# SLOVENIAN UNIVERSITIES IN THE LIGHT OF THE COURT OF AUDIT OF THE REPUBLIC OF SLOVENIA

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#### Abstract:

European and thus also the Slovenian higher education system has faced many changes in the last 25 years and is becoming more internationalized, deregulated, liberalized and market-oriented. One implication of these trends is the growing financial autonomy of higher education institutions (HEIs) in EU countries, which demands from them more knowledge and greater accountability in utilizing the public funds they receive. Changes in the higher education system require, or are conditioned by, the changing legal and other regulations on the basis of which Slovenian universities operate; however, these are not adequately taken into account in the management and operation of universities, as indicated in the audits undertaken by the Court of Audit of the Republic of Slovenia. Since its commencement of operation (1st January 1995), the Court of Audits has audited many HEIs - public universities, rectors' offices and ministries responsible for higher education, and produced close to 30 audits. The group of audits, carried out in the second half of the '90s, audited the use of public funds for higher education in 1996. The second group of audits, undertaken from 2006 onwards, audited financial statements and the regularity of operations. In both the first and the second group of audits, the Court's opinions were mainly qualified opinions or adverse opinions, which is particularly true for the regularity of operations and demonstrates serious shortcomings in the management of universities. In this paper, we will present the key findings of the audits of the Court of Audits, the reasons for them, and possible solutions for their elimination.

Keywords: universities, Court of Audit, audits, budgetary funds, Slovenia

## 1. INTRODUCTION

At the start of the 21<sup>st</sup> century, higher education underwent extensive transformation, which included structural, cultural, and ideological changes, encapsulated by the terms "globalisation" and "knowledge society". In light of these changes, the views on provision of (public) funding for HE also changed and the HE no longer relied solely on the welfare state, but focused on finding new ways of funding and regulatory frameworks, and new public sector management (David and Naidoo, 2013, p. 1).

European (and thereby also Slovenian) HE systems face many changes and are becoming increasingly internationalized, deregulated, liberalized and market-oriented, which has its advantages and disadvantages, proponents and opponents. One implication of these trends is the growing financial autonomy of HEIs in EU countries.

The relevance of the topic of efficient use of public funds in HE is demonstrated by the study on efficiency and effectiveness of public spending on tertiary education, published by the European Commission's Directorate General for Economic and Financial Affairs (St Aubyn, 2009). The study analysed the link between productivity, employability, and education expenditure, as efficient use of resources is dependent on an effective link between these elements. Whilst some countries are considered efficient according to all criteria (United Kingdom, the Netherlands), those considered less efficient unexpectedly include France and Germany, alongside countries in Southern and Eastern Europe. In addition, public HE in the USA was also considered to be inefficient.

In the last 20 years, since the adoption of the Higher Education Act (ZViS), we are witnessing a growing autonomy of universities in all four dimensions – academic, organisational, financial, and staffing (Estermann and Nokkala, 2009), primarily as a result of the act, adopted in late 1992, and its numerous amendments. Consequently, in the last 10 years, HEIs in Slovenia also received considerable financial autonomy, which was made possible by the transition to lump-sum funding of academic activities in 2004. Greater institutional and financial autonomy enable greater flexibility in the management of (financial and other) resources, which should result in a more efficient use of public funds. It does, however, require that the recipients have more knowledge and greater accountability in utilizing the funds they receive.

The changing formal legal context, in which universities operate from the start of the '90s, was not adequately taken into account in the management and operation of universities, which is highlighted in the audits of the Court of Audit. Alternatively, this could be a consequence of inappropriate formal legal changes or their premature introduction, or insufficient readiness of universities and their leadership for such circumstances.

The Court of Audit has undertaken close to 30 audits in the field of higher education. The Court of Audit's opinions were mainly qualified opinions or adverse opinions, which is particularly true for the regularity of operations and demonstrates serious shortcomings in the management of universities.

For this reason, this paper focuses on the audits of the Court of Audit, which relate to Slovenian public universities, their use of public funds, the regularity of operations, and financial statements.

