

# EXPLORING LEGAL MECHANISMS TO FOSTER E-DEMOCRACY: NORWAY VS. ROMANIAN ARRANGEMENTS<sup>1</sup>

## EXPLORANDO MECANISMOS LEGAIS PARA PROMOVER A DEMOCRACIA ELETRÔNICA: NORUEGA VS. ACORDOS ROMENOS

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**Abstract:** The study presents and investigates the state of e-democracy implementation on the websites of major cities in Romania, examining its influence on citizen participation and engagement. The red-line of the research is to explore legal consequences of failing to enable e-democracy. Also, aiming to identify the entities serving as effective watchdogs for e-democracy, I discuss the Prefect denial of legality visa as possible mechanisms to enhance e-democratic practices. Further the study compares the contributions of County governors in Romania and Norway, highlighting key similarities, differences, and potential explanatory factors. Through a mixed-methods approach, including website analysis, index for monitoring e-democracy, surveys, and comparative analysis, this research provides insights into e-democracy

implementation, legal implications, and governance dynamics. Finally, the study provides specific recommendations and lessons learned to promote e-democracy.

**Keywords:** E-democracy. E-governance. Legal consequences of failing to enable e-democracy legality check. Prefect denial of legality visa Statsforvaltere. Digital transformation of the public sector. Digital governance. Index for monitoring e-democracy.

**Resumo:** O estudo apresentado investiga o estado da implementação da democracia eletrônica nos sites das principais cidades da Romênia, examinando sua influência na participação e no envolvimento dos cidadãos. A linha vermelha da pesquisa é explorar as consequências legais de não se habilitar a democracia eletrônica. Além disso, com o objetivo de identificar as entidades que atuam como fiscalizadoras eficazes da democracia eletrônica, discuto a negação do visto de legalidade pelo prefeito como possíveis mecanismos para aprimorar as práticas democráticas eletrônicas. Além disso, o estudo compara as contribuições dos governadores dos condados da Romênia e da Noruega, destacando as principais semelhanças, diferenças e possíveis fatores explicativos. Por meio de uma abordagem de métodos mistos, incluindo análise de sites, índice de monitoramento da democracia eletrônica, pesquisas e análise comparativa, esta pesquisa fornece percepções sobre a implementação da democracia eletrônica, implicações legais e dinâmica de governança. Por fim, o estudo fornece recomendações específicas e lições aprendidas para promover a democracia eletrônica.

**Palavras-chave:** Democracia eletrônica. Governança eletrônica. Consequências legais de não habilitar o controle de legalidade da democracia eletrônica. Negação do visto de legalidade pelo

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## 1. CONTEXT: E-GOVERNANCE V.S. E-DEMOCRACY

As technologies continue to evolve with the expansion of smartphones and the web, municipal governments began to use digital tools to interact with citizens more effectively. The internet has changed the way individuals interact with one another, and also enabled digital transformation of the public sector. Delivering public services via digital platforms is growing (Hautamäki & Oksanen, 2018<sup>2</sup>) and citizens demand for digital public services continues to rise. G2C ("Government-to-Citizen") encountered new forms of collaboration (Retnowati, N.& Nugraheny, D. (2021)<sup>3</sup> and open new avenues for governments to connect with citizens, distribute data, and participate in conversations that are bilateral (Al-Shbail & Aman, 2018<sup>4</sup>).

E-government and e-democracy has grown over the last decade from delivering static content and services to incorporating user created content and social media technologies (Saxena, 2018)<sup>5</sup>. As a whole, digital technology provides opportunities to improve democracy's accountability and responsiveness (Kundnani 2020)<sup>6</sup>. Citizens can now engage in and provide regular input on policies and programs. And even traditionally marginalized members of local communities can also participate in the policy making process through different digital channels, resulting in more legitimate decisions and effective implementation (Holzer & Manoharan & Melitski, 2019)<sup>7</sup>. The adoption of digital government also has the

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<sup>2</sup> Hautamäki A., Oksanen K. (2018). *Digital Platforms for Restructuring the Public Sector*. In: Smedlund A., Lindblom A., Mitronen L. (eds) Collaborative Value Co-creation in the Platform Economy. Translational Systems Sciences (vol 11). Springer, Singapore. [https://doi.org/10.1007/978-981-10-8956-5\\_5](https://doi.org/10.1007/978-981-10-8956-5_5)

<sup>3</sup> Retnowati, N. & Nugraheny, D. (2021), *G2C (Government to Citizen) Digital Interaction and C2G (Citizen to Government)*, Jurnal Sains dan Teknologi. 13. 90. 10.31958/js. v13i2.4692.

<sup>4</sup> Al-Shbail, T., & Aman, A. (2018). *E-government and accountability. Transforming Government: People, Process and Policy*. <http://dx.doi.org/10.1108/TG-09-2017-0057>. See also Popa Tache, C. E., *Public International Law and FinTech Challenge*, Perspectives of Law and Public Administration, Volume 11, Issue 2, June 2022, pp. 218-226.

<sup>5</sup> Saxena, S., (2018) *National open data frames across Japan, the Netherlands, and Saudi Arabia: Role of culture*. Foresight 20(1): 123–134

<sup>6</sup> Kundnani, H., (2020) *The Future of Democracy in Europe: Technology and the Evolution of Representation*, Chatham House. For some considerations about people's behavior see Benabed, A., and Tudoran, L., *Artificial Intelligence Towards International Regulations, Frameworks and Laws in the World of Globalization: Implications and Challenges*, Perspectives of Law and Public Administration Volume 12, Issue 2, June 2023, p. 270.

