Traditional and European Oriented Principles in the Codification of Administrative Procedures in Central Eastern Europe

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Codification of administrative procedures changes over time, which also applies to the basic principles related thereto. The article presents the development of such principles in national administrative procedure acts/codes (APAs) of Slovenia (1999), Czech Republic (2004), Croatia (2009) and Hungary (2016), in line with EU guidelines, particularly Art. 41 of the EU Charter that envisages the right to good administration. The author finds that more recent APAs in Central Eastern Europe present an evident trend towards governing the administrative procedure and the basic principles more comprehensively and proportionally. This points to a positive surpassing of historical legacies to the Europe-

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an convergence as regards particularly the procedural principles in national codifications. At the same time, there is evidence of interference with the administrative procedure as a tool of democracy. Hence, in the Member States, classical and modern principles should be codified and interpreted holistically, in the light of EU values.

Keywords: Central Eastern Europe, good administration, administrative procedure, codification, principles, legal remedies, EU convergence

1. Introduction

The highly changing societal environment brings the necessity of public administration reforms (PAR). This is even more emphasised in Central Eastern Europe (CEE), a fact which can be attributed to the still ongoing transition and problems regarding compliance with European Union (EU) law, and, generally, to the search for balance between the rule of law and other classical principles on the one side, and modern principles – such as efficiency, transparency, participation – on the other, even more so in crises such as the Covid-19 pandemic.[1] Nevertheless, societal changes represent an opportunity to redefine the existent national codification in line with the necessary role of public administration in a contemporary world.

Within PAR in general, the modernisation of administrative procedure and of the basic law regulating them, i.e. the (General) Administrative Procedure Act or Code (APA) gain attention and solutions. Because of varied scope, there is a need to increase the convergence of the APA principles across the EU, and in CEE in particular due to less strong traditions on the field (Nehl, 1999, p. 80; Statskontoret, 2005, pp. 7, 71; Rusch, 2014, p. 193; Galetta, Langan & Nicandrou, 2015; Barron & Günther, 2018). Therefore, Europeanisation – i.e. the process of cross-border integration and standardisation, particularly within CEE as a result of EU enlargement[2] – should

[1] Cf. Galligan, Langan & Nicandrou (1998); Venice Commission (2011; 2016); Rusch (2014); Sever, Rakar & Kovač (2014); Hofmann, Schneider & Ziller (2014); Galetta et al. (2015); OECD (2017); Kovač & Bileišis (2017). As for the Covid-19 impact, see Aristovnik et al. (2021).

[2] Europeanisation, as understood generally and for the purpose of this article, is the process of building, disseminating and institutionalising (in)formal rules, procedures, paradigms, *modi operandi* and different beliefs and norms when drafting and implementing pub-

be taken into account in any analysis or national reform relating to public administration, both in political and legal terms.

This is evident from several mechanisms, such as forming convergent European Administrative Space (Olsen, 2003; Koprić et al., 2016; Nikolić & Kovač, 2021). Moreover, convergence arises also from the ReNEUAL research[3] and the draft EU Regulation for an Open, Efficient and Independent EU Administration (draft EU Regulation), adopted by the European Parliament in 2016 (more in Hofmann, Schneider & Ziller, 2014). A significant basis for such is the Charter of Fundamental Rights of the EU (EU Charter) in force since 2010, in particular Art. 41 on the right to good administration.[4] However, there is an open question whether a global or common European administrative law is coming into being and, if so, which elements are desirable to be codified convergently or otherwise. Yet, hereby largely procedural principles that have emerged in national administrative law systems, notably the principle of legality and due process principles, have special potential (more in Harlow, 2006).

At the EU level, administrative procedure has been evolving into a dialogue tool between the state and the citizens, which replaces the purely

lic policies in the EU and transposing them to the national level (cf. Olsen, 2003; Cardona & Freibert, 2007; Nemec, 2016; Rusch, 2014; OECD, 2017; Nikolić & Kovač, 2021).

[3] ReNEUAL stands for an academic network of scholars dealing with administrative law in the EU. The research addresses the potential and the substantial need for simplification of EU administrative law, as the body of rules and principles governing the implementation of EU policies by EU institutions and Member States. The overall objective of ReNEUAL is to develop an understanding of EU public which ensures that the constitutional values of the EU are present and complied with in all instances of exercise of public authority. Based on comparative analyses and the best practices identification, the ReNEUAL working groups have developed a set of model rules (Hofmann, Schneider & Ziller, 2014). There are other topics explored, such as good administration, digitalisation of public administration, inter- and transnational administrative law (www.reneual.eu/).

[4] EU Charter, Official Journal of the EU, No. C 83/389, 30. 3. 2010. Art. 41 reads: "1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union. 2. This right includes: the right of every person to be heard, before any individual measure which would affect him or her adversely is taken; the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy; the obligation of the administration to give reasons for its decisions. 3. Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States. 4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language." In addition, see EU Ombudsman Code of Good Behaviour; Statskontoret, 2005. See also Council of Europe, Recommendation CM/Rec (2007)7 to member states on good administration.

hierarchical authoritarian relation characteristic thereof in the past decades. Furthermore, there have been trends to make public policies more efficient through APAs, particularly in terms of red tape reduction.[5] This is reflected especially through a series of (new) APAs and related principles, as elaborated further on for the selected four CEE countries. However, while some "new democracies" – e.g. new EU Member States since 2004 – follow those trends and have indeed redefined their APAs, others seem rather reluctant to do so or even systematically introduce contrary changes (as in Hungary, see Potěšil et al., 2021).

The article offers a comparative study of selected CEE countries and their APAs, aimed to identify (i) the key similarities and differences regarding APAs' principles among the selected CEE countries, and (ii) the degree of compliance of national laws with the draft EU Regulation and the case law of the Court of Justice of the European Union (CJEU). The hypothesis put forward is that more recent codifications, i.e. APAs, reflect greater European convergence in the sense of focusing on good administration.

