

ATTILA DUDÁS<sup>1</sup>

## Ranking of Legal Periodicals and Prerequisites for Academic Promotion in Serbian, Croatian, and Slovenian Law

- **ABSTRACT:** *Scholars need to obtain a certain level of international recognition for academic progression. This is usually achieved by publishing articles in internationally recognized journals, books, and conference papers. The question is which journals should be considered of international relevance and how they should be ranked. For this purpose, a ranking system based on the Journal Citation Reports (JCR), combined with the leading research engine, the Web of Science (WoS), is used. While a ranking system based on the JCR is considered most suitable for natural and technical sciences, it has many shortcomings when considering social sciences and humanities, including legal science. This is observed when such a system is applied in countries that cannot claim to have a profound impact on the global development of legal thought and where scholarly legal production is almost exclusively conducted in the national language, such as in Central and Eastern European (CEE) countries.*

*This study analyzes the general laws and rules regarding the qualification of journals in Serbia, Croatia, and Slovenia, and special laws pertaining to social sciences, especially legal science. Although there are many points of interest regarding different situations in which the national laws on the qualification of journals gain importance, this study focuses on the relevance of these laws in terms of the promotion of legal scholars to positions of university lecturers. It analyzes the requirements for the promotion to a full professor of law. It concludes that the laws of the three countries, through different forms, managed to find a delicate balance between the requirement of publishing articles in internationally recognized journals and the characteristics of legal science as it is predominantly conducted in the national language and addressed to a domestic audience.*

- **KEYWORDS:** ranking of legal journals, international legal journals, JCR, IF, WoS, Scopus, HeinOnline, ERIH PLUS.

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## 1. Introduction

One of the principal tasks of university lecturers is to publish research papers regularly. They are required to follow the global trends in their field of science and maintain a respectable scholarly work output in addition to their regular teaching activities. For these reasons, in all countries, scholars aspiring toward positions of university lecturers need to fulfill a set of requirements, including accomplishing a certain level of scholarly recognition in the form of publications in their respective field of science. With each university position, the requirements become gradually stricter. The general viewpoint is that publishing in internationally recognized journals is more important than publishing in domestic journals.

This is applicable to the field of legal science as well; publishing articles in internationally recognized journals is a requirement for legal scholars aspiring toward university lecturer positions. However, the question remains as to which journals in a given country are internationally recognized. Usually, the Web of Science (WoS), Scopus, or a similar globally functioning bibliometric system, based on the journal impact factor (JIF), determined by the Journal Citation Reports (JCR), is considered a primary criterion in the ranking of journals. Although such systems are generally considered objective and fair for many reasons, they have certain flaws or shortcomings. The shortcomings of a global bibliometric system based on the impact factor (IF) have been observed in social sciences, including the field of law, that is deeply anchored in the national traditions and language.<sup>2</sup>

This study aims to analyze the laws of Serbia, Croatia, and Slovenia regarding the requirement of publishing articles in legal journals that are recognized as international in the respective country as a condition for promotion of academics to a university lecturer position.<sup>3</sup> The basic laws on the requirements for the promotion of faculty members, and regarding the evaluation and qualification of their scholarly work are generally laid down in the statute regulating the field of higher education and scientific research. These are refined in more detail by ministerial decrees, acts of regulatory bodies, and independent regulations of universities. Therefore, the regulations may be considered bipolar; on the one hand, the state establishes basic minimal conditions that need to be observed, while on the other hand, it leaves a significant open space for professional regulatory bodies and universities to determine their own specific conditions for the appointments.<sup>4</sup>

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2 For more details, see Hojnik, 2021, pp. 259–254.

3 By no means implies the author that the promotion of legal scholars to university lecturer positions is the only context in which the issue of national rules on the ranking of journals is relevant. On the contrary, it is relevant regarding many other issues as well, including the accreditation of universities and faculties, accreditation of study programs, financing of universities and faculties, financing research projects, conducting lectures at doctoral programs, habilitation of university lecturers, application of students to doctoral studies, proposing and submitting theses for defence, suitability of a university lecturer to be a thesis adviser.

4 Popović, Peković, and Matić, 2019, p. 60.

After reviewing the applicable rules, this study attempts to determine how these three countries managed to find a sensitive compromise between the state and university requirements regarding the promotion of legal scholars to university lecturer positions. In other words, similar to other fields of science, a legal scholar should have certain international recognition measured by publications in journals considered international, while considering the reality of legal science, including its orientation toward national audiences and publication in the national language.

## 2. Serbia

The Serbian Law on Higher Education warrants the autonomy of universities comprising, among others, the right to promote faculty members.<sup>5</sup> It mandates the establishment of the National Council for Higher Education (*Nacionalni Savet za visoko obrazovanje*), a regulatory body, which, inter alia, is delegated the responsibility of determining the minimal conditions of promotions of legal scholars to lecturer positions at institutions of higher education.<sup>6</sup> The National Council for Higher Education specified these conditions in an act named *Minimal Requirements for Appointing Lecturers at Universities* (hereinafter referred to as “Minimal Requirements”). In addition to the abovementioned Minimal Requirements, the following two relevant decrees of the Minister for Education regarding higher education and technological development, adopted at the end of 2020, play a major role: the Ministerial Decree on the Acquisition of Titles of Researchers and Scholars, and the Ministerial Decree on the Categorization and Ranking of Scientific Journals.