<sup>7</sup> Holzer, M., Manoharan, A., Melitski, J., (2019). *E-Government and Information Technology Management: Concepts and Best Practices*. Melvin & Leigh, Publishers: 88-89

potential to contribute to the development of local communities to become more socially inclusive and sustainable.

The percentage of individuals who use the Internet to interact with public authorities can vary significantly from country to country. Internet penetration rates, digital infrastructure, government policies, and cultural factors can all influence the level of online engagement with public authorities. DESI 2022 index<sup>8</sup>, created by the European Commission to measure the digital performance of European Union (EU) member states, provides a comprehensive evaluation of each member state's progress in the digital domain, and allows for benchmarking and comparison across countries<sup>9</sup>. The indicator regarding percentage of individuals who used the Internet to interact with the public authorities and shows that Sweden, Denmark, Finland, Ireland, and the Netherlands performed very well on this measure, with more than 90% of internet users (aged 16-74) interacting with the public administration choosing government portals. While Romania, Bulgaria, and Italy did poorly in this measure, they were the only three countries with less than 50% of citizens interacting with public authorities (DESI, 2022). Also, the UN index on E-Government Development (EGDI<sup>10</sup>) ranked Romania at the end of the scoreboard, the last but one position, among countries in Europe in relation with the indicator of individuals who used the Internet to interact with the public authorities.

Romania's ranking in DESI and EGDI shows comparably weaker digital performance of local governments which emphasis the importance of paying more attention of digital transformation of public sector. This was the trigger for me to dive more on the topic and was the motivation to collect data, by investigating these aspects and undertake additional research to identify the causes contributing to Romania's poor digital performance.

Digital transformation of the public sector from the perspective of G2C (Government-to-Citizen) interactions bring into researchers' attention and have turned their focus to two concepts: „e-government and „e-democracy” (Roztocki& Strzelczyk&

<sup>8</sup>\*, EU, *Digital Economy and Society Index 2022 Digital public services*, [file:///C:/Users/vmada/Downloads/4\\_Desi\\_2022\\_Thematic\\_chapters\\_Digital\\_public\\_services\\_3sg1kZH3OjmhrU4jM27YRYYcvg\\_88768.pdf](file:///C:/Users/vmada/Downloads/4_Desi_2022_Thematic_chapters_Digital_public_services_3sg1kZH3OjmhrU4jM27YRYYcvg_88768.pdf): 4-5

<sup>9</sup> See also Râmniceanu, V.-T., *European Union Initiatives and Regulations on Sustainable Corporate Governance*, *International Investment Law Journal*, Volume 2, Issue 1, February 2022, p. 89.

<sup>10</sup>E-Government Development Index as presented in \*, UN, *United Nations e-Government Survey 2022. The future of digital government*, United Nations, New York, 2022, <https://publicadministration.un.org/en/>: 72

Weistroffer, 2023)<sup>11</sup>, Sheridan& Riley, 2010)<sup>12</sup>. The two concepts are often discussed as synonymous and used interchangeably in academic literature or formal documents. General approach is that e-government and e-governance represents two closely related and co-existing various concepts with specific particularities:

-e-government (e-gov) (electronic government) refers to the use of digital technology and electronic systems by government institutions to provide public services, interact with citizens, and conduct administrative operations.

- e-democracy (electronic democracy), on the other hand, concerns the use of digital technology to foster citizen participation, engagement, and empowerment in democratic processes. that enhance democratic principles, transparency, and public involvement in policy development, decision-making, and governance.

As There is no universally accepted definition of both terms (Grigalashvili,2022)<sup>13</sup>, in my view, e-democracy is a specific component of e-governance. This means that within the broader and multifaceted concept of e-governance (Bannister& Connolly, 2012)<sup>14</sup>. And, in summary, while e-gov centers on digitizing government services and operations, e-democracy concentrates on utilizing digital technology to empower citizens and foster their active participation in democratic processes.

The present research investigates the field of e-democracy, also referred to as electronic democracy or digital democracy, within the context of Romanian urban communities. While numerous articles have explored various facets of e-democracy, encompassing topics such as online voting, e-participation, open government, digital dialogue and consultations, digital literacy and civic education, online petition platforms, cybersecurity, and privacy, and digital inclusion, this paper aims to concentrate on three significant themes: access to information, publication of local laws and draft laws, and timely access to information.

Given my legal background with a specialization in administrative law and a strong research interest in the principles governing public administration, such as citizens' access to

<sup>11</sup> Roztocki, N. & Strzelczyk, W. & Weistroffer, H. (2023). *Beyond E-Government: A Framework for E-Democracy*, AMCIS 2022 Proceedings. 2. [https://aisel.aisnet.org/amcis2022/sig\\_globdev/sig\\_globdev/2](https://aisel.aisnet.org/amcis2022/sig_globdev/sig_globdev/2)

<sup>12</sup> Sheridan, W. and T. Riley (2006), *Comparing e-Government Vs. e-Governance*, GISDevelopment. [www.gisdevelopment.net/magazine/years/2006/aug/46\\_1.htm56](http://www.gisdevelopment.net/magazine/years/2006/aug/46_1.htm56)

<sup>13</sup> Grigalashvili, V. (2022). *E-government and E-governance: Various or Multifarious Concepts*. International Journal of Scientific and Management Research, IJSMR.2022.5111

<sup>14</sup> Bannister, F., & Connolly, R. (2012). *Defining e-Governance*. E-Service Journal, 8 no. 2: 3–25. <https://doi.org/10.2979/eservicej.8.2.3>

public information and their participation in local decision-making, the research I am presenting is centered on the juridical aspects of e-democracy. I explored the legal framework and regulations that surround e-democracy in Romania aiming to uncover the rights and obligations of government entities. Although I examined the legal consequences and sanctions that apply to administrative acts that are not transparently and timely communicated in order to ensure enforceability among their recipients, the citizens of local communities.