The analysis covers Slovenia, Czech Republic, Croatia, and Hungary, where administrative procedure is codified through the APA (or GAPA as General APA or AP Code) as *lex generalis*.[6] These countries are highly comparable because of their shared history and general legal system, while on the other hand there is already evidence of the different paths taken by them (Galligan, Langan & Nicandrou, 1998; Rusch, 2014; Skulova & Potěšil, 2017; Kovač & Bileišis, 2017). The research problem addressed by the article is thus manifold, opening questions such as: what are the key PA(R) concepts (e.g. good administration combining the *Rechtsstaat* doctrine and new public governance) that serve as a framework for APAs' modernisation; to what extent do national APAs follow European minimal standards and trends; does Europeanisation play a key role or only a declaratory one,

[5] On (the shift to) administrative procedure as a tool for the implementation of public policies, see McCubbins, Noll & Weingast (2007). Similarly, in CEE (Koprić & Đulabić, 2009; Skulova & Potěšil, 2017; Kovač & Bileišis, 2017) or the Western Balkans, such as the Albanian APA of 2015 with "the principle of de-bureaucratisation" (more in: Koprić et al., 2016; particularly for Hungary on the special debureaucratisation act from 2015 and act from 2019, see Potěšil et al., 2021; and related to Covid-19 in Aristovnik et al., 2021).

[6] In Slovenia: *Zakon o splošnem upravnem postopku* from 1999 and amendments, in force since April 2000. In the Czech Republic: *Správní řád* from 2004 and amendments, in force since January 2006. In Croatia: *Zakon o općem upravnom postupku,* in force since January 2010. In Hungary: *Act CL of 2016 on General Public Administration Procedures (APA)*, in force since January 2018. As for the Covid-19 and other impacts on APA (in Slovenia), see Kovač, 2020.

etc. The article first outlines the significance of the general principles of administrative procedure, followed by a detailed comparative analysis of selected countries' APAs that entered into force between 2000 and 2018. Both chapters present a parallel elaboration of the principles (a) among the countries and (b) at the national level compared to the EU level. Finally, some insights into possible future developments are put forward.

2. Fundamental Principles of Administrative Procedure as a Contextual and Methodological Framework of Comparative Analysis

Generally speaking, legal principles are value-based criteria arising from theory, case law, constitutional guarantees (at the national level or arising from the EU Charter) and laws, which are applied to regulate and, in particular, to interpret codified legal rules. Yet, there is a difference between when a norm is considered a principle and when it is considered a rule, as well as whether it is a general/basic or special principle. Another outstanding issue is whether and how basic principles can be made operational.[7] This means that basic principles must be sufficiently general and not too user-oriented or too specific, as this would prevent assessment or evaluation, while the rules – which constitute a lower legal category – serve more or less for the mere implementation of the principles.

As many basic principles interact and complement each other, any collisions between them must be interpreted comprehensively and the contradictions among the parties "in dispute" surpassed (e.g. the *prima facie* contrary principles of legality and efficiency should be interpreted jointly in order to satisfy both).[8] In such regard, principles always derive from the context of the area they regulate. In terms of administrative procedure, this means confronting the public interest with the legally protected interests of private parties whose rights, benefits or obligations are being

[7] More in: Jerovšek (1998); Pavčnik (2001, pp. 83–88); Galetta et al. (2015, pp. 6–10); Kovač (2016); Jerovšek & Kovač (2017, p. 27); Balogh-Bekesi & Pollak (2017, p. 20).

[8] On the relevant Slovenian practice, see Kovač and colleagues (2016). Theoretically, Kerševan and Androjna (2017, pp. 62–63) explain: "Anyway, the application of one principle does not exclude the application of another; it is only about applying different value-based criteria from different aspects at the same time and in the same case".

decided on, whereby the public benefit takes precedence (Pavčnik, 2001, p. 87; Jerovšek, 1998, p. 53, 65).

Basic principles are a very important part of the legal and administrative system. Their purpose is multifaceted and can be summarised into the following points (Jerovšek, 1998, p. 54; Galetta et al., 2015, p. 7). First, basic principles ensure a correct and proper application of substantive law. Second, regardless of the specifics of the administrative area, they provide a minimum uniform standard of procedural protection of the parties, which is usually already a national constitutional rule; similar is the position taken by the draft EU Regulation. Third, they provide a framework for the correct interpretation of individual institutions and rules, particularly in relation to procedural discretion (Kovač, 2020; Jerovšek & Kovač, 2017, pp. 38–40). Altogether, these principles constitute a reference point to assess the legality of issued administrative acts; failure to comply therewith can therefore serve as a reason to file legal remedies (Đanić Čeko & Kovač, 2020; Koprić et al., 2016; Hofmann, Schneider & Ziller, 2014).

When the principles constitute the normative part of a regulation, their significance is even more accentuated (Statskontoret, 2005, p. 72). They also provide for legal certainty, as they clarify the frameworks of the subsequent rules in the same act. The principles can be either enshrined in the preamble or written in the form of articles, in both cases providing a direct legal basis for their implementation and indirectly reflecting in the reasons for legal remedies or judicial review.

In addition to the above, it seems worth pointing out that although specific substantive issues are regulated at the EU level, Member States have a certain degree of procedural autonomy (Nehl, 1999; Kovač, 2016). The latter is limited by EU principles, primarily by equivalence and effectiveness in terms of the implementation of EU law. This is particularly relevant for the topic under consideration, as it calls on individual countries to search for a balance between the general/supranational common regulation and the specifics of a particular administrative tradition and area, the current status of public administration, and the country's political goals. This is also the reason for the differences occurring – despite the common development guidelines for national APAs – also in the regulation of the basic principles of administrative procedure, where the Treaties do not provide the necessary grounds for the supremacy of EU law.[9]

[9] On common administrative procedure law due to the *de minimis* rule, see Hofmann, Schneider & Ziller (2014). Cf. a number of CJEU cases regarding administrative matters (in

Hence, it is not surprising that there is no uniform set of basic principles, neither generally nor for administrative procedures or relations/matters, although some convergence can be observed at the national level, driven by the acts of the Council of Europe and the EU and the trend of Europeanisation. Let us therefore start by considering which basic EU principles are highlighted by our four sources, which will also serve for further comparative analysis of national APAs. These include elaborated principles under the EU Charter, the 2013 Resolution of the European Parliament as a precursor of the draft EU Regulation of 2016, and case law of the CJEU. Table 1 shows an overview of such principles with an emphasis on the common features of the selected sources[10] in order to draw up a list of the key EU principles and find out how administrative regulation is Europeanised in national laws.

