

**THE EVALUATION OF SCHOLARLY ACTIVITIES IN THE FIELD OF
LAW FROM THE VIEWPOINT OF THE CENTRAL EUROPEAN REGION**

**A TUDOMÁNYOS TEVÉKENYSÉG ÉRTÉKELÉSE A
JOGTUDOMÁNYBAN A KÖZÉP-EURÓPAI RÉGIÓ SZEMPONTJÁBÓL**

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Abstract: The essay summarises the experiences of a conference held on 28 January 2022. The conference was about the scientific rating of law journals and focused primarily on the evaluation of the situation in Central and Eastern European countries. In particular, the authors stressed the specificities of jurisprudence in comparison with the natural sciences and the role of language and national culture in this context. In particular, they consider it important that these specificities of law are reflected in scientific rating systems. The authors also provide some good examples from the region and suggestions that they would like to see considered in the development and reform of national science rating systems.

Keywords: *scientometrics, law, legal journals, evaluation of scientific activities*

Absztrakt: Az esszében egy 2022. január 28. napján tartott konferencia tapasztalatait foglalták össze a szerzők. A konferencia a jogtudományi folyóiratok tudományos minősítéséről szólt, és elsődlegesen a kelet-közép-európai országok helyzetének értékelésére fókuszált. A szerzők különösen fontosnak tartják kihangsúlyozni a jogtudomány sajátosságait a természettudományokhoz képest, s ennek kapcsán a nyelv és a nemzeti kultúra szerepét. Különösen fontosnak tartják, hogy a jogtudomány ezen sajátosságai megjelenhessenek a tudományos minősítési rendszerekben. A szerzők jó példákat is megfogalmaztak a régióból, egyúttal javaslatokat is megfogalmaztak, amelyeket érdemesnek tartanának megfontolni a nemzeti tudományminősítési rendszerek kialakítása, illetve átalakítása során.

Kulcsszavak: *tudománymetria, jog, jogi folyóiratok, tudományos teljesítmény értékelése*

Antecedents

The Central European Association for Comparative Law held a webinar on the relationship between scientometrics and legal scholarship on 28 January 2022. Speakers from the Central European region gave presentations on the current national system of their countries, such as Slovakia, the Czech Republic, Slovenia, Serbia, Croatia, Poland, Romania, and Hungary.

Our initiative was that *the members of legal academia in the Central European region need to have discussions on scientific ranking systems and evaluation methods which take into account the impact of the respective scholarly works (as*

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well as their authors) on national legal scholarship (legal sciences) and national legislation.

Some questions have been formulated as reference points to the presentations:

1. How does scientific ranking and evaluation take place in the respective country, in particular concentrating on legal scholarly journals and books as well as scholarly publishers? What are the rules in force? Are there any pending proposals for amendments or plans to modify the rules in force?

2. Does, and if so, to what extent, the scientific ranking and evaluation determine and have an impact on the career development of university lecturers and researchers?

3. Does, and if so, to what extent, the scientific ranking and evaluation determine funding and financing and access to financial sources from the perspective of individual scholars and of universities/research institutes?

4. Taking into account the characteristics of Central European legal scholarship, do stakeholders consider it necessary to have Central Europe-centered discussions on scientific ranking systems and evaluation methods which take into account the impact of the respective scholarly works (as well as their authors) on national legal scholarship (legal sciences) and national legislation?

1. Basic findings

It has been mentioned several times that legal scholarship needs to be assessed differently than other fields of sciences because of its special characteristics.

Many speakers have mentioned that national language as the language of legal publication is undervalued in their countries (with the exception of Croatia), despite of the fact that for national legal scholarship of high quality domestic language is the primary depository and foreign languages (for example, English) are not fit to express the *termini technici* of the domestic legal language. On the contrary, natural science has universal findings and has no country-specific terminology.

Almost all speakers emphasised that legal studies (and social science in general) face strong competition with natural science for financial resources. Based on the unique features of legal scholarship, such as that it has no universal findings and it is different from country to country, legal scholarship is placed at a competitive disadvantage.

2. Overview of the current situation

2.1. The uniqueness of law as a discipline

In the Central European region, existing international scientific ranking systems and evaluation methods are becoming increasingly dominant, assessing primarily the scientific quality of scholarly journals and books and secondarily that of publishers. These generalised ranking systems and evaluation methods have several disadvantages when they are tried to be applied as benchmark tools (criteria) to Central European national legal scholarship (legal sciences) and when they are determined as requirements to legal academic career development as well as to

funding and financing of universities and of research institutes in the Central European region. Disadvantages do not only have an impact on national legal scholarship but also, on one hand, on legislation and legal enforcement, and, on the other hand, on national interests and culture.

These scientific ranking systems and evaluation methods do not take into account that national laws are inseparably and inherently connected to national language as well as that laws sharply and systematically vary from state to state. As a consequence of these, the legal problems and challenges to be solved are also quite different. Furthermore, legal scholarly activities of high quality from Central Europe frequently fall outside the scope of these existing international systems and remain invisible. The legal problems of other countries are less important from the viewpoint of a foreigner. However, by preferring English-language legal scholarship, domestic scholars are squeezed into dealing with problems which are of less importance to his/her country, and their attention is detracted from those legal problems which would be of high relevance.