The Minimal Requirements set a range of conditions that a candidate needs to meet in order to be promoted to a specific university lecturer title. These conditions are supplemented and “fine-tuned” in the regulations of universities. Each university has its own set of rules regarding this subject. For the purpose of this study, the requirements established by the University of Novi Sad are considered (hereinafter referred to as “University Act”).<sup>7</sup>

Both the Minimal Requirements and the University Act rely on the Ministerial Decree on the Acquisition of Titles of Researchers and Scholars regarding the categorization and evaluation of scholarly work. This decree specifies 10 categories into which a particular piece of scholarly or professional publication or achievement may be classified, indicated by M10–M120. For the present study, the categories of M10, M20, M30, M40, and M50 are relevant.<sup>8</sup> The M10 category refers to internationally recognized monographic publications, chapters in thematic collections, and editorial

5 Serbian Law on Higher Education, Art. 6. Sec. 1. (Point 5).

6 Serbian Law on Higher Education, Art. 12. Sec. 1. (Point 15).

7 For the analysis of the requirements for academic promotion in social sciences at the University of Novi Sad, in the light of the regulation effective before the two ministerial decrees adopted at the end of 2020, see Popović, Peković, and Matić, 2019, pp. 56–58.

8 Ministerial Decree on the Acquisition of Titles of Researchers and Scholars, Annex 3.

work in such publications. This category comprises nine subcategories, ranging from M11 to M19. The M20 category is divided into 13 subcategories, ranging from M21a to M29v, comprising articles, reviews, and other writings published in international scientific journals and the editorial work in such journals. According to the Ministerial Decree on the Categorization and Ranking of Scientific Journals, a journal is qualified as international if it is indexed by the international citation database WoS (Science Citation Index Expanded, Social Science Citation Index, Arts and Humanities Citation Index), according to the JCR. Journals are ranked into subcategories according to their IF as following<sup>9</sup>:

Category of the scientific journal	Designation of the category of the scientific journal	Definition of the category of the scientific journal
M21a	International journal of exceptional values	The journal is ranked according to JCR IF2 or IF5, in its own field of science as being among the top 10% of the journals in the relevant field.
M21	Outstanding international journal	The journal is ranked according to JCR IF2 or IF5, in its own field of science as being among the first 10%–30% of the journals in the relevant field.
M22	Distinguished international journal	The journal is ranked according to JCR IF2 or IF5, in its own field of science as being among the top 30%–60% of the journals in the relevant field.
M23	International journal	The journal is ranked by the JCR, but not among the top 60% of the journals belonging to the relevant field of science.
M24	National journal of international relevance	The journal is ranked according to the bibliometric indicators of the National Database of Scientific Journals in the top 10% of the journals in the relevant field of science.

All other journals not qualifying as international according to the abovementioned criteria are considered national journals, regardless of whether they are domestic or foreign—that is, whether they are published by a domestic or foreign publisher. They are classified in the category of M50, with four subcategories.

Category of the scientific journal	Designation of the category of the scientific journal	Definition of the category of the scientific journal
M51	Outstanding national journal	The journal is ranked according to the bibliometric indicators of the National Database of Scientific Journals in the top 30% of the journals in the given field of science.
M52	Distinguished national journal	The journal is ranked according to the abovementioned bibliometric indicators between the top 30%–60% of the journals in the given field of science.

<sup>9</sup> Ministerial Decree on the Categorization and Ranking of Scientific Journals, Art. 6.

Category of the scientific journal	Designation of the category of the scientific journal	Definition of the category of the scientific journal
M53	National journal	According to the abovementioned bibliometric indicators, the journal is not ranked in the top 60% of the journals in the given branch of science.
M54	National journal that is categorized for the first time	The journal is indexed in the National Index of the National Database of Scientific Journals, meets the requirements prescribed for editing scientific journals, and is categorized for the first time.

Publishing a certain number of articles in journals classified in the subcategories of M20 is a priority for any university lecturer in Serbia, as it is one of the conditions for obtaining promotion to a higher position. For instance, considering the requirements regarding the number of articles published in international journals for the promotion to a position of a full professor at the University of Novi Sad in the field of social sciences, the University Act prescribes that a candidate must have published at least one article in the categories M21, M22, or M23, at least one article in the category M24, and at least five articles in the categories of M51 in the period of 5 years from appointment to the position of associate professor. This means that publishing an article in a national journal (domestic or foreign) that is not qualified as M51 (the highest in the category of national journals) provides no benefit for the candidate in terms of the fulfillment of the requirements prescribed by the University of Novi Sad. Publishing at least five articles in the category of M51 in a period of 5 years since the appointment to the position of associate professor for any lecturer applying for the position of a full professor should not be extraordinarily challenging, since more than a dozen Serbian domestic legal journals are categorized as M51.<sup>10</sup> Similarly, journals qualified in the category of M24 are reasonably accessible to legal scholars in Serbia. For instance, for the year 2020, eight journals were categorized as M24 in the field of law and politicology.<sup>11</sup> However, publishing at least one article in the categories M21, M22, or M23 might be challenging, since most of the journals ranked by the JCR and indexed by the WoS are predominantly oriented toward common law and are published mostly in English.<sup>12</sup> Only a small number of legal journals from continental Europe that harbor civil law traditions are indexed by the JCR and WoS<sup>13</sup>, and no journal from Serbia belong to this category.