Table 1: *The principles of administrative (procedural) law in the EU*

EU Charter	Resolution, 2013 – Recommendation 3–5	20 recitals by Galetta et al., 2015, by CJEU cases	Draft EU Regulation, 2016, Preamble
Art. 2 of the Treaty on EU, Preamble, Art. 20, equality	1. Lawfulness/ legality	Legality; rule of law	(18), rule of law, legality, also (37), (42), etc.
Art. 41, 20, 21, non-discrimination	2. Non-discrimination, equal treatment	Equal treatment and non-discrimination	(38), use of languages
Art. 52	3. Proportionality	Proportionality	(19), proportionality
Art. 20, 21, also 41	4. Impartiality (& 3. under Rec 4)	Impartiality	(20), (26), impartiality
Partly Art. 20, 41	5. Consistency and legitimate expectations	Legitimate expectations; legal certainty	(35), (41), legitimate expectations, (42) legal certainty, also (37), (5), (23)
Art. 8, protection of personal data, 41	6. Respect for privacy	Data protection	(40), protection of personal data, also (29)
Art. 41, also 48, right of defence	7. Fairness	Fairness	(20), fairness

addition to judicial ones), e.g. Kühne-Heitz, C-453/00, Tillack, T-193/04, Pelati, C-603/10, H.N., C-604/12. Case law is not completely uniform, and it generally seems that there are more cases and arguments in favour of autonomy than restrictions. In this regard, it is worth mentioning the *acte clair* doctrine, stating that when in doubt whether national law is compatible with EU law, the dilemma needs to be solved, even if the national court needs to submit a preliminary question to the CJEU.

[10] Galetta and colleagues (2015, pp. 6, 17, 20) explicitly point out that 20 parallel principles have been identified through EU case law, but there is no hierarchy between them and some principles are broader and include or directly overlap with the rest.

Art. 42, access to documents	8. Transparency	Transparency; access to information/ documents	(35), (39), transparency, also (2), (29)
Art. 41	9. Efficiency and service	Duty of care; data quality	(11), (44), efficient, independent PA, (24) care, (2), efficiency, responsiveness
	Rules/rights (Rec. 4): 1. Initiation upon request or ex officio 2. Acknowledgement of receipt		22), to acknowledge receipt of the application
Art. 41, also 48	4. The right to be heard	Participatory democracy; hearing	(28), right to be heard, also (29) and (25)
Art. 41, 42, also 48	5. The right to access one's file	Access to the file/ info/ documents	(29)
Art. 41	6. Time-limits	Timeliness	(20), (23), (30), timeliness
Art. 41, also 47, 48	7. The form of decisions; 9. Notification; 8. Stating reasons; 10. Indication of the remedies	Reason giving; effective remedy	(31), state clearly the reasons, (33), indication of remedies, also (34) judicial remedy
Art. 47, effective remedy & fair trial, 41, 43, ombudsman	Recommendation 5: the correction of errors via remedies	Effective remedy	(32), effective remedy
MS cooperation			
Art. 41, *et simile*	Good administration	Good administration	(3), (10), (12)..., good administration

Source: Author.

As suggested by Table 1, drawing up a uniform list raises a series of questions, starting with the dilemma over what is a truly general principle *stricto sensu* and what is a fundamental right. In this context, the concept/ principle or right to good administration is particularly relevant, as theory and case law argue that it is not a single principle, but rather a complex set of principles and rights (Bousta, 2013; Galetta et al., 2015, pp. 9, 18-20). Nevertheless, considering the trends in the EU and with the aim of maximising inclusivity by type of administrative act and definition of administrative matters and categories of the same level, it is possible to identify some common basic EU principles of administrative procedure. These can be divided into classical and modern principles.

A) Classical principles include, in particular:

1. legality and equality with legal certainty and impartiality; with simultaneous protection of the public interest and the rights of the parties (service, concern); in such sense, also independence and autonomy of administrative authorities within the prescribed competences and powers;
2. substantive truth, taking into account true data and the participation of the parties, which is the actual basis for legality;
3. right to be heard, including access to the file, service, etc., which, given the superiority of the administration, enables a democratic protection of the dignity of the parties;
4. legal protection through efficient remedies and judicial review;[11]
5. economy of procedure in terms of cost and time.

B) Modern principles include:[12]

1. transparency, e.g. access to information/file, proportionately with data protection;
2. responsiveness and decisions within a reasonable time, rather than classically short and cheap procedures;
3. cooperation between administrative authorities and public administrations.

If we are to talk about good administration, both sets of principles must apply. Thus, the classical right to be heard is upgraded with the principles of participatory democracy but can be also limited to protect public interest.

A principle is generally considered *lex imperfecta* and there are no direct sanctions for violations of the primary disposition (Pavčnik, 2001, p. 84).

[11] In this context, efficiency, according to Weber, is to be understood as compliance with the objectives of legal regulation (Pirnat, 1993). Hence: if the purpose of legal remedies and judicial review is to ensure legality – i.e. simultaneous protection of the public interest under substantive law and the rights of the parties – it is necessary to provide operational support to both protected categories. Therefore, any administrative decision should include a full reasoning and an indication of legal remedies.

[12] There are as many definitions of "modern" principles as there are authors. For the purpose of this article, modern principles are the principles that have recently evolved with the concepts of good governance and good administration (more in: Sever, Rakar & Kovač, 2014; Kovač et al., 2016). For CEE, the OECD principles disseminated through Sigma are important in such respect. In 1998, the Sigma working paper highlighted the following four principles: rule of law and legal certainty, openness and transparency, accountability, and effectiveness and efficiency. These principles are considered more than just a minimum standard and thus set the obligation of results (Olsen, 2003; Cardona & Freibert, 2007, p. 52; Skulova & Potěšil, 2017).

Yet, in order to examine whether the regulator has been consistent, this criterion is used to distinguish between (only) declaratory and explicitly operational protection of the principle by the use of legal remedies (Jerovšek, 1998, pp. 55, 57, 59; Koprić et al., 2016). Broadly speaking, however, other principles of administrative or procedural law also need to be taken into account, together with systemic constitutional and administrative guidelines, which are not the subject of this article. Nevertheless, for the purposes thereof, I will consider as a basic principle of the national APA any guideline or codified norm:

(i) which can be found in the introductory section of the APA, generally under the heading "principle/s";

(ii) which applies as a basic principle for all (special) administrative procedures and not just for a specific area, and for all stages of procedure;[13]

(iii) where violations of the principle are specified among the reasons for appeal.

The basic characteristics relevant for the analysis of selected countries are listed in Table 2.