My legal background and expertise in administrative law position me uniquely to undertake this research, allowing for an in-depth exploration of the juridical aspects of e-democracy in Romania. Through this legal lens, my research will contribute to a deeper understanding of the legal foundations, challenges, and opportunities that shape e-democracy practices, ultimately informing decision-making and promoting effective governance in the digital era.

## **2. METHODOLOGY**

This study seeks to investigate the impact of digital technology solution on e-democracy and the legal consequences of failing to enable e-democracy regarding transparency and citizen participation in decision-making processes within urban communities in Romania through a meticulous monitoring process.

In Romania, the digital performance of public institutions is evaluated to a very limited extent. Although, measuring e-democracy is the core process that enables benchmarking and comparison between different municipalities, counties, regions, countries, or initiatives. It allows policymakers and researchers to identify best practices, success factors, and facilitate learning various implementations of digital solutions. By analyzing and comparing different approaches to e-democracy, we can learn and adapt strategies that have proven effective in different contexts.

Aiming to measure e-democracy and investigate the state of digital governance implementation on the websites of major cities in Romania I build a democracy index and I gather a set of primary data. Further, based on analysis of monitoring factors, I tried to understand the nature and causes of the identified gaps, with a primary focus on analyzing the legal ramifications resulting from the failure to enable e-democracy.

Based on data analysis I focus research efforts on addressing the most critical areas of improvement and develop specific recommendations to bridge the identified gaps. As a result, the study centered to identify the entities that effectively act as watchdogs for e-democracy and the mechanism to enhance e-democratic practices.

Further the study compares the contributions of County governors in Romania and Norway, highlighting key similarities, differences, and potential explanatory factors.

### ***Research questions***

The research questions guiding this inquiry are as follows:

1. *What is the level of e-democracy implementation on Romanian largest cities' websites and how does it impact citizen participation and engagement?*
2. *Which entities or organizations serve as effective watchdogs for e-democracy, and what are the potential stakeholders that can contribute to enhancing e-democratic practices?*
3. *What are the key similarities and differences in the contributions of County governors in Romania and Norway to enhancing e-democratic practices, and what factors may explain these variations?*

### ***Research target population***

To assess the progress of e-democracy in Romania through digital platforms, I selected a subset of 41 largest cities, specifically focusing on county' seats, as a benchmark representing the most advanced sample of e-democracy among administrative-territorial entities in the country. This subset, referred to as the "advanced sample of large cities," comprises economically prosperous areas that have allocated substantial resources to digital tools<sup>15</sup>. Consequently, I hypothesize that these cities exhibit the highest level of e-democracy implementation compared to other administrative-territorial entities in Romania, such as communes.

Within Romania, there are a total of 319 cities<sup>16</sup>, encompassing rural area. Among these cities, there is a subset of 41 that I specifically studied. These 41 cities hold a special status as county seats and are home to over 30% of the Romanian population. The county seat city is the administrative center where is the headquarters of the county government, where official offices and facilities are located. It is the primary city within the county where

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<sup>15</sup> See Șancariuc, D.-R., *Economic Regulation, Institutions and Entrepreneurship: Perspectives from the Experience of States in Transition*, International Investment Law Journal, Volume 2, Issue 1, February 2022, p. 73.

<sup>16</sup>\*, Romanian Ministry of Development, Public Works and Administration, *Small towns in Romania. Synthesis report*, 2021, <https://www.mdlpa.ro/uploads/articole/attachments/618cf35802670303726314.pdf>.

governmental functions, such as county administration, courts, and other county services, are typically based.

The research I conducted involved monitoring by manually analyzing the digital platforms of all 41 major cities in Romania, which represent 100% of the entire population of Romania county seat cities.

### ***Design of the Assessment Index***

The index comprises 22 questions and was primarily focused on monitoring the implementation of the Local Electronic Official Journal (LEOJ) that is regulated by Administrative Code of Romania (2019).

The index offers a standardized and structured approach to evaluate and compare various aspects of e-democracy and has a specific focus on two major aspects related to: (1) access to information and (2) citizen participation in the decision-making process at the local level<sup>17</sup>.

The creation of the assessment index was based on Romanian legal framework and involves a systematic process that includes the following steps:

1. Identify the relevant legislation: I reviewed the newly adopted Administrative Code (2019) to determine the key provisions, requirements, and standards that are applicable to the e-democracy monitorization.
2. Define the assessment objectives: I developed the assessment index's objectives, which are: (1) to monitor the deployment of the Local Electronic Official Journal (LEOJ) in large cities in order to extract information on e-democracy progress and (2) to provide information on the gaps and challenges that municipalities in Romania encounter when implementing e-democracy.
3. Determine evaluation criteria: I identify three criteria to assess e-democracy in large cities that are aligned with the assessment objectives and represent the key elements local e-democracy, as follow: Criterion 1 Availability and Accessibility of LEOJ (Local Electronic Official Journal) on cities websites; Criterion 2 Citizen Engagement and Participation to local decision-making process; and Criterion 3: Transparency and Accountability of municipal information on the LEOJ. These criteria provide a comprehensive framework for evaluating different dimensions of e-democracy and are tailored to suit the needs of the research.

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<sup>17</sup> See Acosta-Pumarejo, E., *Citizenship and nationality: a saga of a historical connection and the dialectic of inclusion/exclusion*, Tribuna Juridica - Juridical Tribune, Volume 13, Issue 2, June 2023, pp. 284-302.