## 2. AUTONOMY OF EUROPEAN AND SLOVENIAN UNIVERSITIES

# 2.1. Financial autonomy of European universities<sup>1</sup>

The aim of the study on autonomy of European universities, conducted by the European University Association (EUA), which began at the end of 2007, is to provide a foundation for a Europe-wide comparable database through the analysis of certain crucial aspects of autonomy. It also aims to bring the institutional perspective (i.e. what autonomy really means in practice) into the debate on autonomy and governance reforms at policy level.

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<sup>&</sup>lt;sup>1</sup> Taken and adjusted from the Estermann, T. and Nokkala, T.: University Autonomy in Europe I, Exploratory Study, EUA, 2009.

In view of the wide range of definitions of autonomy, this study used as a starting point the basic four dimensions set out in EUA's Lisbon declaration (2007), which are academic, financial, organizational, and staffing autonomy.

Financial autonomy is certainly the area where the links to the other dimensions of autonomy are most obvious and this can therefore hardly be considered in isolation. The ability or inability of universities to decide on tuition fees has implications for student admissions, national regulations on salaries for all or some categories of staff impinge on staffing autonomy, and the capacity to freely use income directly impacts on the ability to implement a defined strategy.

## Key issues and findings:

- There is a trend towards public funding being allocated as block grants, which are often based on or accompanied by performance criteria or targets.
- In most European countries, universities are allowed to collect fees from at least part
  of their student population, although there is great variety in the way the fee levels
  are set and the amounts they represent.
- Universities are still faced with a number of restrictions when operating on the financial markets; borrowing is relatively common but investing and raising money are activities mostly open to "satellite" legal entities of universities (not the universities themselves).
- Ownership of land and buildings is quite diversified across Europe and depends to a large extent on national cultures and traditions. However, formal ownership does not necessarily open possibilities for universities to use their assets without limitations.

Looking at all the features of financial autonomy collectively, it seems that Western European countries benefit from a greater autonomy than their Eastern counterparts. One might argue that, in general, universities in Western Europe have more autonomy to use the public funding they receive, but less autonomy to decide on tuition fees. Countries in Eastern Europe tend to have less autonomy with public budgets, but in many cases have more autonomy to decide on privately-funded study places, and the fees those command. University buildings, representing an asset of important financial value, may be state-owned or unsellable for historical reasons, with universities having little or no possibility to decide on selling them - even in cases when their maintenance is consuming resources which might be better spent on education and research. Even in cases where universities are owners of their facilities, there are quite often restrictions on selling or using them as securities for loans, ranging from seeking the necessary authorization to outright prohibition.

In light of the financial autonomy and according to the EUA research, Slovenian universities:

- are publicly funded by a block grant,
- have their accounts audited by a public audit office,
- may keep the surplus of state funding.
- do not charge tuition fee for (undergraduate) full time students,
- are not allowed to take out loans,
- are not able to raise money on financial markets,
- own their buildings,
- require permission of public authorities to sell real estate.

## 2.2. Financial autonomy and management of Slovenian universities

#### Funding of Slovenian HE

The HE system in Slovenia has similar characteristics to those in the continental part of EHEA, which are mostly funded from public funds. In parallel to the formal legal commencement of the Bologna reforms in 2004, Slovenia also transitioned to lump-sum financing of HE activity (Decree, 2004). With lump-sum financing, the HEIs received greater autonomy in the management of funds, but also had to assume greater accountability.

Who manages HEIs and their assets?

In accordance with ZViS, the university's management board (MB) decides on material matters and ensures smooth material operations of the HEI, while the rector must ensure and is responsible for the lawfulness of the work of the university and for fulfilment of its obligations outlined in ZViS, other regulation and general acts of the university. The rector can delegate part of their duties to the deans of the university's members. The rector is a higher education teacher, elected by all higher education teachers, research associates, and higher education staff employed by the university, and students of the university. The dean of a university member is a higher education teacher, appointed by the rector on the proposal of the senate of the university member. The senate is elected by the academic assembly, which comprises of all higher education teachers, research associates, and higher education staff, and with the involvement of students, who form at least one-fifth of the academic assembly membership.

The MB comprises of nine members, namely: three representatives of the founder, four university representatives, of which three are employees engaged in higher education activities and one representing other staff, one student representative, and one representative of the employers. The president of the MB is elected from amongst the representatives of employees engaged in higher education, and the deputy president is elected from amongst the representatives of the founder, or vice versa. The review of the MB membership of all three public universities on the 30<sup>th</sup> of June 2010 showed that the MB president was a representative of the university and a higher education teacher in all three cases.

