

## **COLLABORATIVE PUBLIC ADMINISTRATION AND ADMINISTRATIVE PROCEDURES: THE ADMINISTRATIVE CONSULTATION WIKI**

*Abstract.* In 2009 an applicative and scientific problem-based research portal of an interdisciplinary character – the Administrative Consultation Wiki (ACW) – was conceived, providing professionally verified and thus reliable information when resolving complex procedural legal dilemmas in administrative matters. The article explores the ACW as a collaborative PA platform inviting different stakeholders to co-participate in the context of identified social, cognitive, and professional boundaries, through boundary spanning. The ACW is evaluated by its holders' goals, a survey of users, and a SWOT analysis, which determined it to be one of the possible ways to systematically enhance the collaboration of PA stakeholders in the form of partnerships and networking in order to strive for good public government and governance.

**Key words:** collaborative public administration, administrative procedures, Administrative Consultation Wiki, participation, evaluation

### **Introduction**

As a result of radical societal changes, even in terms of fundamental principles, public administration (PA) is changing significantly and rapidly. The main focus of the changes concern the participation of societal groups and the development of partnerships in order to enhance the collaborative democratic state and overall sound public governance (Magiera et al., 2008; Bevir et al., 2011; Eyméri-Douzans and Pierre, 2011; Kuhlmann and Wollmann, 2013). The interdisciplinary nature of PA is one of its most important features, requiring the synergetic collaboration of different disciplines since only a research-based approach generates the new knowledge necessary to resolve the complex issues involved. Simultaneously, co-decision-making in public affairs should be supported in designing and

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implementing effective public policies. Hence, linking political-administrative authorities with citizens, business, and NGOs, as the addressees of authoritative norms in different procedures, must be effected. PA activities, of course, vary both in terms of procedure with different goals, and in terms of the level of regulation or programming. Yet it is only the procedural support of the administrative relation that allows the exercise of a substantive right.<sup>1</sup>

In addition to regulations, participants in administrative relations also need to make use of other, knowledge-providing interpretative legal resources. As such, an Administrative Consultation Wiki (ACW), as an interdisciplinary scientific problem-based research platform, is emerging, connecting participants in administrative procedures from different disciplinary and professional backgrounds, i.e. law, computer science, and organizational science, on the one hand, and public authorities, academia, the private sector, and NGOs, on the other. Basically it is a portal designed in 2009 by the Faculty of Administration of the University of Ljubljana and the Slovenian Ministry of Public Administration (now the Ministry of the Interior), since then constantly upgraded by, in particular, the legal and administrative sciences (for more, see Kovač and Dečman, 2009: 65–86; cf. Kovač and Stare, 2014: 2–12).

This article analyses the ACW as a new dynamic space of interplay within different boundaries (particularly social/political, cognitive, and professional) in terms of collaborative administration. The article aims to incorporate the ACW into the theoretical framework on administrative procedure as a collaborative tool, i.e. as a tool to enhance dialogue between the rulers and the ruled. The main research question addresses the level and nature of a collaborative PA through new networks such as the ACW when dealing with administrative procedural dilemmas. In this context, the paper focuses on the following three sub-questions: (1) Which stakeholders are involved in the ACW? (2) How and at what level do they participate in the ACW and at what level do their interests match as anticipated within this point of intersection? (3) Which boundaries appear among them as well as which levels of boundary spanning? Finally, the authors research how the ACW contributes to PA becoming user oriented, moving from an authoritative to a participative, inclusive approach with a common goal, i.e. effective collaborative

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<sup>1</sup> *The purpose of the procedure is not yet clearly determined at the beginning of the procedure, as it is influenced in the course thereof by various unpredictable interactions between the participants and by consequent procedural actions (cf. Statskontoret, 2005: 35; Schmidt-Assmann in Barnes, 2008: 47). Procedural law ensures instrumentality and the protection of dignity as well as other procedural functions, such as the expression of authority, the acceptability of decisions, economic and investment development, effective policies, and democratic stability in public governance (Nehl, 1999: 20–26, 166; Schuppert, 2000: 772–810; Rusch, 2013: 8).*

PA. In this context, the authors critically identify the goals, added value, and further potentials of the ACW and its weaknesses in view of the relevance and extent of the network's contribution to different aspects of collaboration in PA.