4. Develop indicators: I break down each criterion into SMART (EC. 2016)<sup>18</sup> indicators that were also grounded on the Romanian Administrative Code.
5. Establish measurement scales: I designed a simple measurement system for each indicator based on yes/no type. Whenever applicable, I also defined the parameters and thresholds for each scale. For example, when evaluating timely access to digital information, I clarified that 30 days threshold is the time limit for uploading information. In Romania, there is a specific rule for the organization of local public administration, which states that local council meetings are held once a month. Therefore, the time interval between two local council meetings is approximately 30 days. That's why it is reasonable and appropriate to consider a maximum threshold of 30 days for ensuring the information of citizens through the publication of decisions. Adhering to this publication threshold can be an efficient way to inform the local community about the actions and decisions made by the authorities.
6. Survey questions: 22 open-ended questions were formulated to collect information aiming to gather evidence and inputs for evaluating the performance of each indicator.
7. Assign weights: Although initially I considered the principle "what matters more weighs more", later I gave up the idea of giving a different weight to the different indicators because I considered that all the question has the same influential factor in achieving e-democracy. So, I decided to assign equal weighting for each of 22 survey questions that imply the recognition of an equal status for all of them.
8. Pilot testing and refinement: Aiming to improve clarity, relevance, and practicality of the assessment index, I implemented the data collection plan in 5 random pilot cities where I collected data based on the indicators as defined. Then I made necessary refinements and adjustments based on the pilot results. For example, I introduce a threshold of 30 days as a milestone to indicate that access to information is provided within a reasonable time.

### ***Data collection***

The implementation of the assessment index was done by a meticulous process of manual data collection.

Subsequently, the collected data from the evaluation sheets was methodically processed, sorted out, organized, and accurately entered into a centralized and consolidated Excel spreadsheet.

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<sup>18</sup> SMART indicators- Specific, Measurable, Achievable, Relevant, and Timely in \*, European Commission, *Evalsed Sourcebook: Method and Techniques*. Brussels: European Commission



The centralized Excel spreadsheet contains binary answers (yes or no) for each question in the monitoring index. The purpose of using this simplified system was to enable a conversion of the binary answers into numerical values that can be easily used in calculations, aggregations and classifications. Thus, the answer "yes" was assigned the numerical value 1, while the answer "no" was assigned the numerical value 0. This conversion allows me to perform mathematical and statistical operations on the collected data, such as additions, averages, sums, ordering, or filtering based on these numeric values.

### ***Interpretation of data***

In the process of interpreting and analyzing the findings, I employed the additive aggregation method. This method allowed me to aggregate the individual values of all indicators into a single composite score.

The composite score reflects the performances in e-democracy of each city within the surveyed population, assessing their effectiveness in digital platforms<sup>19</sup>.

At the same time, this composite score provided a clear and straightforward representation of overall e-democracy performance of the largest cities in Romania. And it enabled me to effectively interpret the data, identify patterns, strengths, and areas for improvement.

## **3. KEY FINDINGS**

From January to March 2023, data was collected to evaluate e-democracy in the 41 largest cities of Romania, specifically focusing on monitoring the implementation of the Local Electronic Official Journal (LEOJ). The maximum achievable score is 22, and the scores represent a snapshot of the evaluator's website visits during that timeframe. When evaluating the diverse indicators, it becomes evident that there are significant variations in performance. While some indicators showcase valuable performance, others indicate room for improvement.

### **Overall performances of large cities:**

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<sup>19</sup> See Ioan, G.-C., *The effects of Regulation no. 679/2016 on the Romanian commercial environment. The new obligations in the field of personal data*, Tribuna Juridica - Juridical Tribune, Volume 8, Special Issue, October 2018, pp. 111, 112.

Based on the investigation the following conclusions can be drawn regarding the interplay between e-democracy, digital technology implementation, transparency in government operations, and citizen participation:

- The findings support the conclusion that digital transformation has increased access to information. The total average score of Romanian large cities is 80%. It means that the majority of Romanian large cities provide *access to local governments' information*, resulting in greater transparency.
- It is evident that digital transformation encountered challenges in ensuring *timely data availability*. Most Romanian large cities struggle with timely publication of adopted local laws on official websites, scoring below 50%. This indicates a need for improvement in this aspect of digital technology implementation<sup>20</sup>.
- The research highlights the difficulties faced by digital transformation in *facilitating public participation*. Most Romanian large cities score below 50% in enabling broader citizen engagement by publishing law projects on official websites. This suggests limitations in leveraging digital platforms to enhance citizen participation in policy development and decision-making.

Two indicators stand out with the highest average scores: the presence of the "LOEJ section" on the official website and the availability of a "publication button" for local laws. Oppositely, the indicator measuring the "publication of project laws" received the lowest average score among all the indicators. Only 71% of the entities assessed were found to meet the requirement of regularly updating information regarding project laws on their official websites. Additionally, the data relating to the timely publication of local laws returned an unsatisfactory score of 83%.

Gathering data on the indicator related to access to information proved to be a challenging task due to various factors that needed to be taken into consideration. One of the challenges was encountered while designing the questionnaire itself. During the piloting phase, some of the questions had to be supplemented in order to assess whether the available data was not only present but also up to date.

In simpler terms, merely having a button in the digital platform's menu was found to be insufficient. It comes out that is also necessary to further inspect that the button contained

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<sup>20</sup> Chiriac, Roxana Maria, *The future of cross border mergers in the light of the new European Union provisions. Their implementation in Romania*, Tribuna Juridica - Juridical Tribune, Volume 10, Issue 2, June 2020, p. 285.

relevant and accurate information, rather than being a superficial element with no substantial content or leading to broken links and dead ends.