Table 2: *Characteristics of selected CEE countries relevant for the analysis of their APAs*

Characteristics	Slovenia	Czech Republic	Croatia	Hungary
Year of adoption/ entry into force of APA	1999/2000 (with several amendments, also in 2020)	2004/2006	2009/2010 (amended in 2021)	2016/2018 (with the 2019 Act on the Single Instance District Office)
First APA	Austrian 1925, then Yugoslav (YU) 1956/1986	1928, then 1967 (with several amendments)	Austrian 1925, then YU 1956/1986	Austrian, then its own 1957 (with amendments), 2004
Major PA legacy	Austrian & YU	Austrian, Soviet, Visegrad	Austrian & YU	Austrian, Soviet, Visegrad
Current country	1991 (formerly YU)	1989-1993 (formerly Czechoslovakia)	1991 (formerly YU)	1990

[13] This is particularly important when delegating powers outside the state administration to different agencies in order to preserve the democratic limitation of authority despite the respective agencies being rather autonomous (McCubbins, Noll & Weingast, 2007, pp. 19–20). However, there are some contrary trends, e.g. in the recent Hungarian law, that tend to diminish such relation (Potěšil et al., 2021).

Constitution	1991	1992	1990	2012, previously 1990
CoE membership	1993	1993	1996	1990
EU (Euro) membership	2004 (2007)	2004 (/)	2013 (/)	2004 (/)
Population	2.1 million	10.7 million	4.3 million	9.8 million
GDP in EU average	87%	90%	63%	70%
Doing Business 2019 (out of 190 countries)	40	35	58	53
Governing coalition	Central-left	Central-left	Right-central	Right-central
Recent PAR models	Neo-Weberian State, partly Good Governance	Neo-Weberian State & more NPM	NPM & Neo-Weberian State	Neo-Weberian State, partly Good Governance

Source: Author.

The countries concerned have a shared Austrian and post-socialist/communist history, comparable legal system characteristics (constitution and *Rechtsstaat* orientation), and a PAR aiming at EU membership with a combination of Weberian and New Public Management approaches. As shown by the table, there are no major differences between these countries in political, economic, or legal terms. Their APAs all promote single-case administrative decision-making,[14] which enables a relatively objective comparison, albeit limited to the regulatory level. For more, especially in case of new acts, further time is needed, although certain phenomena (such as the actions by the Hungarian authorities being challenged at the EU level, e.g. with interventions in the system of breaks and balances between various branches of power; Kochenov & Bard, 2018; cf. McCubbins, Noll & Weingast, 2007) suggest that progress is being made. Likewise, account should be taken of implementation gaps, which can be considered a constant in CEE (Galligan et al., 1998; Kovač & Bileišis, 2017). For instance, the problem is detected in Hungary, where clinging to the primacy of general rules resulted in a hollowed-out set of general rules backed up by numerous subsidiary rules (Potěšil et al., 2021).

[14] Croatian and Hungarian APAs (Rozsnyai, 2019, p. 9; Potěšil et al., 2021) explicitly regulate not only individual administrative acts, but also administrative contracts and acts that are not, in a narrow sense, issued in an administrative procedure. Likewise, also other APAs are applicable in such cases mutatis mutandis, e.g. Art. 4 of the Slovenian APA. Cf. Galligan et al. (1998, p. 17); Nehl (1999, pp. 71–90, 127); Auby (2014, p. 8); Hofmann, Schneider & Ziller (2014).

Namely, administrative law is primarily a Western construct, protective of Western interests, so it may impact unfavourably developing economies, especially if law in adjudicative forums leads to an undesirable juridification of the political process (more in Harlow, 2006).

3. Comparative Analysis of the Principles in Selected National APAs

The characteristics of administrative procedure codification vary over time. Thus, in more recent laws, regulation is more concise and the number of provisions is lower (e.g. the Slovenian law, which is 20 years old, contains 325 articles, while the most recent Hungarian law in force since last year has only 144 articles, see Table 3). In addition, the majority of recent laws regulates administrative relations more comprehensively,[15] which also implies a broader range of basic principles. These are defined more generally and purposefully, whilst being further elaborated at an operational level by individual rules. Such characteristics of development of the APA in CEE are in line with the trends recorded throughout the EU or in most of the Member States (see: Hofmann, Schneider & Ziller, 2014, p. 12; Auby, 2014; Rusch, 2014, p. 200).

Furthermore, the complexity of basic principles has been increasing. The classical belief that a principle binding an administrative body is simultaneously a right of the party no longer applies; instead, the rights and the participation of the parties and even authorities intertwine (Barron & Günther, 2018, p. 5). At the same time, authorities are entitled and obliged to pursue the target value of each principle and of all principles together, especially when it comes to good administration, which is considered as a set of rights of the parties and thus of obligations of the authorities (Nehl, 1999; Bousta, 2013).[16] The reasons for the above include an increasingly difficult legal determination of dynamic real life situations, which also leads to less tangible substantive provisions (Galligan

[15] Cf. Sever, Rakar and Kovač (2014); Koprić and colleagues (2016); Skulova and Potěšil (2017). A comprehensive approach is also seen in the recent amendments to or modernisation of the APA and the administrative dispute acts (ADA) concerning judicial review over administrative decisions, e.g. in Croatia and Hungary (Koprić & Đulabić, 2009; Rozsnyai, 2019).

[16] See also CJEU cases Tillack and H. N., from 2006 and 2014 respectively.

et al., 1998, p. 29; Kovač, 2016, p. 434). Yet, as exposed by Kochenov and Bard (2018, p. 22): "Procedural principles cannot possibly replace the lack of substantive attention to the core values encompassed by Art. 2 TEU, including the Rule of Law, threatening to cause justice deficit of the Union"; especially with EU law, since it is "functioning differently: there is a whole other set of principles that actually matter and are held dear: supremacy, direct effect, and autonomy are the key trio coming to mind."

The above is also a reflection of general PARs. New trajectories have been identified in CEE particularly in terms of New Public Management, with elements such as emphasised care for citizens' needs and cost efficiency, and the Neo-Weberian State with the preservation of the basic principles of administrative law. All of the above is related to the traditional Weberian public administration by the principles of good governance (Venice Commission, 2011; Sever, Rakar & Kovač, 2014; Kovač et al., 2016; OECD, 2017; Kovač, 2020).

Let us now take a closer look at the principles at the national level. Despite elements of convergence, the premises and the list of principles in the selected four countries vary considerably.[17] To start with, they differ in number, which does not match the trend of APA provisions decreasing over time (see Table 2). This is somewhat logical as it involves norms of different weight. Yet in the context of good administration, modern principles are to supplement the traditional ones, rather than replacing or reducing them (as is the case in Hungary, with only five principles in the law applicable since 2018). In the selected countries, however, modern principles are added to traditional ones. This is seen both when comparing previous and applicable laws in an individual country (Table 1), and when comparing currently applicable laws among the countries (Table 3).