## Theoretical and methodological considerations of the ACW as a collaborative PA tool

### *The theoretical framework of administrative procedures within collaborative PA*

Collaborative PA is one of the foundations of modern society, being defined by societal and political processes, normative bases, as well as new theories aimed at solving “wicked problems” – i.e. complex and ambiguous interdisciplinary challenges in governance (see Schuppert, 2000: 41–48; Raadschelders, 2011: 178–200; Bevir et al., 2011: 17–200). Administrative science or PA evolved, particularly in the German environment, to address PA problems in an integral and interdisciplinary, and even transdisciplinary manner.<sup>2</sup> Integration on the level of interdisciplinarity is of great importance to PA since the most complex and dynamic societal (wicked) problems cannot be tackled by only a mono- or even multidisciplinary approach. Administrative science studies PA as a societal subsystem and bearer of the instrumental level of public governance in the sense of implementing institutional public policies (Raadschelders, 2011: 12–41).

The evolvement of PA into collaborative good administration is – within interdisciplinary and autonomous administrative science – both a tool and an objective by which and towards which the state can transform its PA model from mere public administration to integral governance, combining bureaucracy and democracy in order to move towards result-based legitimacy (Eymeri-Douzans and Pierre, 2011: 8, 109). Participation allows citizens, businesses, NGOs, and other participants in administrative relations to have access to information, reconcile their interests, and collaborate in or even co-decide on public matters. Such concepts lead to greater acceptance of authoritative decisions and thus greater efficiency of public policies and a higher level of public trust.<sup>3</sup> There is a shift from traditional closed public

<sup>2</sup> Cf. Raadschelders, 2011: 30. For developments in the German environment, see Künnecke, 2007: 3, 22; cf. Schuppert, 2000: 35; Magiera et al., 2008: 199, 763, 802; Ziller in Peters and Pierre, 2005: 265; Fleischer and Jann in Eymeri-Douzans and Pierre, 2011: 68; Kuhlmann and Wollmann, 2013: 14 (on transdisciplinarity), 19.

<sup>3</sup> Cf. Schuppert, 2000: 790; Craig in Peters and Pierre, 2005: 271; McLaverty in Bevir, 2011: 402–418; Eymeri-Douzans and Pierre, 2011: 27; Hoffmann-Riem et al., 2012: 699–702. For more on the development and forms of partnerships, collaborative governance, and participation, cf. Schuppert, Bingham, and

sector organizations to outward-looking, externally-oriented, and demand-driven organizations. Citizens, business and NGOs are involved in a participatory approach at all stages of the sustainability cycle, i.e. co-design, co-decision-making, co-production, and co-evaluation, resulting in co-governance (Pollitt et al., 2006: 18). With the good administration doctrine, administrative relations are thus being forged into a less top-down authoritative system characterized by networking and partnerships among the participants (Bevir et al., 2011: 289; Rusch, 2013: 5).

Administrative procedures have recently come to be considered a key process and the main communication channel in PA. Influenced by contemporary trends, they have focused on creating partnerships between the various parts of society. The reasons range from the growing scope and complexity of administrative relations to the ever more frequent transfer of public tasks beyond classic administration. The importance of procedural rules further increases with the impossibility of a precise determination of substantive law.<sup>4</sup> In addition, new doctrines have been emerging that lead to a redefinition of PA and its processes (cf. Bevir et al., 2011: 256; Eymeri-Douzans and Pierre, 2011: 27; Venice Commission, 2011; Kuhlmann and Wollmann, 2013: 19, 43). In particular, these concepts include New Public Management, the Neo-Weberian state stating that public service is a distinctive function in society, and good/sound/new public governance, which reset the goals of administration and call for the “interaction” of legal and managerial principles. (Administrative) procedure thus serves the goal it pursues, while at the same time it is understood not merely as a tool of predictability and legal certainty but – through collaboration between the administration and the parties – a goal of procedure in itself. The essence of procedural law is to analyze – in the context of legal certainty – the course of actions leading to the achievement of the goal of procedure regulated by law, whereby it is necessary to ensure the opportunity to participate to all legitimate participants. This enables realization of their interests and, eventually, the pursuit of the rule of law. Thus, procedure may well be considered a tool of democracy as well as of collaborative administration or good governance between public, private, and third sectors. Also quite relevant is Barnes’ distinction between three generations of administrative procedures (Rose-Ackerman and Lindseth, 2011: 350). The third and newest generation comprises procedural agreements with the addressees of future general norms and can be considered a communication channel to reconcile the