Moreover, also on monitoring index the piloting stage, to ensure the reliability of the information, an additional indicator was introduced. The researcher checked whether the data provided was updated within the last 30 days. This step was essential because a significant fraction of the platforms surveyed displayed outdated information.

### **“Official Local Electronic Journal” and “Publication of Local Laws” - 98%**

Upon conducting data analysis, two indicators emerged as champions. Firstly, the indicator pertaining to the presence of a dedicated section for the Local Official Electronic Journal (LOEJ) on official websites achieved a great average score of 98%. Secondly, the indicator assessing the Publication of Local Laws also showcased an equally impressive average score of 98%. These remarkable performances in both indicators indicate that the vast majority of the monitored cities, specifically 40 out of 41, have successfully managed to take first steps to e-democracy and it demonstrates that public authorities are aware of their legal obligation to enable information accessibility and transparent governance.



Considering this score, it can be reasonably concluded that large cities in Romania have made efforts to meet the requirement of having a dedicated section for the LOEJ and reflects a positive trend towards promoting open governance practices.

#### *Legal implications:*

The presence of the LOEJ label indicates that the authorities are aware of their obligation to ensure communication of adopted administrative acts (local laws). This holds significant legal importance as the lack of publication prevents administrative acts from having legal effects. In simpler terms, if local decisions are not communicated to citizens, they do not create legal rights and obligations for them, rendering them invalid and unenforceable. Administrative acts only generate legal effects once they are made known to citizens through electronic publication in the LEOJ.

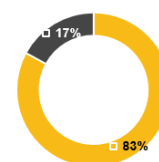
Publication is a prerequisite for the validity of the local laws. The failure to publish local decisions leads to the legal sanction of non-existence that prevents local laws from having legal consequences. The effect of non-existence implies that citizens will treat the local decision as if it "does not exist" within the current legal framework. Consequently, an unpublished local decision holds no legal weight, and individuals cannot be compelled to abide by its provisions. Non-existence of an administrative act is a sanction that completely lacks any semblance of legality, and the act of non-publication constitutes a deliberate infringement of the law.

Therefore, local decisions generate legal effects from the date of their publication in digital format on the institution's website. The moment of publication also indicates the commencement of the administrative act's validity that fully and effectively governs social relations in local community. From this moment on, no one can evade its application on the grounds that they were not aware of the local decision regulations. The publication of the administrative act makes applicable the Latin principle *nemo censetur ignorere legem* (Sauleanu & Raduletu, 2007)<sup>21</sup> and establishes an absolute presumption of knowledge of the law.

### **"Timely Publication of Local Laws"- 83%**

To reach a comprehensive conclusion, I did not rely solely on summarizing the percentages of the "Publication of local laws" indicator. Instead, I correlate this indicator with the one measuring the "Timely publication of Local Laws." When considered together, these indicators offer a better understanding of the degree of compliance with transparency requirements in public administration.

Timely Publication of Local Laws



By analyzing the correlation between the "Publication of local laws" indicator (98%) and the less-satisfactory score of the "Timely publication of local laws" indicator (83%), a more nuanced understanding emerges. It becomes evident that although local laws are being published, there is a delay or inconsistency in ensuring that they are published promptly. This discrepancy raises concerns about the efficiency of the public administration system.

The deficient performance on timely access to information shed light on two critical aspects: first, the potential negligence and apathy of public authorities towards adequately

<sup>21</sup> legal maxim that signifies the expectation that individuals are aware of the laws governing their actions and cannot claim ignorance of the law as a defense. Sauleanu, L.B., Raduletu, S. (2007), *Dictionary of Latin Legal Expressions*, C.H. Beck, Bucharest

informing the citizens, and second, the lack of transparency in the governance of local communities.

*Legal implications:*

Significant delays in the publication of local laws undermine legal certainty and predictability because citizens may find themselves in a state of uncertainty, unsure of the applicable legal framework governing their actions.

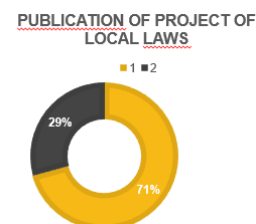
They hinder individuals' ability to understand the rules governing their community and impede their compliance with the law.

When individuals are not timely informed of the existence or content of a law, it is unreasonable to expect them to comply with it. This erodes the credibility of the legal system and has the potential to lead to a breakdown in law and order.

From a legal perspective, significant delays in publishing local laws result in the failure to achieve their legal effectiveness and enforceability.

**“Project laws publication”- 71%**

The indicator evaluating the "publication of project laws" obtained the lowest average score compared to all other indicators. Only 71% of the entities fulfilled the obligation of consistently updating information concerning project laws on their official websites. Since transparency is a crucial aspect, the 29% non-compliant percentage can be seen as a signal of concern or an area that needs improvement.



When draft local laws are not published on digital platforms, is challenging for citizens to stay informed about proposed local policies. The act of non-disclosure of local bills silences the voices of the citizens, undermining the principles of citizen participation in decision making which is a core indicator that e-democracy is not well implemented.

By deliberately withholding information and not publishing project acts, these authorities diminish the potential for informed citizen engagement because they restrict the ability of citizens to fully understand public agenda and prevent them to contribute to decision making process. In contrast, fostering a culture of open governance, transparency, and inclusive decision-making processes empowers citizens and strengthens democracy.