ZVIS permits that, depending on the nature of activities and scope of the work of a HEI, management of specialist work and business management functions are separated, and the powers of head specialist and management body are defined in the statute. However, none of the public universities chose to implement this option and therefore our public HEIs, both universities and faculties, do not have directors.

It is also worth mentioning the general secretary of the university, who manages university's administration, which carries out administrative, specialist, and technical tasks concerning the university as a whole.

## 3. THE RESEARCH

## 3.1. Purpose, objectives and research questions

The purpose of the research is to contribute to better governance and thereby operation of universities, and through this achieve a more efficient use of resources in line with their intended purpose, particularly with regards to public funding for educational activities.

Research objectives are to:

- examine the Court of Audit's reports on audits of universities and their members (and responsible ministries) and identify the key and common irregularities and illegalities.
- analyse the documents to establish the reasons and causes of the irregularities and illegalities and verify them with selected stakeholders.
- develop guidelines and recommendations, which would reduce or even eliminate the
  identified irregularities and illegalities in future and, if possible, present them in the
  context of university management characteristics in selected EU countries and
  compare them with the developed guidelines, recommendations and proposed
  measures.

We intend to achieve the purpose and objectives of this research by answering the following research questions:

- 1. To what extent are universities' irregularities and illegalities, identified in the Court of Audit's reports, the same or similar irrespective of the university or university member?
- 2. Which irregularities or illegalities dominate breaches of legal basis of operation, irregularities in financial monitoring of operations, irregularities and illegalities in the area of employment relations, or some other?
- 3. What guidelines and recommendations could eliminate the reasons for irregularities and illegalities identified by the Court of Audit?

This study is limited to public universities and their members, as the Court of Audit of the Republic of Slovenia has, so far, only audited them, and has not carried out audits in the private higher education institutions, which also receive public funds.

## 3.2. Methodology

To answer the research questions, we will gather, analyse and interpret qualitative data.

Using the content analysis method, we will examine all Court of Audit's audit reports that deal with the management and operation of university members and their rectors' offices, and will appropriately classify irregularities and illegalities to establish their common characteristics and the reasons for them. All of these are secondary data sources, which will be thoroughly examined. This will provide both descriptive and numerical data, which will be processed using descriptive and comparative methods.

Identified empirical facts, obtained through the study of audit reports, will be analysed using the inductive method to extract key characteristics and similarities of reviewed cases, and investigate and identify the reasons for them, and thereby find the answers to all research questions.

Based on the interpretation, and in conjunction with theory and foreign practice, we will use descriptive and comparative methods to develop guidelines, recommendations and proposed measures, which would reduce or even eliminate identified irregularities and illegalities in future.

#### 3.3. Limitations

Analysis of secondary sources will be limited to public universities and the ministry, responsible for HE, which were audited by the Court of Audit, and will not include other smaller and private HEIs, of which 12 are funded through concessions, as the Court of Audit did not audit them.

The study puts special emphasis on public funding of educational, and not research, activities at three public universities in Slovenia, as their understanding of autonomy and consequently their assumption of accountability crucially impact on their financial management.

The research will mainly focus on financial accounting and employment law aspects of university management and the breach of regulations in these two areas.

## 4. FINDINGS AND DISCUSSION

## 4.1. Audits and opinions

Since its commencement of operation (1<sup>st</sup> January 1995), the Court of Audits has audited many HEIs – members of public universities, rectors' offices and ministries responsible for higher education, and produced close to 30 audits, which can broadly be divided into two groups:

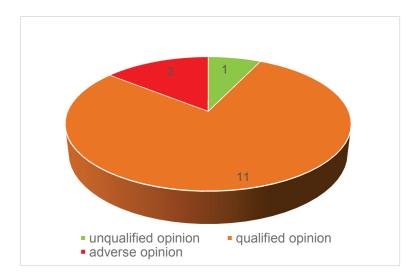
- 1. group: 14 audits, which were carried out in the second half of the '90s and mainly audited the use of public funds for HE in 1996.
- 2. group: six audits, which were undertaken from 2006 onwards; all six audited the regularity of operations, but only five also audited the financial statements.