This difficulty faced by legal scholars is considered in Serbian rules regarding the evaluation and categorization of journals. The Minimal Requirements prescribe that in the fields of social sciences and humanities, for the purpose of scholars'

<sup>10</sup> The ranking of domestic journals is published annually, usually in the second half of the year. According to the 2020 list, 15 journals are categorized as M51 in the field of law of politicology. <http://www.mpn.gov.rs/wp-content/uploads/2021/01/Kategorizacija-naucnih-casopisa-2020-2712021.pdf> (2021. 07.31).

<sup>11</sup> Ibid.

<sup>12</sup> Hojnik, 2021, pp. 260–261.

<sup>13</sup> Hojnik, 2021, p. 262.

promotion to university lecturer positions, journals determined by the universities shall be considered equal to journals in the category of M21–M23. Initially, the application of this rule was valid until December 31, 2018; however, by the Amendments of the Minimal Requirements, it was prolonged to December 31, 2020.<sup>14</sup> In line with this rule, the University of Novi Sad's requirements prescribed that for the purpose of appointments in the branch of legal science, journals specified in the annex of the act shall be considered equal to the status of journals in the M23 category, even though they may not have been indexed in the JCR or WoS. This list included major European legal journals, not only in English but also in French and German. Moreover, all journals indexed by SCImago Journal & Country Rank (SJR) and HeinOnline have been considered as journals in the M23 category. However, the application of this rule of Minimal Requirements prescribing a special regime for the categorization of legal journals for the purpose of appointments has not been extended; hence, the application of the special regime envisaged by the University Act applicable to legal scholars also ceased on January 1, 2021. The reason behind this change in regulation is that the Ministerial Decree on the Categorization and Ranking of Scientific Journals has been adopted subsequently, that regulates the evaluation and categorization of journals specifically and in more detail.

Similar to Minimal Requirements, the abovementioned ministerial decree considers a journal international only if it is indexed by the JCR and WoS (Science Citation Index Expanded, Social Science Citation Index, Arts and Humanities Citation Index).<sup>15</sup> However, it also takes into account that these rules might adversely affect scholars in the fields of social sciences and humanities. Therefore, it specifies that in addition to the journals indexed by the abovementioned two databases, in these fields, a journal shall be considered international if it is indexed in the SJR. Moreover, the scientific committee established for the respective field of science may qualify other journals (not satisfying the said conditions) as international, belonging to the M23 category.<sup>16</sup> According to the abovementioned ministerial decree, journals ranked as Q1 in the SJR are qualified as M23, journals ranked as Q2 and Q3 in the SJR are qualified as M24, while journals ranked as Q4 in the SJR are considered as M51 (the highest ranking in the category of national journals).<sup>17</sup> However, in this respect, the decree also considers that journals in some branches of social sciences and humanities may have fewer chances to be referenced in the SJR. For this reason, it further specifies special rules of categorization of journals in the fields of social sciences and humanities.<sup>18</sup> First, it prescribes that in certain branches of social sciences and humanities, explicitly mentioning legal science, the categorization shall not be based on the IF of the journal.<sup>19</sup> If

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14 Minimal Requirements, Art. 7. Sec. 3.

15 The Ministerial Decree on the Categorization and Ranking of Scientific Journals, Art. 2, Sec. 2.

16 The Ministerial Decree on the Categorization and Ranking of Scientific Journals, Art. 2, Sec. 3.

17 The Ministerial Decree on the Categorization and Ranking of Scientific Journals, Art. 5, Sec. 2, last sentence.

18 The Ministerial Decree on the Categorization and Ranking of Scientific Journals, Art. 5, Sec. 4.

19 The Ministerial Decree on the Categorization and Ranking of Scientific Journals, Art. 9, Sec. 2.

a given journal has an IF in the relevant databases, it shall be taken into account, and the journal shall be ranked according to that criterion. However, if a journal does not have an IF, or if it is not indexed by the JCR or WoS, according to the decree, it will still be categorized as M23 if the journal is indexed by the ERIH PLUS database.<sup>20</sup>