Furthermore, intentional secrecy through omission of publishing projects serves as a tactic to promote opaque governance benefiting interest groups, like real estate investors,

and enabling them to operate on the edges of legislation. Deliberate non-disclosure of legislative bills could be a violation of the law, potentially falling under criminal jurisdiction.

*Legal implications:*

The publication of draft administrative acts is a mandatory stage in the process of legislative technique. The adoption of administrative acts is not a one-stop-shop, The Romanian law provides for certain stages that must be completed. And omitting one of these mandatory steps means that the adoption procedure was infringed. Failure to comply with the adoption procedure results in the nullification of the administrative act, leading to the absence of legal validity. As a result, the local law lacks existence, fails to generate legal consequences, and cannot be enforced against citizens.

Non-publication of the local law draft contravenes Article 7 of Law No. 52 of 2003, which mandates transparency in decision-making by public administrations. This law requires that the full text of the draft be made available to citizens at least 30 working days prior to submission for approval by the authorities. Breaching these imperative regulations results in complete nullity of the administrative act. Consequently, in legal disputes, the court will invalidate the administrative act if the decision draft has not been published.

***In conclusion***, the overall monitoring results regarding e-democracy solutions in Romania's 41 largest cities reveal a mixed picture, overviewing both notable achievements and areas that require improvement.

To fully understand the monitoring findings, it's important to examine the contextual factors behind the successful implementation of certain e-democracy solutions and barriers to progress in other areas. By analyzing this information, appropriate measures and responsible actors can be identified to support improvement through targeted interventions, policy adjustments, and capacity building initiatives. In the next section, we will discuss the solution we have identified for accelerating the digital transformation process at the local level in Romania.

#### **4. E-DEMOCRACY WATCHDOGS. WHO CAN ENHANCE E-DEMOCRACY IN THE PUBLIC SECTOR?**

The monitoring process indicates that there is room for improvement in certain areas where indicators highlight shortcomings. The necessity for remedial actions aimed at

improving overall e-democracy were signalized in the area of two lagging indicators: (1) drafts publication and (2) timely publication.

Both lagging indicators highlight a concerning reality of gaps within the legislative process, affecting a large segment of the surveyed population. It means that a significant part of public authorities skips at least one of the mandatory procedural steps, resulting in a systematic disturbance of the local legislative process. From a legal standpoint, the consequence of procedural infringements is the potential application of the severe legal sanction of nullity for the administrative acts (local laws) (Voican, 2018)<sup>22</sup>.

To prevent the legal invalidation of administrative acts that are adopted with the infringement of the procedure and lack digital transparency, the research emphasis focuses on identifying the key institutions responsible to improve the local legislative process and, consequently, e-democracy.

While analyzing the cycle of local laws adoption I identify that the Prefect, as county governor and the central state representative at the local level, holds a major responsibility in overseeing the operations of the local administration. As part of his supervisory role, Prefect is the watchdog of local legislative process because he holds the authority to observe the adoption process of local laws and conduct a legality review of laws enacted by the local authorities, (mayor decisions and local council regulations). Specifically, after reviewing all legislative steps were concluded Prefect will issue or will deny the legality check visa. Although the legality visa does not have direct legal consequences, its denial by the prefect serves as an eye-catching indicator, signaling that the local legislative process deviates from the prescribed legislative drafting rules.

The value of Prefect legality visa for the laws adopted by local governments lies in its role as a trusted authority. Prefect supervision aims to evaluate and assess the legality, trustworthiness and reliability of local legislation providing a visa of verification that the local decisions meet certain criteria and comply with national standards. This review ensures that all necessary legal procedures have been followed, and there are no omissions or breaches in the legislative process.

In other words, Prefect is a watchdog institution that monitors and oversees the activities of local government, especially regarding the legislative process. His supervisory authority aims to ensure transparency, accountability, and compliance with regulations and

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<sup>22</sup> Voican, M. (2018). *Administrative Acts, The Ultimate Theory*, Universitaria Craiova

ethical standards of local authorities. He is striving to safeguard the rights and interests of citizens from the local community, including the right to participate in local decision making.

Legality visa, the Prefect signals that all legislative stages were undertaken, providing citizens with a sense of assurance in terms of legality, democracy, and reliability. Conversely, if the Prefect identifies any omissions or breaches in the legislative process, they have the authority to withhold the legality visa. In such cases, the Prefect can challenge the laws adopted by local governments in court if they violate the requirements of legal techniques.

Therefore, empowered by their authority, the Prefect is the institution that can push in advancing e-democracy. I considered that, by closely monitoring the local legislative process and holding the local administration accountable, the Prefect can persuade the improvement of lagging indicators. Specifically, when local authorities neglect the publication of drafts or fail to ensure the timely publication of local laws on public portals, the Prefect have to use his powers to deny the legality visa.

The denial of the legality visa by the prefect can serve as a mechanism to promote e-democracy. When a prefect does not grant legality visa it represents raised red flag that warns that the local legislative process does not conform to the legal framework. As a consequence, Prefect denial of the legality visa will constrain local authorities to meticulously obey to all legislative procedures and uphold fundamental principles, such as ensuring the timely publication of local laws on digital platforms and presenting draft projects for public scrutiny on official website.

In conclusion, the Prefect can be a watchdog of e-democracy and at the same time to enable digital transformation of public sector. The mechanism of the denial of the legality visa by the prefect can prevent significant delays and ensure that local laws are made available to the public in a timely manner on public websites. And also, prefect can impose the publication on official websites of draft local laws, at least 30 working days before submission for approval by the public authorities.