In both the first and the second group of audits, the Court of Audit's opinions were mainly qualified opinions or adverse opinions, which is particularly true for the regularity of operations and demonstrates serious shortcomings in the management of universities.

To be precise, of the 14 audit reports in the first group:

- only one is an unqualified opinion,
- 11 are qualified opinions,
- two are adverse opinions.

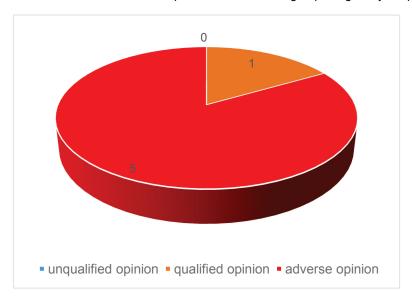
Picture 1: Overview of audit opinions in the first group.



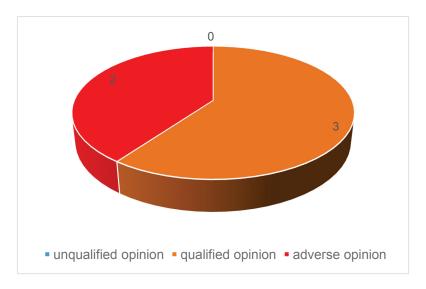
Of the six audits in the second group, four audited the year 2006, one 2007 and 2008, and one 2011. In this group:

- All six audited the regularity of operations, of which five gave adverse opinions and one a qualified opinion.
- In addition, five also audited the financial statements, of which two gave adverse opinions and three a qualified opinion.

Picture 2: Overview of audit opinions in the second group – regularity of operations



Picture 3: Overview of audit opinions in the second group – financial statements



In other words, of all audits carried out by the Court of Audit, only one is an unqualified opinion, which is a matter of great concern.

## 4.2. Areas of irregularities and illegalities

## General

Having reviewed the findings of the audits, we find that irregularities and illegalities arise in three areas:

- · legal and regulatory basis,
- · recording of business transactions and financial reporting, and
- employment relations.

Table 1: Court of Audit's audits of Slovenian public universities

Auditing period	20/12/1995 – 09/03/2004		06/10/2006 – 10/12/2014		Total	
Years audited / Type of irregularity	1995 - 2002	%	2004 - 2011	%	(both sets of audits)	%
Legal basis	30	44.8	21	52.5	51	48.8
Financial statements	29	43.3	17	42.5	46	43.0
Employment relations	8	11.9	2	5.0	10	9.4
Total	67		40		107	

As can be seen from Table 1, most irregularities and illegalities concern the legal basis and financial statements, and only a minor proportion relate to employment relations, particularly in the second set of audits, carried out after 2006.

#### Legal and regulatory basis

In the area of legal and regulatory basis, most irregularities and illegalities are in respect of the Higher Education Act (ZViS) (13), followed by the Public Procurement Act (ZJN) (10), Law on Relative Pay in Public Institutions, State Bodies and in Bodies of Local Communities (ZRPJZ), Act on Salaries of Workers in Educational Institutes (ZPDJVZ), and Employment Relations Act (ZDR) (17), and university statutes (11).

Review of audit reports shows that the following are the most typical breaches of each of the regulations:

#### ZViS:

- absence of job classification according to ZViS and Measures and criteria for assessing performance at work,
- delivery of study programmes without appropriate legal basis,
- the maximum weekly and annual number of lectures, seminars, and practical exercises, are exceeded in certain study programmes,
- failure to comply with the norms for employees' workload (basis for payment of overtime, royalties).

#### ZRPJZ/ASWEI/ZDR:

- inadequate compliance with regulations on promotion,
- inappropriate allocation of staff to posts,
- illegal payment of allowances and performance bonuses,
- incorrect calculation and payment of basic salary, allowances, work related to undergraduate theses and increased workload (as high as 0.796m EUR for one of the auditees in 1996, which accounts for 36 % of funds spent on salaries in 1996),
- incorrect payment of performance bonuses and basic salaries to employees who do not have relevant professional qualifications,
- payments to employees of additional allowances for meals above the levels set out in the collective agreement for education,
- incorrect charging and payment of the voluntary supplementary pension insurance premium,
- entering into civil contracts for works, which include elements of full employment.