The scope and aim of scholarly journals which are highly rated based on the now dominant and emerging scientific ranking systems and evaluation methods do not cover and are not open enough to national legal problems, topics and challenges posed by the Central European legal traditions and status quo. They rather present, analyse and are open to those problems, topics and challenges which are in connection with Western European and Anglo-Saxon legal tradition and development. Furthermore, English as the intermediary language of these scholarly journals is – in many cases – unsuitable and inappropriate to contribute to the high quality of national legal debates and discourse on detailed and precise questions rooted in the respective state's legal doctrine. The unconditional adoption of these existing international scientific ranking systems and evaluation methods may result in the decline of national legal debates and in the quality deterioration of national legal discourses and legal culture having adverse effects on the development of national laws, legislation and legal practice.

Legal language is of paramount importance to national culture. There is an incredibly close link between law and language. Therefore, the cultivation, maintenance and development of legal terminology, its cultivation as a living language, is also a task for national legal scholarship, which is simply not served by English language publications. Encouraging lawyers to publish in English through various reward systems is therefore only acceptable to a limited extent and cannot be absolutized.

Moreover, English language as a *lingua franca* has limited capacity to capture adequately and accurately the problems of continental legal systems. This type of standardisation of the English language has not been carried out, there is no appropriate terminological unity, and if a Hungarian reader reads about Polish law in English, there is a good chance that he or she will misunderstand an important issue because of the intermediary language. Therefore, immediate and full internationalisation should not be the general focus either.

The Anglo-Saxon orientation may be detrimental to the development of legal scholarship in Central Europe, as it orients scientific publishing towards areas which are primarily international and non-national and which may not necessarily be important for the development of national law. In addition to English, attention should be paid to other world languages, such as French and German. Publications written in world languages other than English may have much more significance for the legal scholarship of Central European countries. For example, the Hungarian legal system is to a great extent influenced by German law which serves as an example in many cases.

Some part of legal scholarship is international, but most of it is tied to a country's own legal system.

The functioning of a state's legal system is ancillary abroad but of primary importance from the specific internal viewpoint of that state's scholars and practitioners. For example, writing on a certain issue of Romanian civil law in English can be informative and descriptive at most. The primary forum for in-depth analyses with correct terminology is Romanian legal literature in Romanian language. What is knowledge abroad is science at home. It works exactly the other way round, as in natural sciences, where the scientific field is unified, and what is a result in Country A is also a result in Country B. Academic experience tells us that in the Central European region the most important, significant and influential works of legal scholars are not written in English. It is not possible to assess and evaluate the academic achievements of professors on the basis of their English-language publications, especially in those areas of law that are not international in character.

An appropriate domestic ranking system for legal scholarship cannot discriminate domestic journals/publishers against foreign journals/publishers, if both the domestic and foreign ones fulfil the same high-quality criteria, given that—in this case—domestic journals/publishers would be placed at a competitive disadvantage. This principle should also apply to those domestic journals which are, for example, published in English.

2.2. Best practices

The Romanian system. Domestic and foreign journals constitute part of the same ranking system and list, therefore authors receive the same amount of points for publishing in a foreign journal and in a domestic journal. It contributes to the maintenance and preserving of domestic legal language and does not discourage authors to publish in domestic journals. All ranking systems are acknowledged equally.

The case law of the Constitutional Court of Croatia. It has recognised that the strong connection between national language and culture has a crucial impact on certain social sciences, and it is constitutional to introduce different criteria for the evaluation of legal scholarship than for other disciplines. Croatia has seized the opportunity and adopted a ranking system for law which serves Croatian interests in the long term.

Serbian system. It does not only recognise as top-quality those legal journals which are indexed by international ranking systems.

3. Conclusions and directions for development

Our conclusions and directions for development are exclusively formulated for legal scholarship.

This issue needs solutions which are acceptable and advantageous to the legal scholarship (legal sciences) of the Central European region. Finding the best solution requires further analysis, nevertheless, within the framework of the possible solutions not only national but also international aspects must be considered which maintain the equilibrium between existing international trends and the interests of Central Europe.

The legal academic communities of each country have to preserve their scientific sovereignty and scientific identity in the respect that domestic evaluation methods be maintained which take into consideration the national legal language and culture of the respective country. By trying to fully comply with international evaluation standards, domestic legal scholarship, including national legal language and culture, loses its significance and relevance.

Because of its peculiarity and characteristics, legal scholarship should be treated differently in terms of the evaluation of academic performance than those disciplines which have universal findings not limited by national borders and national language.

It would be reasonable to continue discussions as to whether the legal academic communities of the Central European region could establish international standards which, on the one hand, respect national scientific sovereignty, and, on the other hand, are fit to take into account the impact the scholarly publication has on domestic law.

A Central European rating system for law based on the equality of national systems could be elaborated. It would mean that domestic legal journals/publishers/ranking systems of a given Central European country would be accepted as high-quality systems in all countries on a reciprocal basis.

In short, we do not aim to discourage legal academic publishing in English (we consider English-language academic publishing important), but we aim to emphasise that it should not be over-rewarded at the cost of discouraging, downgrading and under-emphasising publications in national language.