The Serbian statutory and university regulation regarding the categorization of journals as international, as a precondition for the promotion of a scholar to a university lecturer position in a fair and proper manner takes into account legal scholars' difficulty in publishing articles in journals indexed by the WoS and JCR. If a journal is referenced by ERIH PLUS, it is automatically recognized as M23, by which candidates aspiring toward a specific lecturer position fulfill one of the most demanding requirements.<sup>21</sup> Additionally, based on the proposal of the scientific committee established for the field of law, other journals may be included in the list of journals that are equated with journals in the M23 category, regardless of whether the journal is not referenced by the JCR, WoS, or ERIH PLUS. Finally, the challenges faced by legal scholars concerning publishing articles in internationally recognized journals in terms of their promotions are further mitigated by the rule of the Act of the University of Novi Sad. This act specifies that in the branch of legal science, the requirement to publish at least one article in a journal categorized as M23 may be substituted by any other publication having the same or more points. The scholarly production of candidates required to obtain a promotion is precisely quantified. In the fields of social sciences and humanities, an article published in an M23 journal is quantified by 3 points. This means that it may be replaced by an outstanding international monographic publication (M11), international monographic publication (M12), monographic study/chapter in a monographic or thematic collection of studies in a publication ranked M11 or M12 (M13 and M14, respectively), outstanding monographic publication of national relevance (M41), and monographic publication of national relevance (M42), since they are all valued by more points than an article published in a journal ranked M23 (14, 10, 7, 5, 9, and 7 points, respectively).

### 3. Croatia

Under the Croatian law, the precondition for a scholar aspiring toward promotion to the position of a university lecturer is to obtain an appointment to a scholarly title.<sup>22</sup> According to the Law on Scholarly Activity and Higher Education, those who have been appointed to a scholarly title are considered scholars and are registered in the Register

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20 The Ministerial Decree on the Categorization and Ranking of Scientific Journals, Art. 14, Sec. 2.

21 In course of the new rules of the Ministerial Decree on the Categorization and Ranking of Scientific Journals, the number of Serbian legal journals referenced by ERIH PLUS is constantly growing. At the moment of writing of this paper, 15 journals are referenced by ERIH PLUS in the category "Law."

22 Martinović, 2017, p. 72.

of Scholars.<sup>23</sup> The scholarly titles are research associate (*znanstveni suradnik*), senior research associate (*viši znanstveni suradnik*), research adviser (*znanstveni savjetnik*), and research adviser in a permanent position (*znanstveni savjetnik u trajnom zvanju*),<sup>24</sup> to which specific university lecturer positions correspond.<sup>25</sup> This means that a candidate for a given university lecturer position must first be appointed to the respective scholarly title. Regarding the appointment to scholarly titles, the key role is allotted to the National Council for Science, Higher Education, and Technological Development (*Nacionalno vijeće za znanost, visoko obrazovanje i tehnološki razvoj*), a regulatory body responsible for the development and quality of the entire scientific activity and the system of science, higher education, and technological development in the Republic of Croatia.<sup>26</sup> The council, among others, as a regulatory body, gives consent to the conditions set by the rectoral councils and councils of universities and colleges for the promotion of scholars to lecturer positions and regulates the conditions required for the appointments for scholarly titles.<sup>27</sup>

For the pursuit of the responsibilities<sup>28</sup> by the National Council for Science, Higher Education, and Technological Development, the Decree on the Conditions of Appointment to Scholarly Titles specifies different sets of requirements for the appointment of scholars to scholarly titles for different fields of science, regarding the assessment of scholarly production of the candidates. Subchapter 4 of the decree contains rules regarding the requirements for scholars to obtain promotion in the field of social sciences. It specifies that a candidate aspiring toward a scholarly title needs to publish a particular number of publications—these are categorized by the appointing committee into three groups: a1, a2, and a3. The most valued category is category a1, which includes articles published in journals referenced by the WoSCC (Web of Science Core Collection) or Scopus.<sup>29</sup> Within category a1, the decree differentiates four categories from Q1 to Q4, depending on which quartile the journal is ranked according to the JCR or SJR.<sup>30</sup> Category a2 includes journals indexed by the following databases: PsycINFO ProQuest Social Science Premium Collection, SocINDEX, Academic Search Complete, Education Research Complete, INSPEC, Westlaw, LexisNexis, and Library and Information Science Abstracts (LISA). Articles published in journals not indexed by any of the abovementioned databases are considered publications in category a3.<sup>31</sup> The decree further specifies that by publishing more articles in the same journal, a candidate may

23 Law on Scholarly Activity and Higher Education, Art. 31.

24 Law on Scholarly Activity and Higher Education, Art. 92. Sec. 1.

25 Assistant professor (*docent*) corresponds to research associate, associate professor (*izvanredni profesor*) to senior research associate, full professor (*redoviti profesor*) to scientific adviser, and full professor in a permanent position (*redoviti profesor u trajnom zvanju*) to scientific adviser in a permanent position. The Law on Scholarly Activity and Higher Education, Art. 91. Sec. 2.

26 Law on Scholarly Activity and Higher Education, Art. 6. Sec. 1.

27 Law on Scholarly Activity and Higher Education, Art. 6. Sec. 2. (Points 3 and 5).

28 Law on Scholarly Activity and Higher Education, Art. 32. Sec. 5.

29 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 2.

30 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 3.