#### ZJN:

- making investments in equipment without public tender,
- inappropriate procedures for selecting the preferred bidder.

#### HEIs' Statutes:

- management of real estate intended for professional, development and advisory work and other activities, without the consent of the founder,
- absence of the consent of the founder for management of real estate acquired from public funds for HE activity, delivery of scientific and research projects, and provision of professional, development and advisory work and other activities,
- payment of performance bonuses in excess of 3 % of salaries without prior consent of the founder.
- education delivered by higher education staff instead of higher education teachers (contrary to the Statute).
- charging of tuition fees for re-enrolment and for progression without appropriate legal basis,
- awarding of grants without basis.

## Financial statements

In the area of financial statements i.e. recording of business transactions, 16 irregularities and illegalities relate to inappropriate use of public funds, 16 to inadequate recording of business transactions, and 14 to inadequate records of fixed assets.

The most common ones are listed below:

## Inappropriate use of public funds:

- absence of criteria for the allocation and use of funds from the rector's fund, no report on the spend of funds,
- inappropriate use of funds for four workers who were not employed,
- use of salary budget to cover material costs.
- inaccurate calculation and payment of salaries,
- stay at a luxury hotel and use of additional hotel services without prior written approval,
- payments to student employment service for work that was not completed by students,
- payment of bonuses (e.g. at the 60<sup>th</sup> anniversary of the institute) without any basis for such payments in the regulations,

- inaccurate distribution of costs between the public service activity and commercial activity,
- stimulus payments, which exceed the permitted level of spend for this purpose.

Inadequate recording of business transactions:

- income and expenditure are not categorized by funding source and purpose, and it is therefore not possible to monitor whether the use is appropriate,
- inconsistent recording of income and expenditure for delivery of educational activities, categorized by purpose,
- no records of agreed contracts, and no records of funds received and spent as a result of these contracts and for this purpose,
- · recording of business transactions is not in accordance with the Accounting Act,
- inventory of assets and their sources is incomplete and negligent,
- use of an unsafe computer programme for recording business transactions, which enables interference with the database and permits changes to the chronological sequence of entries outside the legal accountancy rules,
- inaccurate split of income and expenses in relation to the time component.

Inadequate records of fixed assets:

- inventory of assets on 31<sup>st</sup> March 1991 and 31<sup>st</sup> December 1993 did not distinguish between physical assets acquired with public funds and assets acquired from other sources,
- no records of assets managed by the university and its members,
- inadequate records of auditee's possessions loaned to others.
- no alignment of accounting records for long-term intangible and tangible fixed assets with the actual state as identified through an inventory,
- records do not include some of the real estate in auditee's management, registered in the land register, while on the other hand the values include real estate that is no longer managed by the auditee.

#### Employment relations

In the area of employment relations, 7 irregularities and illegalities relate to job classification, and one each relate to performance, promotion, and payment of overtime, for instance:

- no adoption of internal acts that would define job classification and accountability of administrative employees,
- no iob classification.
- no criteria to monitor performance as defined in article 91 of the Collective Bargaining Agreement for the Activities of Education and Training in the Republic of Slovenia,
- employees do not meet the criteria for the position for which they are employed,
- absence of agreement on the split between teaching and research work,
- payment of salaries for promotion contrary to the legal basis,
- payments of overtime allowance exceeding the permitted level.

In terms of the financial volume, most irregularities relate to employment relations or contract work, as in Slovenia expenditure on salaries and other personnel expenditures account for 71 % of universities' revenue expenditure (excluding capital expenditure) (SORS, 2008).

#### 4.3. Discussion

On 29<sup>th</sup> September 2015, the HEIs register of accredited HEIs (MESS, 2015) included a total of 110 HEIs i.e. five universities (with a total of 53 faculties, two colleges, and four academies) and 50 independent HEIs (one academy, 23 faculties, and 26 colleges).

Given that out of 20 audits only one gave an unqualified opinion, we can safely assume that one could find irregularities and illegalities in almost all HEIs, which is highly concerning. Therefore, we should review the management of Slovenian public universities in more detail.