In Slovenia, the APA contains nine basic principles in Art. 6 to 14, some of which could be combined – similarly to comparable regulations – into

[17] According to Barron and Günther (2018, pp. 2–3), some issues of codification of administrative procedure in the 27 countries covered by their study – mostly on the rights of the parties and determination of facts, i.e. in relation to the right to be heard and material truth – are solved "almost unanimously", which they attribute to the common background of EU law and "common sense", followed by common convictions. But they add: "Yet, quite a few questions were answered differently, sometimes showing a somewhat similar basis thought, but great variety in detail." Similarly, Statskontoret (2005, p. 7), stating that "A core set of principles of good administration is widely accepted among MS"; however, their content and interpretation "vary significantly".

one principle (as seen in Table 1 for EU principles).[18] Although the initial provisions (Art. 3, 4) define a subsidiary use of the APA in relation to special laws, the latter cannot interfere with the above principles due to Art. 22 of the Constitution providing for equal protection of rights. More so, basic principles apply *mutatis mutandis* in all public law matters insofar as procedure is not regulated by a special law. Following national case law, this applies in particular to legality – in the sense of measures being based on law – and the principle of hearing the parties as an obligation of the authority to provide to the party the right to be heard and to participation from the beginning of the procedure to the application of legal remedies. In addition to the principles or in order to implement such, certain instruments are of constitutional importance since they directly refer to constitutional guarantees or are interpreted as such by the national constitutional court; examples thereof include use of language and access to information (Kovač, 2016, p. 454).

The Czech law defines seven principles in Sections 2–8. Although Section 1 provides for the supremacy of sector-specific laws, the principles in the section "Basic principles" serve as the framework for all procedures. The first principle, also on the basis of the Constitution, is legality, with an emphasis not only on other regulations in the country, but also on international treaties (e.g. the EU Charter), whereby authorities are stimulated to act in good faith in terms of a balanced protection of the public interest and the legal interests of the parties. This principle is complemented by Section 7 with a particular emphasis on equality and impartiality.[19] Also worth mentioning is Section 4 stating that public administration provides

[18] E.g. legality, protection of the public interest, and autonomy of the authority are not three principles, but actually one principle; the same applies to the principle of material truth with free evaluation of evidence and the obligation of the party to tell the truth (Jerovšek & Kovač, 2017, Kerševan & Androjna, 2017). More on the constitutional ranking of APA provisions in Avbelj (2019), in particular in the comments to Art. 22, 23, 25 and 157 of the Slovenian Constitution on the equal protection of rights and legal (judicial) protection. As for language, see the decisions of the Slovenian Constitutional Court UI-146/07-34, 13 November 2008, and UI-16/10, Up-103/10, 20 October 2011. In general, even in this oldest APA there are less principles than in the previous Yugoslav law (Koprić, 2005).

[19] In theory, some of the basic principles of the Czech APA are seen as the projection of general legal principles onto positive law. Some principles are derived from the Constitution, such as the principle in Section 2/4. The Czech case law understands this as the principle of (protection of) legitimate expectations or legal predictability. These provisions are also understood as equality of addressees, prohibition of the abuse of discretion, and the requirement to reason a decision (more in: Sever, Rakar & Kovač, 2014; Skulova & Potěšil, 2017; Auby, 2014).

"service for the public",[20] which implies the protection of the rights of the parties in general and special procedural rights of defence under Art. 41 of the EU Charter. As opposed to other APAs, the Czech APA in Sections 5 and 7 explicitly refers to alternative or peaceful dispute resolution and cooperation between authorities.

Croatia supplemented its fundamental principles in the new, 2009 APA. Today, the Croatian law contains ten principles listed in Art. 5–14, (again) starting with legality. Although new principles were added, their number is still lower than in the previous, Yugoslav APA. For example, the list of principles no longer contains finality, while the hearing of the parties at such level was turned into (merely) a rule.[21] On the other hand, legality is emphasised by special principles, such as proportionality and protection of acquired rights under Art. 6 and 13 of the APA (Šikić & Ofak, 2011). In view of the novelties introduced by the 2009 APA, sector-specific regulations must now be amended and aligned with the basic principles (*sic*!), especially since the new APA does not explicitly define its subsidiary application. In sum, the Croatian APA definitely took an interesting approach, combining traditional regulation (such as the Yugoslav APA) and modern approaches. The law is sometimes regarded as partly inconsistent, as it introduces new institutions but still preserves some rather unnecessary "old" provisions and formalistic interpretations (Koprić & Đulabić, 2009; cf. Auby, 2014, p. 107; Rusch, 2014, p. 211). Furthermore, attention is being paid to data gathering and protection (Art. 11). In such context, Croatia is the country that comes closest to the EU (cf. Nehl, 1999).

In its most recent law, under the title "Basic principles", Hungary defined five basic principles in Sections 2–6. The first provision emphasises that the role of such principles is fundamental, especially the constitutional right to good administration (Art. XXIV), and the right to legal remedy

[20] However, the concept of the rule of law and the role of administrative law especially in the (post)communist sphere may well be formally established in the sense of the administration being a service for the people, but in practice it merely serves partial political interests (Galligan et al., 1998; Koprić, 2005, p. 2). Cf. Staskontoret (2005, p. 61), in the sense of service-mindedness.

[21] According to Šikić and Ofak (2011, p. 131), the right to be heard is important in relation to the constitutionally provided equality before the law, therefore a violation thereof necessarily leads to unlawfulness and interference with constitutional rights, even if the new law removed such from the list of principles. However, the removal of certain principles compared to the previous law is not necessarily the basis for *a contrario* interpretation.

(Art. XXVIII), and that these principles apply to all stages and all areas.[22] Here, too, the first principle listed is legality, with an explicit reference – similarly to the Croatian and partially Czech APAs – to "good faith" of the public administration and reasonable time for decision. A special principle in Section 3 provides the basis for the protection of public interest through procedures *ex officio*; additionally, Section 6 speaks of "good faith" of the parties (not the authorities). Moreover, when considering other rules and acts, in particular the Act CXXVII on the Single Instance District Office Procedures from 2019, a significant deficit of procedural guarantees is identified, such as the rights to be heard and to appeal (Potěšil et al., 2021), which are of major importance in the EU framework (cf. Kovač, 2016; Galetta et al., 2015; Hofmann, Schneider & Ziller, 2014). This shows a different trend than the one observed when studying from the Slovenian, Czech and Croatian APAs.