31 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 4.



accumulate not more than half of the required points in a specific category, except for the publications in the categories Q1 and Q2, under category a1, that are all taken into account.<sup>32</sup>

Similar rules are applied to articles published in international conference papers, monographic publications, chapters in books, and thematical monographic publications. For instance, the decree specifies that an article published in proceedings from an international conference held abroad or in Croatia is considered to belong to category a2, unless the proceedings are referenced in the WoSCC or Scopus, in which case it is categorized as a2. Articles published in proceedings from other conferences are categorized as a3.<sup>33</sup>

In addition to these general rules applicable to all social sciences, the decree lays down a few additional rules applicable only to legal science. The most notable is the rule prescribing that an article published in any journal referenced in the database HeinOnline shall be classified into category a1 in the subcategory Q4, unless the journal obtains a more favorable ranking in the WoSCC or Scopus. If the organizer or co-organizer of the conference is the Croatian Academy of Sciences and Arts, an article published in the proceedings shall also be categorized as a1 in the subcategory Q4.<sup>34</sup> This logic is similar regarding monographic publications and thematic collections of articles. If the publication is indexed by the WoSCC or Scopus or published by an internationally recognized scientific publisher, the book shall be valued as three articles in category a1 in the subcategory Q4, while a chapter in such a publication shall be valued as one article in the same category and subcategory. A book published by a university or by any other domestic or foreign recognized publisher shall be valued as three articles in the a2 category, while a chapter in such a publication shall be valued as one article in the same category. Other books are valued as three articles in the a3 category, while a chapter in such a publication is valued as one article in the a3 category. Publications in this wide range of categories yield different number of points.<sup>35</sup>

Category of the scientific publication	Number of points
Article in a journal categorized as a1 in the subcategory Q1 or Q2	2.00
Article in a journal categorized as a1 in the subcategory Q3 or Q4	1.00
Chapter in a book is categorized as a1	1.00
Book categorized as a1	3.00
Article in a journal categorized as a2 or a chapter in a book categorized as a2	0.75
Book categorized as a2	2.25
Article in a journal categorized as a3 or a chapter in a book categorized as a3	0.50
Book categorized as a3	1.50

32 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 9.

33 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 6.

34 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 3.

35 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 17.

Let us examine what these conditions actually mean to a candidate for the position of a university professor in permanent appointment. Regarding scientific production, a candidate must satisfy the minimal conditions for the appointment to a position of scientific adviser in permanent appointment, which is at least 8 points, from which at least 3 must be from category a1, 4 must be from category a2, and 1 from a3 category. These points must be accumulated during the period from the moment of the promotion to the previous position.<sup>36</sup> As they are ranked higher, the required points in the a2 category may be substituted by publications in a1 category, and publications in a3 category may be substituted by publications in a1 and a2 categories, respectively.<sup>37</sup> However, a restriction is imposed such that a candidate can accumulate up to half of the required points in a given category by publishing articles in the same journal. However, this rule does not apply to journals in categories Q1 and Q2. Articles published in the same journal in these two subcategories are considered by ascribing them full points.<sup>38</sup> Another restriction specifies that candidates can accumulate up to one-third of the points required in each category by publishing in a journal or any other publication in which they are the editor or member of the editorial board at the time of publication.<sup>39</sup> Considering the significance of the Croatian language in fostering social sciences in Croatia, the decree specifies that at least one scientific publication since the moment of the appointment to the previous position must be published in the standardized Croatian language.<sup>40</sup>

The analysis has demonstrated that the current Croatian legal framework duly considers the peculiarities of social sciences, especially legal science. Legal scholars may satisfy all requirements relating to their scientific production by means of, among others, publishing articles in journals indexed by HeinOnline. Numerous legal journals from Croatia are accessible in HeinOnline, including the journals of the four major law faculties in Zagreb, Split, Rijeka, and Osijek. Legal scholars in Croatia may therefore publish articles in a range of domestic journals in the Croatian language to achieve more than the necessary points in the highest a1 category.

The present state of regulation seems to have been profoundly influenced by the decision of the Constitutional Court from 2013 regarding the constitutionality of the previous Decree on the Conditions of Appointment to Scholarly Titles from 2013. While the Constitutional Court set aside the decree from 2013 primarily due to procedural reasons, it tackled several issues regarding the content of the regulation, some of which are of key relevance to this study. The court ruled that Article 68 of the Constitution guaranteeing the freedom of scientific, cultural, and artistic creativity is not merely the right of individuals, but a fundamental norm containing a value judgment on how the state's relationship to science should be regulated. The state is not allowed to favor

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36 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 18.

37 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 8.

38 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 9.

39 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 10.

40 Decree on the Conditions of Appointment to Scholarly Titles, Art. 17. Sec. 14.

one scientific field over another in regulating relationships in science. It has a positive constitutional obligation to build and maintain the structure of the society, allowing the free development of scholarly work. Moreover, it has a positive constitutional obligation to protect scholarly activity because scientific production in the Republic of Croatia represents an intellectual national value of constitutional significance. The freedom of scientific creativity mandates that all streams of scientific opinion must be given an equal opportunity for development. The state must be and remain value-neutral toward different fields of science. According to the court, everyone engaged in scholarly work and scientific research and participating in higher education enjoys protection against any state violation and encroachment on their rights when it comes to discoveries and dissemination of knowledge. The field of higher (university) education is an area of personal and autonomous responsibility of each member of that community, in which the state must not impose coercive rules in order to promote one concept of teaching or one theory of science. Article 68 of the Constitution protects every form of educational and scholarly activity because it refers to everything that, in terms of content and form, can be considered as a serious and systematic effort to discover the truth.<sup>41</sup>