With regard to the first research question, which looked at the extent to which irregularities and illegalities identified in Court of Audit's reports are the same or similar irrespective of the university or its member, we find that irregularities and illegalities are the same or similar regardless of which

university or university member they were identified at. The first group of audits included 9 members of one university and three of another, of which all but one were given qualified opinions, with both rector's offices receiving an adverse opinion. The second group of audits included three members of one university, two of a second, and one of a third university, all of which received an adverse opinion or a qualified opinion. The irregularities or illegalities that were identified were more or less the same for all auditees.

With regard to the second research question, which looked at which irregularities or illegalities dominate – breaches of legal basis of operation, irregularities in financial monitoring of operations, irregularities and illegalities in the area of employment relations, or some other – we find that irregularities and illegalities mostly relate to breaches of ZRPJZ/ZPDJVZ regulations, followed by inappropriate use of public funds and recording of business transactions, job classification, and to a lesser extent also performance, promotion, and overtime.

In terms of governance, typical characteristics of Slovenian public universities include (Lesjak and Marjetic, 2010):

- A dominant influence of academics on the management of the university, which raises a question on appropriate business management of such a large and complex system.
- Inappropriate make-up and management of the MB, where the influence of founder's representatives is too weak and the influence of university's employees is too strong, with the employees presiding the MB, which raises a question on whether the MB is truly performing the role it is entrusted with. It would definitely be appropriate for representatives from the industry and other stakeholders, i.e. employers, to have more influence and a greater role in the MB as well.
- Too weak a link in business management between university founders, the MB and its presidents, and general secretaries, which does not ensure adequate influence of the founders on (financial) operations of universities.

Two key characteristics of the management of our universities are (Lesjak and Marjetic, 2010):

- Rector combines the academic and managerial function and is elected from amongst higher education teachers, employed by the university. They posses the relevant academic knowledge, but often not adequate managerial skills for this position, and
- Management board, which makes decisions on financial matters, is dominated by university's employees and students, with the founders only having a minority stake.

Based on the above, and with regard to the third research question, which relates to the guidelines and recommendations that could eliminate the reasons for irregularities and illegalities identified by the Court of Audit, we find that the aforementioned characteristics of the management of our universities are the key reasons for the occurrence of irregularities and illegalities identified in the Court of Audit's opinions. For this reason, it is worth considering the following:

- separating rector's academic and managerial functions, whereby
- the head academic is elected by HEI's academic community, and the business manager is appointed by the HEI's management board, and
- changing the make-up of the HEI management board, which would no longer include representatives of the HEI and students, while representatives of the founders and other stakeholders would be appropriately skilled to monitor HEI's operations,
- strengthening the role of internal audit.

## 5. CONCLUSIONS

Government's continuing challenge is to find the balance between the autonomy of HEIs and the necessary control of the HE area. The challenge for HEIs is to, with growing autonomy, also become appropriately accountable to all stakeholders in HE.

It is important to recognise that in the field of HE governments face numerous, often contrasting, challenges, such as (Lesjak and Marjetic, 2010):

- equal access to higher education.
- funding for HE and its fair distribution, and

- accountability of HEIs with regard to the quality of education and appropriate and efficient use of resources,
- without infringing on the autonomy of HEIs.

The aim of the state is to ensure the necessary conditions for a successful HE sector, which provides equal opportunities, delivers quality education, and supports sustainable development of the country (and the EU). Therefore, HEIs, governments, and other stakeholders must be aware of their key role in the "knowledge society" and take responsibility for providing the expected economic, social, and cultural wellbeing.

An important assumption of an efficient HE is also a rational use of public funds, however, irregularities and illegalities, as well as arbitrary use of allocated funds, are all too common. This is particularly apparent in the current media news on payments of undue allowances for being on standby. This is an allowance intended for those employed in occupations such as fire fighters, doctors, nurses, midwives, police officers, soldiers, and even IT officers, who have to either be on duty or on standby. However, employees of nine faculties of the University of Ljubljana received such an allowance as an allowance for challenging work outside working hours (Meznar, 2016). It is clear from this example that the interests of individuals are often given priority over the interests of the society, and in our case, efficient HE. One of the duties of the Court of Audit of the Republic of Slovenia is to monitor efficient use of public funds, which therefore makes it a very important part of building a successful society.

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