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*McLaverty in Bevir, 2011: 286–299, 386–418. Schuppert, for instance, suggests four governance modes of partnerships: co-optation, delegation, co-regulation, and self-regulation (in the shadow of a hierarchy).*

<sup>4</sup> *For more on this aspect, taking into account the ever more complex relations in society or the technical nature of the subject of regulation, see Nehl, 1999: 107; Galligan et al., 1998: 29; Peters and Pierre, 2005: 284; Heckmann, 2007: 41; Künnecke, 2007: 167–172; Rose-Ackerman and Lindseth, 2011: 342.*

interests of the parties in the design and enforcement of public policies, aimed at a holistic solution of the problem. The parties are seen as partners with legal and social values. However, the predominance of the public interest puts the parties in a subordinate position; hence understanding their rights protects them from authoritative arbitrariness. This is of particular importance since no citizen can avoid administrative procedures and the acquired rights often have multiple effects (e.g. an entrepreneur obtaining a building permit for a new facility will employ new workers). Adequate interpretations of the Administrative Procedure Act (APA) are therefore important for the citizens.

Administrative procedure therefore supports PA in its modernization and striving for good governance and administration. Under the doctrine of good administration (see Venice Commission, 2011: 8, 13, 17; Rusch, 2013: 5), the benefits of pursuing the rights of the parties in their relations with the authorities are directly seen in the impacts on democratic governance, policy efficiency, and economic development. In the European context, another positive result is the convergence of minimum standards for the equivalent and effective implementation of the *acquis communautaire*, also by means of uniform procedural provisions.<sup>5</sup> It is not so important which factors influence(d) the development of administrative procedures or the codification thereof in individual contexts,<sup>6</sup> but rather what is the role and potential of administrative procedures for the development of partnership networks in the society (Schuppert in Bevir, 2011: 286–299).

### *From networks, collaborative PA, and boundaries to the ACW evaluation methodology*

Networks, in general and also within PA, are important for solving and overcoming social and public challenges. We can distinguish cooperative, coordinative, and finally collaborative networks, which differ by the type of relationship, degree of risk, the commitment involved, the network's focus, and the end result (more in Mandell and Keast, 2014).<sup>7</sup> Collaborative net-

<sup>5</sup> Cf. Nehl, 1999: 80; Statskontoret, 2005; Heckmann et al., 2007: 234; Magjera et al., 2008: 199, 763, 79; Kuhlmann and Wollmann, 2013: 59. Cf. also Council of Europe recommendations, the EU Ombudsman Code on Good Administrative Behaviour (as amended in 2012), and the Resolution of the Committee on Legal Affairs on the Law of Administrative Procedure of the EU of 15 January 2013.

<sup>6</sup> On the development and codification of administrative procedure in the USA, cf. Craig in Peters and Pierre, 2005: 270; and McCubbins et al., 2007: 3–16, emphasizing the purpose of the APA of 1946 to guarantee "fairness in administrative operation" and "the effectuation of the declared policies of Congress." In Germany emphasis has been devoted to the Rechtsstaat and higher foreign investments (cf. Künnecke, 2007: 23). For a comparison of German and Anglo-Saxon trends and Eastern Europe specifics, cf. Galligan et al., 1998; Kovač and Sever, 2014; Rusch, 2013.

<sup>7</sup> A coordinative network relates to the integration of existing services so that they are performed

works, as the most advanced type of network, occur when dealing with very complex problems. Here participants are reciprocally interdependent with a commitment to work in new ways with other participants to achieve program implementation. Collaborative PA in particular was developed on the basis of several theories and guidelines and is further divided into various sub-forms, depending on the following:

- the participants - thus divided into collaboration with and among (public) organizations (cf. McGuire et al., 2010: 8) and with the public (Bingham in Bevir, 2011: 387); or
- the level of citizen participation - thus differentiating between (see Vigoda-Gadot, 2002): (a) coerciveness, (b) delegation, (c) responsiveness, and (d) collaboration.