The court, however, stressed that it is not its task to mediate or arbitrate in the debate within the scientific community on issues regarding the position of science and scholars. These issues, including the minimal conditions for appointment to scholarly titles, are determined by the regulations of the National Council for Science. Its only task is to examine whether the way in which the criteria (conditions) for evaluating the work of scientists and their progress in their positions violate the constitution. The court emphasized that the freedom of scientific creativity has a special relevance in the fields of social sciences and humanities, where research is inextricably linked to the preservation of national heritage, the Croatian language, and cultural identity. Moreover, it plays a role in the function of the survival and development of the social community as a whole. Nevertheless, the decree linked the professional advancement of legal scholars to publishing in internationally recognized journals or by internationally recognized publishers. The most prestigious scientific production is the one published in journals with a high IF. Consequently, the decree attached great, if not crucial, importance to papers published in the fields of Croatian social sciences and humanities as compared to papers published in foreign languages in foreign journals and books published by foreign publishers. The court found the provisions of the decree, which in social sciences and humanities ranked the scientific production in foreign languages published by foreign publishers as more prestigious than the production in Croatian language published by domestic publishers, contrary to the right to freedom of scientific creativity vested by Article 68 of the Constitution.<sup>42</sup>

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41 Decision of the Constitutional Court of the Republic of Croatia No. U-II-1304/2013, point 18.

42 Decision of the Constitutional Court of the Republic of Croatia No. U-II-1304/2013, points 19, 20, and 21.

## 4. Slovenia

The central role in the evaluation of publications in Slovenia belongs to the Slovenian Research Information System (*Informacijski sistem o raziskovalni dejavnosti v Sloveniji*) or SICRIS<sup>43</sup>, administered by the Slovenian Research Agency (*Agencija za raziskovalno dejavnost republike Slovenije* – ARRS). The SICRIS adopted the bibliometric model in the evaluation of publications.<sup>44</sup> The evaluation of publications functions automatically.<sup>45</sup> The SICRIS is linked to the COBISS.SI system—Slovenia’s virtual library.<sup>46</sup> The data on publications in the COBISS.SI system are not entered or uploaded by the researchers themselves but by designated librarians employed by the faculties or research organizations, who must pass a special exam to be entitled to access the COBISS database.<sup>47</sup> COBISS merges the data from libraries into a uniform information system of library entries with shared cataloguing, relying on the COBIB bibliographic database.<sup>48</sup> Data entered into the COBIB by the authorized librarians are supervised by specialized information centers (OSIC) organized for each field of science. The OSIC for social sciences is responsible for supervising the bibliographic entries by librarians in the field of legal science. The role of the OSIC is to confirm that a given entry relates to an academic (scholarly) and not professional publication by approving each entry made by the librarians.<sup>49</sup> The SICRIS system relying on the COBISS is considered a well-managed and transparent system for maintaining bibliographic data on scientific publications, operating through the library information system, and directly connected to the WoS and Scopus.<sup>50</sup>

The SICRIS assigns a specific number of points to publications, according to the ranking of the journal in the WoS or Scopus for social sciences, ranging from 40 to 300 points, depending on the JIF and the quartile it belongs to.<sup>51</sup> In social sciences, including law, a journal qualifies into this category if it is referenced in the Scopus (d) database.<sup>52</sup> The mathematical formula for determining the points that an article in this category yields is complicated. On average, however, depending on the JIF, a publication normally receives between 100 and 300 points if the journal is ranked in the first quartile, between 80 and 100 points, if the journal is ranked in the second quartile, between 60 and 80 if the journal is ranked in the third quartile, and between 40 and 60 if the journal is ranked in the last quartile.<sup>53</sup> If the journal is not ranked in the WoS or

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43 See: [www.sicris.si](http://www.sicris.si).

44 Hojnik, 2019, p. 344.

45 Hojnik, 2019, p. 346.

46 Hojnik, 2019, p. 346.

47 Hojnik, 2019, p. 347.

48 Curk, 2019, p. 73.

49 Hojnik, 2019, p. 347.

50 Curk, 2019, p. 82.

51 Hojnik, 2019, p. 347.

52 See: <http://home.izum.si/COBISS/bibliografije/Kateg-medn-bibl-baze.html> (19.08.2021).

53 Hojnik, 2019, p. 347.

Scopus in the fields of social sciences and humanities, but ranked in other databases approved by the ARRS, the publication receives 30 points.<sup>54</sup> This list of databases includes the ERIH PLUS, Index of Foreign Legal Periodicals, IBZ, IBSS, and Legal Trac, which seem relevant to the field of legal science.<sup>55</sup> If the journal is not ranked in any database approved by the ARRS, the publication receives no points. Hojnik notes that this affects European legal journals referenced by LexisNexis or Westlaw databases, as these are not indicated in the list of ARRS.<sup>56</sup> Additionally, HeinOnline is not included in the list of relevant databases, although most European legal journals, not referenced by the WoS or Scopus, are indexed by HeinOnline. The rule according to which the ARRS may individually approve journals not referenced by any database indicated in the list of databases, upon the request of the affected researcher, has some mitigating effect.<sup>57</sup> Similar rules for quantitative evaluation exist for conference papers and monographic publications.<sup>58</sup> Based on the scoring for individual publications, the SICRIS system automatically generates an overall scoring of a researcher's scientific production. The calculation is divided into three categories: Score A1, generated based on the scoring for individual publications in the last 5 years; Score C1, the impact of researchers' publications, measured by citations in the WoS and Scopus; and Score A3, measured by the research funds acquired from sources other than the ARRS.<sup>59</sup>