Table 3: *Basic principles of selected APAs compared to the EU premise*

	Slovenia (1999)	***Czech Republic (2004)***	***Croatia (2009)***	***Hungary (2016)***
No. of APA articles	325	184	171	144
No. of articles containing basic principles	9	7	10	5
EU principles – classical*				
Legality, equality *et simile*	Art. 6, 7, 12	Sec. 2, 7	Art. 5, 6, 7, 13	Sec. 2, 3
Material truth	Art. 8, 10, 11	Sec. 3	Art. 8, 9	Sec. 6
Right to be heard	Art. 9	Through rules, partly in Sec. 4	Through rules, language in Art. 14	Sec. 5
Legal protection / appeal	Art. 13	Only through rules and ADA	Art. 12	Only through rules and ADA
Economy	Art. 14	Sec. 6	Art. 10	Sec. 4

[22] Balogh-Bekesi and Pollak (2017, p. 31), also referring to the explanatory memorandum of the APA. It should be noted here that Hungary adopted a new constitution in 2012 and carried out a fairly centralist revision of a number of systemic laws, including – in addition to the APA – also the ADA, which the national Constitutional Court first considered unconstitutional, while even various EU bodies identified the controversy of some interventions (more in: Rozsnyai, 2019, pp. 12, 19; Kochenov & Bard, 2018; cf. Venice Commission, 2016).

EU principles – recent*				
Transparency	Only through rules	Only through rules	Art. 11	Only through rules
Timeliness	Partly Art. 14	Only through rules	Partly Art. 10	Partly Sec. 2
Cooperation with the party, between authorities and EU MS	Only through rules	Sec. 5, 8	Through rules, but also contracts	Through rules, but also contracts
Together: good administration	Theory & case-law	Sec. 4, theory & case-law	Theory & case-law	Art. XXIV of Constitution; case-law?
Assessment of compliance with EU principles	*Rather traditional, compliance in theory and case law*	*Compliant*	*Compliant, yet partly inconsistent*	*Compliant, but the trend shows an increasing power of the Executive and the question of EU values*

* *Light grey marks classical principles, dark grey marks modern principles.*

Source: Author.

Table 3 confirms the similarity between national APAs. They all, for instance, consider legality in a broad sense – not only in terms of subject matter and procedure, but also in the context of the rule of law, e.g. with an emphasis on the prevention of corruption, impartiality, legal certainty and the like (Venice Commission, 2016). Thus, legality can be understood as the eternal primary principle of national APAs with constitutional and international significance (Galetta et al., 2015; Harlow, 2006). At the same time, it is important to draw attention to the main differences, which can be attributed to both the impact of (the accession to) the EU and to national peculiarities, depending on the time and context of adoption of the new APAs. Nevertheless, the selected countries tend to follow the APA and the unwritten EU principles recognised by theory and case law. As regards the PAR model, governance in Slovenia is (still) very Weberian, with authorities prevailing over individual parties, but at the same time features some fundamental democratic guarantees. Modern principles in the Czech Republic and Croatia reflect a higher degree of NPM (e.g. cooperation and contracts) and broader good public governance, but we do not know how much thereof is declaratory and how much it is actually implemented in practice. Although the analysed countries belong to the same circle (Statskontoret, 2005, p. 74), adopting a new law once does not suffice to surpass the legal/administrative traditions. Yet, it is

indeed a sign of development, also raising awareness among the parties and the authorities about how to interpret the new, abstract provisions.

On the other hand, an increasingly authoritative approach is observed in Hungary. The consequences for the rule of law in Hungary are drastic: all the principles invoked by the ECJ to justify giving EU law the upper hand (Opinion 2/13) are procedural, while the problems that the reliance on the ECHR is there to solve are substantive; curing substantive deficiencies of the EU legal order with the remedies confined to autonomy and direct effect is a logical flaw plaguing the EU legal system (Kochenov & Bard, 2018, p. 25; cf. Potěšil et al., 2021).

In order to understand the importance of procedure as a tool of democracy, it is particularly worth emphasising the principle of being heard, since it is often considered – under the influence of more managerial approaches – merely as a rule or a formal right. This is not true. The right to be heard is very important as it holistically establishes a democratic authority despite the prevalence of public interest towards the parties.[23] The aim of administrative activity in the sense of good administration is to resolve conflicts between public and one or more private interests, thus promoting the efficiency of public policies and limiting authority through the participation of the parties. In authoritative procedures, the consensus on the subject matter of procedure between equal parties is replaced by the expectation that the superior authority will make a well-reasoned decision; hence, the procedure is a tool of democracy (Venice Commission, 2011, p. 6). Based on this "classical" principle, alternative approaches are being developed, such as the specific principle of cooperation under Section 5 of the Czech APA. The right to be heard is therefore a key element of good administration, directly leading to the understanding of procedure as a tool to establish dialogue and ensure the acceptance of and compliance with decisions, and thus legal protection. On the other hand, this principle/right has several other elements to ensure the exercise of the (sub)rights encompassed thereby.[24] These include, in particular, (i) the right to information (EU Charter, Art. 42 and 41), (ii) the use of

[23] McCubbins, Noll and Weingast (2007, pp. 3, 16), stress that even the American APA of 1946 guarantees "fairness in administrative operation" and "the effectuation of the declared policies of Congress". Therefore, even the classical right to be heard is more a principle (of participation) than a rule (Nehl, 1999, pp. 11, 109).

[24] By analogy to the "right" to good governance, which involves not one but several (sub)rights (Bousta, 2013; same in Galetta et al., 2015, p. 6). More on the analysis of the principle of hearing the parties in Slovenia compared to selected foreign APAs in Jerovšek and Kovač (2017, p. 53).

official or own language (special principle under the EU Charter, Art. 41, and Croatian APA, Art. 14), (iii) the right to being served a decision prior to the act taking effect, (iv) the right to a reasoned decision (EU Charter, Art. 41, and rules in all national APAs), and (v) constitutional, even international and legal rights to appeal, other legal remedies and judicial protection (Art. 41 & 47 EU Charter, more Koprić et al., 2016; Venice Commission, 2016; Đanić Čeko & Kovač, 2020). In certain cases (urgent measures in the public interest or economy of procedure), this principle may be partly restricted with preclusions.[25] As the instrumental nature of the procedure has been surpassed, the significance of these procedural guarantees is to be evaluated by the gravity of the consequences of their possible violation for the addressee of the authoritative decision. Consequently, the classical procedural guarantees presented here are increasingly often understood as a substantive or constitutionally protected right at the level of principle.