Considering the significant responsibility of the Prefect institution in Romania for ensuring e-democracy, I tried to to identify similar institutions in advanced countries with stronger democratic foundations. This exploration aimed to find out good practices that could be applicable in the Romanian context. Nordic Collaborative Governance is one of them as a recognize model implemented in Scandinavian countries that are also known for their robust democratic systems and effective governance but also as flags for digitalization and advanced technological infrastructure.



Also, Norway has been a pioneer country in transparency policies (Baek, C., Tiplic, D., Santos, I. (2022).<sup>23</sup>). In 2010 it was among the countries that funded the Open Government Partnership. In addition, the Norwegian Freedom of Information Act states that all documents of public administration are open by default.

Besides, Norway has an institution comparable to the Romanian Prefect called Statsforvaltere. This is why I further considered that a comparative analysis of Norway's prefect could offers valuable insights that can be used to improve the Romanian Prefect system and enable e-democracy trough increasing transparency and citizen engagement.

## 5. COUNTY GOVERNORS: NORWAY V.S. ROMANIA MECHANISMS

### Context and vocabulary

Before analyzing the central-local government arrangements in Romania and Norway, it is important to establish a common ground of the terminology. Variations in the use of the 'Prefect' concept stem from translation processes and from the differences in administrative structures and practices across countries. Terms like 'State Administrator', 'County Governor', and 'Prefect' are used interchangeably to represent officials who act as representatives of the central government at the regional or local level. In this paper, we will use the historical term 'Prefect'.

Historically, The French prefect can be traced back in the early 19th century when he has been the central government official in the districts since the days of the emperor Napoleon (Bjørnå& Jenssen, 2006)<sup>24</sup>. On my research grant in Norway<sup>25</sup>, I learned that even if they have different names for each Scandinavian country, they refer to the same institution as:

- 'Statsforvaltere' formerly known as 'Fylkesmann' in Norway
- 'Statsamt' in Denmark, and
- 'Landshövding' in Sweden.

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<sup>23</sup> Baek, C., Tiplic, D., Santos, I. (2022). Evidence-Based Policymaking in Nordic Countries: Different Settings, Different Practices? In: Karseth, B., Sivesind, K., Steiner-Khamsi, G. (eds) Evidence and Expertise in Nordic Education Policy. Palgrave Macmillan, Cham. [https://doi.org/10.1007/978-3-030-91959-7\\_9](https://doi.org/10.1007/978-3-030-91959-7_9)

<sup>24</sup> Bjørnå, H., Jenssen, S. (2006), *Prefectoral Systems and Central-Local Government Relations in Scandinavia*, Scandinavian Political Studies 29(4):308 – 332, DOI:10.1111/j.1467-9477.2006.00154.x

<sup>25</sup> Under COST Actions, CA20123 IGCOORD, Short Term Scientific Mission Reference: E-COST-GRANT-CA20123-95fc53d2

Napoleon's administrative models of the Prefect, which aimed to centralize administrative authority and establish a standardized administrative structure in territories under French control, had a lasting impact on European countries, including Romania and Norway. Further exploration will be conducted to discuss the similarities and differences between the Romanian Prefect and the Norwegian Statsforvaltere.

### **Legal Framework**

Order No. 3642/1981 "Instruks for statsforvaltere" issued by Ministry Municipal and District Ministry regulates the attributions of Norwegian Prefect (Statsforvaltere). As a set of guidelines and instructions to provide guidance to the State Administrators (Statsforvaltere) in their administrative and supervisory functions.

In Romania, the Administrative Code integrates regulations governing local and central public administration, including the role and responsibilities of the prefect. The code outlines their duties, such as overseeing implementation of central government programs, conducting legality checks on local laws, and maintaining public order.

### **Presentation Prefect V.S. Statsforvaltere**

**Prefect in Romania** is a political appointee who represents the central government at the local level and operate within each of the 41 counties (județ). The Prefect's primary responsibilities include: (1) ensuring compliance with national legislation; (2) coordinating and overseeing the implementation of government policies and laws, and (3) acting as a liaison between the central government and local authorities. (4) maintaining public order, and has powers related to emergency situations. Romanian Prefects are subordinated and reports to the Government of Romania and their activities are managed by the Ministry of Internal Affairs.

The Romanian prefect oversee the local legislative process and issue a legality check for the local decisions issued by local authorities, but it does not have the authority to review municipal decisions. The Romanian prefects have a rather limited dialogue with the municipalities and are mainly concerned with supervision regarding complying with the adoption procedure.

**Statsforvaltere in Norway:** The Statsforvaltere, also called County Governors, are the highest representatives of the central government, appointed by the King, in each of the

18 counties (fylke) in Norway. They act as a bridge between the national government and local authorities and operate under the Ministry of Government Administration and Reform.

The role of the Statsforvaltere is mainly focused on: (1) overseeing the implementation of national laws and regulations within the county, (2) promoting regional development and (3) supervising the municipalities. They have responsibilities in areas such as healthcare, education, culture, emergency preparedness, environmental protection, and civil protection<sup>26</sup>.

The Norwegian prefect features- Statsforvaltere- perform supervision regarding legal aspects, as the Prefect does in Romanian, but they wield much greater powers over the municipalities.

### **Comparison Prefect V.S. Statsforvaltere**

#### *Similarities:*

- Both the Statsforvaltere and Prefects acts as a representative of the central government and ensures that the municipalities within their county (fylke or județ) implement central government policies and regulations.
- A key attribution of both institutions is to oversee the legal process at local level and to raise a red flag when procedure is infringed. This attribution can be used to foster e-democracy by raising a red flag each time when important legislative steps are omitted to be published in digital format.
- In both systems, the control of the local legislative process involves shared responsibilities between the institution of the Prefect and the judicial courts. In both countries, interventions by country governors are carried out following well-defined procedures and legal channels. However, the allocation of responsibilities and the order in which each institution intervenes are different. At a certain stage of the procedure, which differs in each country, the involvement of the court system comes into play and ultimately, the courts of justice, in both systems, settle the issue regarding the legality of the local legislative process.