However, collaborative administration and networks with PA can be recognized as such only when (1) different public and private actors (2) in administrative matters (3) work collectively, i.e. in a consensus-oriented manner, in a particular formal way so as to (4) establish laws for the provision of public programs, goods, or services (cf. Bingham in Bevir, 2011; McGuire et al., 2010; Ansell and Gash, 2007: 544, 550). Collaborative administration can thus be understood in several contexts, leading to different relations between participants or different problem-solving methods.

Generally, certain boundaries, such as geographic, social/political, cognitive, professional, etc., are detected within networks. Boundaries are of a rather paradoxical nature, since to overcome them we first need to define them. Since boundaries reflect frontiers (Lee et al., 2014: 4), revealing new opportunities to deal with wicked issues by connecting different knowledge, resources, and ambitions, they form touch points for interactions, which lead to innovative solutions (Termeer and Bruinsma, 2014: 2). We can distinguish between tangible as well as intangible boundaries; this article focuses on the following three types: social/political, cognitive, and professional. As to social/political boundaries, we understand functioning in a certain community, with certain common social values, which can also be public values. The members of a community share desires, fears, and expectations, bonding them with each other. Cognitive boundaries reflect common values, interests, and meanings, which can lead to the inclusion and exclusion of actors. Finally, professional boundaries involve different disciplines evolving their own systems of thinking, tasks to perform, use of language, etc. The collision and intersection of boundaries provides

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*more efficiently; participants remain independent and continue operating in their usual manner. A cooperative network involves the sharing of information and expertise, with dependent relationships (interaction occurs only when necessary) and no or very low risks involved (Mandell and Keast, 2014). However, coordinative, cooperative, and collaborative networks and modes can co-exist.*

opportunities for different ways of working and new forms of collaboration (Lee et al., 2014: 3). Furthermore, within the intersection of different groups/ participants in collaborative administration, the linking of an organization's internal networks with external networks, termed boundary spanning, can occur (cf. Termeer and Bruinsma, 2014: 3; cf. also Mandell and Keast, 2014, on collaborative networks and breaking down boundaries within the concept of "boundaryless").

The article further analyzes ACW as a cooperative solution contributing to quality improvement as well as a reform process by involving citizens as co-participants in co-governance or in the so-called sustainability cycle (Pollitt et al., 2006: 3, 6-7). The study relies on a combination of research methods to analyze the ACW as an example of collaborative administration. A project's efficiency is best measured by evaluating its users. For such purpose, an ACW user evaluation survey was conducted in 2010 and 2014 using an anonymous web questionnaire of altogether 16 questions, both open-ended and closed type (with a defined interval range scale). In addition to the descriptive methodology and dogmatic approach applied in the introductory chapters and the user evaluation survey, the analysis includes case study and comparative methods. Finally, the project is evaluated according to an axiological-deontological method. The authors analyze the existing network in view of organizational and, in particular, social, cognitive, and professional boundaries, determining them through a SWOT analysis and proposing solutions to improve the tool in the sense of enhancing collaborative administration.

## Results of evaluating the ACW as collaborative boundary spanning

### *Analysis of the ACW within collaborative PA elements*

The shift whereby the source of democratic authority moves from the elected representatives of the people to experts and professionalized institutions is attributed key importance in the development of good public governance (cf. Auby in Rose-Ackerman and Lindseth, 2011: 336, 515; McCubbins et al., 2007: 19). By delegating the issuance, interpretation, and authoritative implementation of regulations to other parties, the state and its most democratic regulator – the legislature – renounce direct authority over abstract regulation of (also administrative) legal relations. In present-day society, the source of democracy is no longer only *demos* and the holders of power elected thereby, but PA, which acts in a highly professional and technical manner. Decentralization, externalization (e.g. through specialized agencies), the delegation of tasks and privatization in the framework of New Public Management, Neo-Weberianism and good governance theories

all lead to new forms of democratic accountability (Bevir et al., 2011: 237, 298; Eymeri-Douzans and Pierre, 2011: 80, 121, 149). In such context, it is vital that line ministries attract independent experts and NGOs to participate in the creation and implementation of public policies, thus merging the non-profit sector with the governmental and economic sectors. Only in such a manner can all stakeholders be involved and society become fully collaborative and inclusive (cf. Vigoda, 2002: 530–537). But the ACW is meant not only to connect practice and theory at the level of content (practical problems are resolved according to theoretical principles and rules), but mainly to establish a networking platform for various stakeholders: (1) portal users (citizens, NGOs, businesses), (2) the Faculty of Administration, with academia being the basis of scientific research and a promoter of innovation and knowledge, and (3) the Ministry of Public Administration as the key field authority and policy maker.

