing study programs, student enrollments, and of course the personnel structure necessary for the operation of the university, which is reflected in individual parts of staffing autonomy.

For Slovenia, it should be emphasized that it has guaranteed constitutional university autonomy with a legal reservation only for the area of financing and, in accordance with paragraph 2 of Article 6 of the ZVis, legally defined autonomy in adopting criteria for election to the title of higher education teachers, scientific workers and higher education associates, elections to the titles of higher education teachers, scientific workers and higher education associates, and the selection of higher education teachers, scientific workers and higher education associates to fill positions. The above should be sufficient for a higher level of staffing autonomy without additional restrictions.

## **Mojca Tancer Verboten**

### **PRIMERJALNA ANALIZA KADROVSKE AVTONOMIJE UNIVERZ**

#### **POVZETEK**

Pojem avtonomija je sestavljena iz dveh grških beseda, pri čemer "autos", pomeni jaz in "nomos", pomeni zakon. Avtonomija vključuje različne definicije, na kar kažejo tudi svetovne raziskave izraza avtonomija, ki so običajno povezane z možnostjo določanja lastnih pravil za delovanje. Avtonomnost univerz je ključnega pomena za dosežke evropskega visokega šolstva, v številnih dokumentih svetovnih in evropskih institucij je zapisana kot ena od pomembnih prioritet za doseganje napredka tako na izobraževalnem kot znanstvenoraziskovalnem področju. Univerzitetna avtonomija je lahko izražena v več oblikah

in sicer kot vsebinska avtonomija, ki predstavlja akademsko svobodo, svobodo raziskovanja in izobraževanja. Za razliko od vsebinske avtonomije je institucionalna avtonomija pogoj za sprejemanje samostojnih odločitev o akademskem delu, merilih, upravljanju ter drugih aktivnosti ob odgovornosti, ki jo imajo institucije do javnosti. Institucionalna avtonomija je vključena v posamezne evropske dokumente in predvidena pri delovanju univerz v Evropi.

Visokošolsko izobraževanje ter znanost glede na razmere na vseh področjih doživljata izjemen razvoj in hkrati spremembe v svojem delovanju. Sestavni del teh sprememb je zagotavljanje večje avtonomije visokošolskim institucijam s tem, da imajo možnost samoorganizacije.

Avtonomija univerze v Republiki Sloveniji je ustavnopravni standard in sicer je v 58. členu Ustave Republike Slovenije določeno, da so državne univerze in državne visoke šole avtonomne. Način njihovega financiranja ureja zakon. Komentar Ustave dopolnjuje vsebino temeljnega izhodišča ustavne zaščite avtonomnosti univerz.

Lisbonska deklaracija je opredelila štiri področja avtonomije kot ključna za dosego institucionalne avtonomije in sicer akademsko avtonomijo, finančno avtonomijo, organizacijsko avtonomijo, kadrovske avtonomijo. Na tej podlagi so bile izdelane tudi analize stopenj avtonomije posameznih držav v okviru EUA.

Za univerzo je izjemno pomembno, kakšna je njena kadrovska avtonomija oziroma pristojnost samoupravljanja na kadrovske področju. Kadrovska avtonomija naj bi izražala dejstvo, da univerza sama pelje svoje kadrovske postopke. V članku je analiza kadrovske avtonomije opravljena po naslednjih kazalnikih zaposlitveni postopki, določanje plač, prenehanje delovnega razmerja in sistem napredovanja.

Možnost ustrezne izvedbe zaposlitvenih postopkov je izjemno pomembna za univerze, saj je navedeno nujno potrebno za kvalitetno izvedbo tako izobraževalnega kot znanstveno raziskovalnega procesa. V celoti je v zaposlitvenem postopku tudi pomemben status, ki ga dobi posamezni zaposleni na univerzi ali nastopa v statusu delavca ali javnega uslužbenca. V študijah EUA, ki so merile postopek avtonomije z vidika kadrovske postopkov v letih 2009, 2011, 2017 in 2023, so vidne počasne spremembe v okviru EU prostora.

Pri določanju plač za zaposlene na univerzah je razvidno, da je ta kazalnik vezan na zagotovljene finančne vire za delovanje univerz, prav je povezan s statusom javnih uslužbencev.

Tretji kriterij prenehanje delovnega razmerja je neposredno vezan na kadrovske avtonomijo in ni bil predmet prve analize EUA, temveč je bil vključen šele v letu 2011. V analizi EUA iz leta 2011 je bilo izpostavljeno, da kar 11 držav ni imelo posebnih specifičnih predpisov za prenehanje delovnega razmerja tako za pedagoške kot strokovne delavce na univerzah. Univerze v teh

državah so uporabljale za prenehanje delovnega razmerja splošne predpise delovnega prava. Prenehanje delovnega razmerja je bilo strogo regulirano tako za pedagoške kot strokovne delavce v Franciji, Grčiji, Hungary, Italy, Iceland, Norway and Slovakia.

Pri sistemu napredovanja v sklopu kadrovske avtonomije se obravnava napredovanje oziroma razporeditev na višje delovno mesto in ne napredovanje v okviru istega delovnega mesta. Tako je bil vsebinsko zastavljen tudi kazalnik pri obravnavi sistema napredovanja v okviru analize EUA.

Za Slovenijo je potrebno izpostaviti, da ima zagotovljeno ustavno avtonomijo univerze z zakonskim pridržkom samo za področje financiranja ter v skladu s 2. odstavkom 6. člena ZVis zakonsko opredeljeno avtonomijo pri sprejemanju meril za izvolitev v naziv visokošolskih učiteljev, znanstvenih delavcev in visokošolskih sodelavcev, volitvah v nazive visokošolskih učiteljev, znanstvenih delavcev in visokošolskih sodelavcev ter izbiri visokošolskih učiteljev, znanstvenih delavcev in visokošolskih sodelavcev za zasedbo delovnih mest. Navedeno bi moralo biti dovolj za višjo stopnjo kadrovske avtonomije brez dodatnih omejitev, kar pa ne izhaja iz zakonskih podlag za delovanje univerze, prav tako ne iz pristojnosti, ki je podeljena Nacionalni agenciji za kakovost v visokem šolstvu.

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Naslov: **PRIMERJALNA ANALIZA KADROVSKE AVTONOMIJE UNIVERZ**

***Studia Historica Slovenica***

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*Jezik:* angleški (izvleček angleški in slovenski, povzetek slovenski)

*Ključne besede:* univerza, avtonomija, kadrovska avtonomija, zakonska ureditev delovnopравnih postopkov, ustavna ureditev

*Izvleček:* V prispevku so na podlagi analize izbranega gradiva, ki obravnava avtonomijo univerze kot najpomembnejši temelj za njeno delovanje, prikazana štiri področja avtonomije in sicer akademska avtonomija, finančna avtonomija, organizacijska avtonomija in kadrovska avtonomija. Podrobneje so analizirani posamezni kazalniki kadrovske avtonomije: zaposlitveni postopki, plačni sistem in politika določanja plač, prenehanje delovnega razmerja in postopki ter kriteriji za napredovanje. Osnovna hipoteza članka je, da je kadrovska avtonomija omejena z določili nacionalne zakonodaje, ki omejujejo v evropskih dokumentih in ustavnih določbah zapisano univerzitetno avtonomijo. Z zakonsko ustrezno ureditvijo bi bilo potrebno upoštevat poseben položaj univerze in temu primerno opredeliti področje kadrovske avtonomije univerze.