The Slovenian Quality Assurance Agency (*Nacionalna agencija Republike Slovenije za kakovost v visokem šolstvu* – NAKVIS) specifies the minimal conditions that must be met by a candidate to a university lecturer's position in order to be promoted. The universities are at liberty to introduce more stringent conditions, but they are not allowed to specify conditions more lenient than those prescribed by the minimal conditions of the NAKVIS.<sup>60</sup> The conditions of the promotion to the position of a full professor are scrutinized subsequently. The minimal conditions prescribe that candidates must have at least 14 publications in which they are the first or corresponding author (alternatively, they must prove in another way that their contribution to the publication is equivalent to the contribution of the first or corresponding author). From this number of publications, at least seven must have been published in the period from the appointment to the previous position. However, the most striking point from this number of 14 publications is that at least six must be articles published in journals indexed in SSCI, SCI with IF>0, or in AHCI.<sup>61</sup> However, the minimal conditions consider that publishing in journals indexed in the WoS may represent different challenges in different fields of science. Thus, it specifies that if the given field of science is characterized by the fact that

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54 Hojnik, 2019, p. 347.

55 The latest list is for the year 2020. See: <http://home.izum.si/COBISS/bibliografije/Kateg-medn-bibl-baze.html> (19.08.2021).

56 Hojnik, 2019, p. 348.

57 Hojnik, 2019, p. 348.

58 See for more details. Hojnik, 2019, p. 348.

59 See for more details. Hojnik, 2019, p. 349–352.

60 Hojnik, 2019, p. 370.

61 Minimal Conditions of the NAKVIS, Art. 25. Sec. 3.

journals indexed in SSCI, SCI with IF > 0, or AHCI are not the only reliable criterion for checking the impact, journals that are comparable in quality and international impact with respect to the listed journals are considered. The list of such journals is prepared by the relevant higher education institution and approved by the senate of the higher education institution.<sup>62</sup> It has been pointed out in the literature that even though legal scholars often avail of this option, they normally cannot be promoted without any publications indexed in the WoS with IF.<sup>63</sup> Some of the number of articles to be published in journals may be replaced by other publications. The minimal conditions specify that a maximum of eight articles may be substituted with a scientific monograph, part of a scientific monograph, textbook, or professional achievement, in different ratios. However, this possibility of substitution does not apply to the mandatory requirement of publishing articles in journals indexed in SSCI or SCI with IF > 0, or in AHCI.<sup>64</sup>

For instance, let us see how these general rules have been implemented by the University of Maribor, in terms of a scholar's promotion to the position of a full professor. The act on the further conditions of the promotions at the University of Maribor for the law as a field of habilitation (hereinafter, Further Conditions) also state that candidates must publish at least 14 scientific publications, wherein they are the first or corresponding author, from which at least six articles must be published in a journal indexed in SSCI, SCI with IF > 0, AHCI, Scopus, Scopus (D, H), Index to Foreign Legal Periodicals, LegalTrac, or Current Law Index.<sup>65</sup> This seems to be a great deal of mitigation of conditions for legal scholars, as the list of relevant indexing databases is considerably extended, including a greater number of European legal journals. Further relief of the conditions is envisaged by the rule pertaining to the substitution of articles in the mentioned category. The Further Conditions specify that each article may be replaced by two scientific articles published in a journal indexed in the following international bibliographic databases, recognized by the ARRS: IBZ (Internationale Bibliographie der Zeitschriftenliteratur), CSA Philosopher's Index, International Bibliography of the Social Sciences, CSA Sociological Abstracts, European Reference Index for the Humanities (A, B, or C), CSA PAIS International, CSA Worldwide Political Science Abstracts, International Political Science Abstracts, or the Directory of Open Access Journals (DOAJ). Furthermore, the substitution is possible by any two articles cited in the decision of the Constitutional Court of the Republic of Slovenia, the Supreme Court of the Republic of Slovenia, cited by a decision of an international court, the Court of Justice of the European Union, or referred to in an opinion of the General Advocate General at the Court of Justice of the European Union.<sup>66</sup> The Further Conditions contain special rules on the possibility of substituting the other eight mandatory articles by monographs of chapters in monograph publications.<sup>67</sup>

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62 Minimal Conditions of the NAKVIS, Art. 25. Sec. 3.

63 Hojnik, 2019, p. 371.

64 Minimal Conditions of the NAKVIS, Art. 25. Sec. 4.

65 Further Conditions, Art. 7, Sec. 2. (point a).

66 Further Conditions, Art. 7, Sec. 2. (point b).

67 Further Conditions, Art. 7, Sec. 3.

## 5. Conclusions

In all three countries that were subject to analysis, the basic system of evaluation of scholarly production is the bibliometric system based on the ranking of journals by the JIF according to the JCR. A journal is considered international if it is indexed in a database in the WoS, whereby a difference is made based on whether or not a journal has an IF. Such a ranking system adversely affects the social sciences, especially legal science. The shortcomings of the ranking system are observed even more strongly in the laws of smaller European countries, such as Serbia, Croatia, and Slovenia.