#### *Differences:*

- in Norway, the King appoints the County Governors, while in Romania the Prime Minister appoint them.

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<sup>26</sup> For some other examples see Peráček, T., *E-commerce and its limits in the context of the consumer protection: the case of the Slovak Republic*, Tribuna Juridica - Juridical Tribune, Volume 12, Issue 1, March 2022, pp. 35-48.

- the Romanian Perfect system is relatively decentralized, with significant autonomy given to the regions, while the Norwegian system is more centralized, with a greater degree of control exercised by the central government.
- Despite that both the Prefect in Romania and the Statsforvaltere in Norway play supervisory watch dog role of local legislative process, there are few key differences. Romanian Perfect has less powers than Norwegian Statsforvaltere. Prefects have the authority to conduct a legality check or highlight procedural irregularities, although these actions do not have direct legal consequences. However, the Prefect can notify the court of justice to request the annulment of an administrative act issued in violation of the adoption procedure. The challenged act is automatically suspended. While Statsforvaltere has the authority to unilaterally overrule local decisions. It means that the Statsforvaltere can directly intervene and can directly overturn local decisions if the local decision is unlawful or inconsistent with national legislation. If local government is not happy with Statsforvaltere overruling solution he can challenge his decision in court.

In summary, the Norwegian Statsforvalteres has traditionally held a strong position in relation to municipalities. If Statsforvalteres identifies an improper or unlawful local legislative process, they can intervene and utilize their supervisory powers to review, overrule, or revoke such decisions.

On the other hand, unlike Statsforvalteres in Norway, Romanian Prefects do not possess the authority to directly overturn local decisions. Instead, if a Prefect detects an unlawful local decision, they can challenge it in court. In Romania, only the judicial courts have the power to review, revoke, or annul local decisions that are deemed illegal or in violation of applicable laws.

## **6. RECOMENDATIONS**

Following this comparative analysis, the conclusions I reached are not from the spectacular one's category, as one might expect. The legal framework and responsibilities of the Prefect in Romania are relatively comparable to those of the Prefect in Norway. As a result, I have not identified concrete proposals to amend Romanian legislation based on the Norwegian model.

Following this systematic comparative analysis of legislation as well as interviews with Norwegian experts in public administration, my conclusion is that the difference in democratic performance between Norway and Romania lies in the two countries' mentalities.

The factor that makes the difference is not the legislation, but the mentality and the culture of trust and seriousness that characterizes Nordic countries. As a result, the proposals at the end of this paper are more concerned with institutional practices than with the legislative framework, and they center on the collaborative Nordic government model.

Nordic collaborative governance emphasizes the principles of inclusivity, cooperation, and consensus-building and fosters transparency, trust, and accountability, leading to more effective governance outcomes (OECD, 2017)<sup>27</sup>, (Salmon & Zilliacus, 2007)<sup>28</sup>. Understanding the mindset behind Nordic collaborative governance is an important aspect that the Romanian Prefect can learn from the Statsforvaltere institution. Norway, have a strong tradition of collaborative decision-making and a culture that values cooperation, inclusivity, and consensus-building (Robinson, 2020)<sup>29</sup>. This mindset fosters collaboration with local governments, improves communication among intergovernmental layers, and supports continuous training and professional development.

Statsforvaltere in Norway nurtures a positive relationship with local governments as they work closely with municipalities, providing guidance and support through local legislative process. This collaborative approach fosters a constructive central-local government relationship. The Romanian Prefect can replicate this path by promoting a collaborative approach, engaging in dialogue, and providing assistance to local authorities in the local legislative process by supporting digital access to relevant information necessary in the local legislative process.

Prefect can also intervene by offering support for the continuous training and professional development of local authorities' staff. This intervention can be highly beneficial for enhancing the capabilities and expertise of local authorities, leading to more effective and transparent governance, and promoting e-democracy at the local level. Learning from Norwegian colleagues, Prefect can contribute to assessing and identifying training needs of

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<sup>27\*</sup> OECD, *OECD Recommendation of the Council on Open Government*, OECD/LEGAL/0438, OECD, Paris, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438>

<sup>28</sup> Salmon, G., & Zilliacus, K. (2007). *Nordic Collaborative Governance*. *Ecologic Magazine*, (September), 4-7.

<sup>29</sup> Robinson, S. (2020), *Trust, transparency, and openness: How inclusion of cultural values shapes Nordic national public policy strategies for artificial intelligence (AI)*, *Technology in Society*, Vol. 63, <https://doi.org/10.1016/j.techsoc.2020.101421>.

local authorities' staff; facilitating access to training programs and resources for local authorities' staff; establishing collaborations with educational institutions,

Embracing a collaborative mindset is a lesson that can be learned by the Romanian Prefect that can more actively engage with local authorities, stakeholders, and citizens, seeking their input, and considering diverse perspectives when evaluating the legality of local decisions.

In conclusion, by adopting the mindset of Nordic collaborative governance, the Romanian Prefect can create a more collaborative and inclusive governance system, where stakeholders are actively involved, communication is transparent, and expertise is continuously developed. These lessons contribute not only to more effective legality checks but also to a stronger and more resilient governance system in Romania that reflects the principles of collaboration, communication, and continuous improvement.

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