As regards the criterion of the principles being covered by appeal (see Section 2 of this paper, point (iii) before Table 2), we assume that a principle has greater weight if violation thereof is determined by the national APA as an independent reason for appeal.[26] It is of course clear that violation of the principles and fundamental procedural rights constitutes an interference with legality, followed (or not) by the principles of material truth, examination of the parties, and timeliness. For example, the Croatian law states in Art. 107 that the subject of the appeal is a question of legality of the contested decision. Something similar is provided by the Czech and Hungarian laws, although the complainant must indicate why the act is being challenged, while further rules should specify the facts and evidence (the principle of truth), administrative inactivity or silence (the principle of timeliness), as well as the interference with impartiality, the right to be heard (the principle of hearing the parties), and alike. Slovenia has taken

[25] Cf. Statskontoret (2005). The same principle is subject to restrictions under the APA as it may be perceived differently under the APA than in civil proceedings (Krševan & Androjna, 2017, p. 88) or in an administrative dispute (Rozsnyai, 2019, p. 13). Also, one needs to distinguish the right to be heard from the principle of material truth, as the first serves to protect the party from the (abuse of) authority, which is the core of formal legality, while the latter is intended to establish true facts for decision regardless of the source or means of evidence in order to achieve material legality (Jerovšek & Kovač, 2017, p. 32).

[26] For a more comprehensive overview, extraordinary legal remedies should also be analysed, e.g. the Croatian APA sanctions the violation of the (new) principles of proportionality and acquired rights (Šikić & Ofak, 2011, pp. 136, 141). For the countries between Austria and Albania, see Koprić et al. (2016).

a somewhat different approach. Art. 237 of the APA defines the reasons for appeal that explicitly cover the following fundamental principles: (i) legality (e.g. misapplication of substantive law and substantial procedural defects), and (ii) material truth through an incompletely or incorrectly established state of facts. Among the procedural defects that constitute independent reasons for appeal and are verified *ex officio* even if the party gives a different reason, a direct reference to the principles can be found in the infringement of (iii) the principle of being heard and some other rights of defence (representation, use of language), impartiality, and (iv) the principle of an effective legal remedy, in so far as the decision cannot be tested, e.g. when it does not contain due reasoning.

As we can see, the basic principles and the reasons for appeal cannot be fully paired, as violation of economy generally does not lead to a successful appeal and, for instance, impartiality is not explicitly listed among principles. A comprehensive interpretation is thus required. For that reason, a more detailed analysis of the Slovenian text of the law compared to other texts does not imply a difference in the level of protection of principles. A more detailed breakdown can be beneficial for legal certainty, but detrimental to the understanding of the principles as value-based guidelines, and to the development of the necessary restrictions and sectoral specifics.[27]

To end with the premise about the EU influence on national APAs, it is worth pointing out that Europeanisation is mainly reflected in horizontal governance, which also includes administrative procedure law, be it in its narrower or broader definition (Cardona & Freibert, 2007, p. 52; Nemec, 2016, p. 15; OECD, 2017). Although one of the principles of administrative procedure law is the national autonomy of the Member States, in order to ensure the principles of effectiveness and equivalence of the *acquis*, increasing attention is devoted to the convergence of the protection of the rights of the citizens and economic, non-governmental and other entities in relation to public administration. This is evident from strategic documents and, in particular, the key sector-specific EU legal sources, as well as from the comparison of the selected four APAs. On the other hand, it seems that for certain countries or individual principles (e.g. transparency), disparities are increasing or that political-administrative processes are changing their hitherto course. In the future, parallel pro-

[27] On restrictions of principles and rules concerning e.g. access to information or appeal, see: Statskontoret (2005, pp. 39–41); Jerovšek and Kovač (2017, pp. 63–68, 128–130); Barron & Günther (2018, p. 10).

cesses of even greater convergence can be anticipated, both voluntarily by national governments and through the further development of CJEU and broader standards (Harlow, 2006; Galetta et al., 2015; Venice Commission, 2016; Kochenov & Bard, 2018). Therefore, Europeanisation of administrative procedure law does not involve a single model or unified administrative procedure, but rather such legal regulation and its implementation in national APAs and administrative and case law that will enable the formulation, dissemination, and implementation of European administrative principles.[28] Still, this is a solid base to have faith in the future joint European framework (Olsen 2003; OECD, 2017; Nikolić & Kovač, 2021). Such holism is also supported by a combination of various principles, emerging as a convergent framework of contemporary public administration, encompassing (see Harlow, 2006): classical procedural guarantees, the set of rule of law values as promoted by proponents of free trade and economic liberalism, the good governance values (particularly transparency, participation), and finally, human rights values.

Recently, the Covid-19 pandemic has also transformed our society, with administrative procedures being no exception. Still, it seems that legislators did not respond by changing general codifications, particularly in the area of fundamental principles (for instance, see for Slovenia and Croatia in Đanić Čeko & Kovač, 2020). This is not surprising since the respective provisions cover the value-based guidelines for all times. On the other hand, there were amendments to APAs adopted in 2020 and 2021 (e.g. in Slovenia or in Croatia) as regards rather simplified rules to support more digitally oriented conduct of administrative procedures. The digitally supported communication in relation to public services' users was found in most countries to be a particularly positive experience based on the prompt response of authorities to parties' expectations for smoother operation (Aristovnik et al., 2021). However, the Covid-19 pandemic also seems to be the window dressing tool for more autocratic solutions (as in Hungary through the 2019 Act; Potěšil et al., 2021). Consequently, less formal rules have been slowly introduced even in general APAs.

[28] Therefore, Europeanisation is sometimes considered (a) in a narrow sense, as increasing influence of EU law on the national level, and (b) *in latu sensu*, in the sense of a European administrative area, as a convergent development of national systems based on common principles of administrative law and good administration (more in: Cardona & Freibert, 2007; Rusch, 2014; Kovač et al., 2016; Koprić et al., 2016; Nemec, 2016).

4. Conclusions

The comparison of the development of the basic APA principles in selected CEE countries leads to several conclusions; some are expected, others less so. There is certainly no doubt about the importance of the basic principles of administrative procedure in general, since most countries and the EU at the supranational level strive to codify such, although they are by definition relatively abstract value-based guidelines. Nevertheless, it is very important to acknowledge that the said principles are not purely abstract concepts to enable the letter of the law to become reality. So, fundamental principles as codified specifically in the national general APAs need to be operationalised in the following rules, particularly as regards legal remedies, utilising them when these principles are infringed.