The institutions of the countries analyzed in this paper offered different solutions for balancing two almost irreconcilable interests: to motivate legal scholars to achieve a certain level of international recognition on the one hand, and on the other hand, to facilitate their publishing papers primarily in their national language, to disseminate ideas relating to and solutions of problems emerging regarding national law, with the aim of reaching stakeholders in shaping the national law (i.e., other scholars from the same country, the political establishment, actors in legislative processes, the judiciary, attorneys, and others engaged in various legal professions). In all three countries, the conditions of the promotion of a scholar to the position of a full professor have been scrutinized with regard to the requirement of publishing articles in journals with certain recognition, either domestic or international.

In Serbia, more specifically at the University of Novi Sad, the conditions for a promotion of a scholar to the position of a full professor of law with regard to the requirement to publish a certain number of articles in journals qualified as international duly takes into account the difficulties faced by legal scholars while publishing articles in journals indexed by the WoS. For the promotion, the candidate must publish at least five articles in journals in the category of M51 (highest-ranking domestic legal journals), at least one article in journals in the category of M24 (domestic legal journals declared of international relevance), and at least one article in journals in the category of M23 (journal ranked by the JCR, but not in the top 60% in the same field of science). However, in social sciences and humanities, any other journal qualifies as M23 if indexed by the ERIH PLUS database. Presently, in the field of legal science, 14 journals from Serbia are indexed by the ERIH PLUS database. Furthermore, at the University of Novi Sad, the fulfilment of the requirement to publish at least one article in a journal categorized as M23 may be substituted by any other publication yielding the same or more points to the candidate. According to this rule, this requirement may be substituted by publishing a book of international or domestic relevance or by publishing a chapter in a monographic publication of international relevance.

In Croatia, regarding this issue, the decision of the Constitutional Court applicable from 2013 paved the way for a regulation that is the most favorable for legal scholars in comparison to the other two countries. The court ruled that the prescribing conditions for the progress of scholars in social sciences in their academic career that link their advancement primarily to publishing articles regularly in international journals in foreign languages infringe on the freedom of scholarly activity warranted by the

Constitution. Scholars in the field of social sciences, especially in legal science, should have equal chances for advancement in their careers, even by publishing in domestic journals in Croatian languages. It seems that the effective Croatian Decree on the Conditions of the Promotion to Scholarly Titles duly considered the Constitutional Court's decision. It specifies that social sciences articles published in any journal indexed by HeinOnline shall be qualified as the highest-ranking publication (category a1), though in the subcategory Q4. Nevertheless, legal scholars can satisfy the requirement of having a specific number of points accumulated in the category of a1 by publishing articles in any journal indexed by HeinOnline, whereby all major legal periodicals in Croatia, published in the Croatian language, are available in HeinOnline. In line with the decision of the Constitutional Court is also the rule of the decree specifying that in social sciences, at least one article of the candidate must be published in the Croatian language. However, in comparison to the Serbian regulation, in Croatia, publishing a book or chapter in a monographic publication may not substitute the requirement of publishing articles in the highest-ranking category (a1), but only articles in categories a2 and a3.

At first glance, the Slovenian system allows fewer exceptions in social sciences from the general requirement posed to scholars to publish articles in journals recognized as international according to the JCR as compared to other countries. The act of the regulatory body (NAKVIS) on the minimal conditions for the promotion of university lecturers specifies that a candidate must author a certain number of articles published in journals indexed by the WoS with an IF higher than zero. While this rule applies equally to social sciences, including law, the act of the regulatory body allows universities to enact different rules regarding equating other journals with those indexed by the WoS in the fields of science where the ranking system based on the JCR is not an appropriate indication of the quality of the journal. In this study, the rules of the University of Maribor pertaining to legal science have been analyzed. These rules specify a greater range of indexing databases that are relevant for determining whether a journal belongs to the group of highest-ranked journals. Additionally, the rules of the University of Maribor provide an extensive list of other indexing databases, whereby articles in journals indexed by these databases substitute articles in the top category (in a 2:1 ratio). Finally, the university rules contain a proviso that is not envisaged either in Serbian or Croatian regulation. They specify that the rule on the possibility of substitution of articles in the top category also applies to articles cited by the Slovenian Supreme Court, Constitutional Court, an international court, by the Court of Justice of the European Union, or referred to in the opinion of the Advocate General. This rule is commendable and supportable. The primary role of legal science should be to provide direction to the judiciary in the context of the application of the national law and in the national language in cases of legal lacunae or when the applicable rule is vague or susceptible to different interpretations. Acknowledging legal scholars in terms of their advancement in their academic career for their efforts in coping with such legal issues and providing useful assistance to the judiciary sends a clear message to them and provides them incentives to continue to tackle issues that are not merely of academic relevance but issues that contribute to the shaping of domestic law.



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