In terms of social networking, the collaboration of national ministries with faculties and academia is particularly encouraging, yet only if it is developed systematically and with due consideration of the equality of the roles of both players. However, cross-boundary effects are only possible when the responsibility for the final outcome is shared between authorities and academia. This does not involve (merely) public contracts or contracting out (from the Ministry to the Faculty), but a series of public-public partnerships (cf. Bevir et al., 2011: 292, 330). In this respect, the Faculty of Administration conceived the ACW as a combination of practical needs and theoretical understanding of participative-collaborative administrative relations in contemporary society. Namely, a key function of the administrative procedure rules that regulate the (co)operation of the administration with clients is to ensure balanced protection of the subordinate party; public interest should of course prevail over private interests, yet not absolutely. Administrative procedure can thus be seen as the basic tool of legitimacy and democracy (Nehl, 1999: 70; Ziller in Peters and Pierre, 2005: 261). However, analyses of administrative practice and case law have shown that in some cases different interpretations of the Administrative Procedure Act (APA) were being used, which reduced the level of legality and public policy efficiency. Being the leading educational and research institution in the field of PA, the Faculty responded to the problems in collaboration with the Ministry of Public Administration as the central state institution in the field of PA. In accordance with Article 321 of the APA, the Ministry is the guardian of its implementation and the body responsible for the interpretation of the APA in relation to its users (parties to administrative procedures). Hence, through the ACW, the Faculty and the Ministry function as a link that provides interpretation of the APA and other field legislation by offering generalized case studies using modern IT solutions. The contribution of academia

and administrative science in this sense is twofold (Vigoda, 2002: 537): (1) by pointing out theoretical considerations and conceptual grounding; and (2) by reconfirming discussion on collaboration – in both cases leading to mutual social efforts and increased participation in public governance. Therefore, the ACW is a knowledge-providing legal source, answers being only a supplement to formal legal sources, and may not replace the jurisdiction of administrative bodies in determining rights, legal entitlements, and obligations. The ACW is formally only of a consultative nature, meaning officials and judges are not obliged to use it, but can rely on it and use it if they find the argumentation strong enough.

The ACW's members (altogether eight professionals) are working on the project during their regular working hours and partly during their free time as a commitment to the public good, meaning that there is certain lack of resources, but on the other hand such nature of work contributes to the impartiality of the legal opinions. The ACW also involves students of the University of Ljubljana, thereby supporting the development of their skills and improving their employability, leading towards a more knowledge-based society (for more detail, see Kovač and Stare, 2014). To sum up, most people participate in the project on a voluntarily basis and in a project-like manner, which creates social inclusion (cf. Koikkalainen in Bevir, 2011: 454). Their resulting commitment is also a key factor in collaborative governance (Ansell and Gash, 2007: 559), which is important for the development of trust in general.

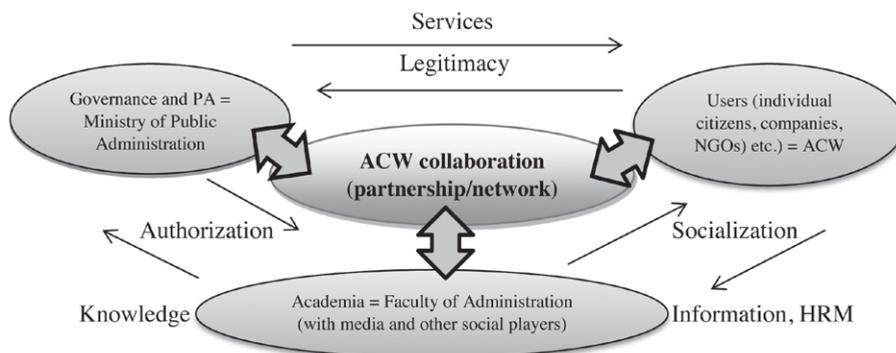
The ACW furthermore integrates PA authorities and clients – two necessary types of participants in any administrative procedure – into a democratic discourse. Having the right information regarding administrative services and their own rights protects the parties from authoritative arbitrariness and helps them gain what they are entitled to, particularly where such rights have economically multiplicative effects (Rusch, 2013: 7). The findings of administrative science, focusing on resolving complex administrative procedural dilemmas, are formulated in a user-friendly (directly applicable) way and are based on wiki technology (for more, see Kovač and Dečman, 2009; cf. Klein, 2008). The platform is simple and user-focused, highly transparent, encouraging users to participate in a familiar work environment. If no solution is provided by already published cases on the ACW platform, users can send an email containing their question to a specific email address.<sup>8</sup> The