The content of codified principles changes and complements over time. A common trend in the selected countries is their convergence with the principles and rules of the EU, although some still preserve their country specifics. This points to a positive surpassing of historical legacies in the context of European development. Another common denominator is complementing the traditional *Rechtsstaat* principles with more modern ones, in the sense of greater partnership among all stakeholders in administrative relationships. This confirms the initial hypothesis that more recent APAs reflect greater European convergence in the sense of focusing on good administration-oriented principles. The analysis of four APAs in the region reveals more similarities than differences, which can be attributed to the EU driven convergence. More recent principles usually represent an upgrade to the traditional ones, which means that newly occurring principles do not replace prior ones but supplement them. Moreover, the year of adoption of national APAs does not necessarily correlate with their more modernised approach, since all countries take care of continuous changes. However, general APAs should be of special significance to put forward the minimum standards regardless of potential sector-specific exemptions and peculiarities. In the future, specific shifts are expected, which will require more or less "forced" international and judicial involvement to ensure the same minimum level of the rule of law in all Member States or even globally

In addition to the basic principle of legality, a major focus has lately been given to transparency and efficiency. Such a trend is pursued in particular under the Covid-19 pandemic, requiring a fast and adaptive response also in administrative procedures. On the other hand, one must be careful to distinguish between potential simplifications which enable smoother

proceedings, and still preserve rules that represent international and constitutional guarantees against the misuse of power. Yet, especially in some Eastern European countries, contrary steps are detected, which might endanger the over years carefully built up European administrative space. The question here remains if the present equilibrium of setting a broader joint context in the EU versus national autonomy of Member States allowing them to follow their specific goals is optimal.

It is nevertheless worth pointing out some recommendations for regulating the principles in national laws, particularly in CEE. First, the national regulator should review compliance with the trends in the EU (regulations, policy papers, case law, and theory). Then, in case of major deviations and in line with the national PAR strategy, the basic principles should be redefined. Greater attention should be paid to the rules and to violations being covered by legal remedies. Second, when codifying administrative procedures in general, the scope of the basic principles under the APA should be studied in order to cover a wider scope of administrative activities and acts. Last but not least, the non-formalistic layout and interpretation are of key importance. To improve the necessary resilience of public administration in times of crises, a more comprehensive approach is called for, combining legal, IT related, organisational, and other dimensions of administrative procedural collaboration. It needs to be stressed that both traditional and contemporary principles should be considered as pieces of the same mosaic, since good administration is achieved only when efficient public policies and democratic authority are cherished simultaneously.

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TRADITIONAL AND EUROPEAN ORIENTED PRINCIPLES IN THE CODIFICATION OF ADMINISTRATIVE PROCEDURES IN CENTRAL EASTERN EUROPE

Summary

The demanding and changing societal environment brings the necessity of public administration reforms in various aspects. This is even more emphasised in Central Eastern Europe (CEE), which can be attributed to the still ongoing transition. Administrative procedures and their codification change over time, which also applies to the basic principles related thereto. The article presents the development of such principles in national APAs of Slovenia (from 1999), Czech Republic (2004), Croatia (2009), and Hungary (2016), in line with EU development guidelines, particularly Art. 41 of the EU Charter of Fundamental Rights that envisages the right to good administration. The basic principles embedded in national APAs constitute value-based guidelines that apply both to the drafting and to the interpretation of rules relevant for any type of administrative decision and any stage of procedure. The author finds that more recent APAs in Central Eastern Europe present an evident trend towards governing the administrative procedure and the basic principles more comprehensively, with due account of the more contemporary elements, such as proportionality among principles and cooperation among authorities. Another common denominator is complementing the traditional Rechtsstaat principles with more modern ones, in the sense of greater partnership among all stakeholders in administrative relationships. This points to a positive surpassing of historical legacies of European development, although at the same time there is evidence of interference with the administrative procedure as a tool of democracy, mainly as a result of political aspirations or trends to increase the efficiency of public policies. Hence, in the Member States,

classical and modern principles should be codified and interpreted holistically, in the light of the values of the EU.

Keywords: *Central Eastern Europe, good administration, administrative procedure, codification, principles, legal remedies, EU convergence*

TRADICIONALNA I EUROPSKI ORIJENTIRANA NAČELA U KODIFIKACIJAMA UPRAVNIH POSTUPAKA U SREDNJOISTOČNOJ EUROPI

Sažetak

Zahtjevna i promjenjiva društvena okolina čini reforme javne uprave nužnima. Takva je nužnost još naglašenija u srednjoistočnoj Europi, što se može pripisati još nezavršenoj tranziciji. Upravni postupci i njihove kodifikacije tako se mijenjaju s vremenom, a to se također odnosi na njihova temeljna načela. Rad predstavlja razvoj takvih načela u nacionalnim općim zakonima u Sloveniji (1999.), Češkoj (2004.), Hrvatskoj (2009.) i Mađarskoj (2016.) u skladu s razvojnim smjernicama Europske unije, posebno člankom 41. Povelje Europske unije o temeljnim pravima koji predviđa pravo na dobru upravu. Temeljna načela uklopljena u nacionalne kodifikacije upravnog postupka vrijednosno su utemeljene smjernice koje se primjenjuju pri oblikovanju i interpretaciji pravila relevantnih za bilo koju vrstu upravnih odluka u bilo kojoj fazi postupka. Autorica nalazi da su recentnije kodifikacije upravnog postupka u srednjoistočnoj Europi očit trend prema obuhvatnijem upravljanju upravnim postupcima, s dužnim naglaskom na suvremena načela poput razmjernosti između načela i suradnje javnih vlasti. Dodatan je zajednički nazivnik nadopunjavanje tradicionalnih načela pravne države modernima, u smislu jačanja partnerstva među svim dionicima upravnih odnosa. Sve to upućuje na pozitivno nadilaženje povijesnih nasljeđa tijekom europskog razvoja. Ipak, u isto vrijeme postoje dokazi da političke interferencije ugrožavaju ulogu upravnog postupka kao demokratskog alata, uglavnom zbog političkih aspiracija u upravi ili da se ojača učinkovitost javnih politika. U skladu s tim, klasična i suvremena načela upravnog postupka trebaju biti kodificirana i tumačena sustavno i cjelovito, u svjetlu temeljnih vrijednosti Europske unije.

Ključne riječi: *srednjoistočna Europa, dobra uprava, upravni postupak, kodifikacija, načela, pravni lijekovi, konvergencija u Europskoj uniji*