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<sup>8</sup> *The e-mail editor examines the question and sends it to a particular student, who prepares the case under the mentorship of the relevant professor. The student sends the solution to the mentor, who reviews it and either approves it or requires an improvement. When the case is approved, it is sent to the Ministry to check it. When the case is agreed upon, it is published on the ACW and immediately available to users (for more in general, see Kovač and Dečman, 2009; for more on the development of students' competencies, see Kovač and Stare, 2014).*

system functions as follows: first, real dilemmas surrounding the application of regulations in practice are identified. Then, the exposed dilemmas are resolved by means of the relevant scientific methods: (1) identification of the problems in a particular legal case, (2) analysis of the scientific literature (commentaries on law, scientific articles, etc.) and case law, and (3) drafting the solution with a generalized question-and-answer approach, so that it can be applied in all similar legal cases, irrespective of the participants and fields involved. The ACW is thus an instrument of good governance where authorities actively collaborate in the implementation and (re)design of cogent norms with the addressees thereof and civil society (Bevir et al., 2011: 286, 386, 402).<sup>9</sup> The ACW thus offers solutions not only to the party with the problem, but also to the interested public. Users participate actively in this process and co-decide. The ACW can thus be considered to be a variety of the triangulation model of collaboration (Figure 1, cf. Vigoda, 2002: 534).

Figure 1: ACW TRIANGULATION AS A NEW GENERATION OF PA



Source: own analysis, cf. Vigoda, 2002.

Finally, the ACW's effectiveness and potentials are best analyzed in comparison to other similar approaches. There is indeed a striking analogy with legal clinics since the ACW, too, is intended for both students (helping in preparing the drafts of answers) and parties to legal procedures. Legal clinics operate based on similar fundamental principles (for more, see Vogler, 2013: 135-140).<sup>10</sup> Yet the compared legal clinics do not make their replies

<sup>9</sup> Since the ACW provides tangible and growing results on different levels of networking and refers to several EU policies (HR development, life-long learning, the e-Europe Action Plan, etc.), it was recognized in 2013 by the European Commission, based on a call for the most innovative PA project ([www.ec.europa.eu/admin-innovators](http://www.ec.europa.eu/admin-innovators), last accessed October 2014), as one of the six finalists among 206 applications.

<sup>10</sup> Cf. Düsseldorf University at <http://www.jura.hhu.de/en/hilfe/faq.html>; Leibnitz University Hannover at [http://www.jura.uni-hannover.de/legalclinic.html?&no\\_cache=1](http://www.jura.uni-hannover.de/legalclinic.html?&no_cache=1); Faculty of Law of the

available online and thus accessible to the general public. Therefore the ACW is distinguished by important differences that can well be considered as its added value, such as the wide applicability and generalization of solutions useful to other users and areas of (administrative) law.

Such collaboration does not merely contribute to the solution to an individual case/procedure, but upgrades it to a systemic solution, affecting PA and the administrative system as a whole, as well as society as its common user.<sup>11</sup> This proves the importance of the ACW as a tool of dialogue between all mentioned stakeholders, thus producing final overall systemic solutions for the society as a whole. The ACW creates synergies between stakeholders involving legal experts (academia), policymakers (the Ministry), and users, who share competences and knowledge in different disciplines, such as law, organization, management, political science, and IT. It promotes better understanding among the participants and the improvement of public services. Finally, the ACW can be seen as a regulatory feedback loop, providing feedback not only to citizens, but also contributing to better regulation.

#### *The results of the users' evaluation survey on the ACW in 2010 and 2014*

The increasing frequency of ACW visits over past years, with approx. 800 users per week in 2010 to 3,300 in 2013, points to the growing recognition and importance of the project for all stakeholders involved. Aiming at an evaluation of the ACW as a tool of collaborative administration, a user survey was conducted in 2014, following a survey in 2010. The 2014 survey included a sample of 174 respondents using ACW mostly monthly (36.7%) or several times a year (37.3%).

When users were asked to what extent they consider ACW to be a tool

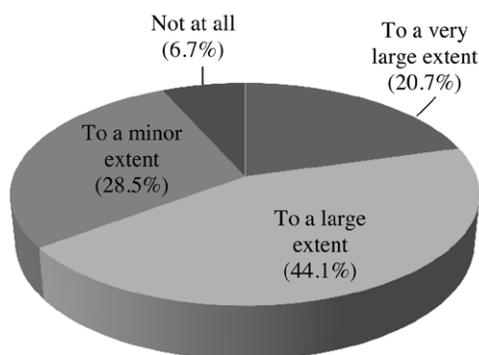
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*University of Zagreb at <http://klinika.pravo.unizg.hr/>; Polish legal clinics at <http://www.fupp.org.pl/en/legal-clinics/clinics-in-poland>; the John Paul II Catholic University at [http://www.kul.pl/university-legal-clinic,art\\_15082.html](http://www.kul.pl/university-legal-clinic,art_15082.html) and several Slovenian clinics operating in specific fields (e.g. refugees and aliens, the environment, sick children, sport, etc.); <http://www.zaotroke.org>; <http://www.pf.uni-lj.si/ob-studiju/pravna-klinika-za-begunce-in-tujce/>; <http://www.pf.uni-lj.si/ob-studiju/pravna-klinika-za-varstvo-okolja/>; <http://www.pf.uni-lj.si/ob-studiju/pravna-klinika-pravo-v-sportu-21810/>.*

<sup>11</sup> *An example of such a systemic solution is the ACW interpretation of the legal effects of administrative decisions in the case of a pension assessment in 2013, since the Slovenian Constitutional Court abrogated the relevant law affecting a few thousand citizens by determining lower pensions. The Court required the Pension and Disability Insurance Institute to issue new decisions to all the respective pensioners, which led to the dilemma of how to implement the constitutional decision. The proposed ACW solution served as a basis for an overall solution to the problem. Another case with a major social impact concerned the personal income tax. Namely, the tax authority took into account a too low tax base when issuing personal income tax assessments, which later became final administrative decisions. The problem was how to replace such final decisions based on a wrongfully established actual state. The solution was again provided based on an ACW suggestion and incorporated by the line ministry in redefining the law for future similar events.*

for the collaboration and participation of all participants in administrative relations, 44.1% of the users considered the ACW to be a collaborative tool, 20.7% considered it to be such to a large extent, and 28.5% to a minor extent. Only 6.7% of the users did not deem the ACW to have such a role (see Figure 2). Such a large share of positive recognition of the ACW due to the goals aimed at in this respect confirms the hypothesis that the ACW portal is a possible venue of participatory networking in even a collaborative administration.

Figure 2: THE ACW AS A TOOL FOR THE COLLABORATION AND PARTICIPATION OF PARTICIPANTS IN ADMINISTRATIVE RELATIONS



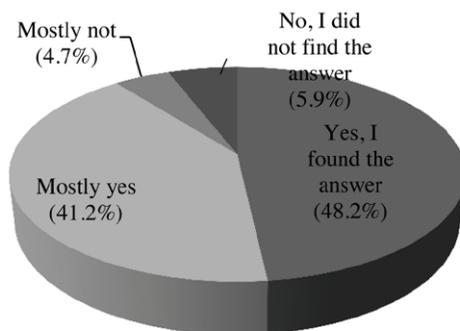
Source: own analysis.

With regard to the type of technology, namely the Web 2.0 (wiki) approach applied in the ACW, we asked users specifically about the added value of this mode since Web 2.0 is supposed to encourage the collaborative co-design and co-evaluation of citizens in public affairs (for more detail, see Klein, 2008; cf. Pollitt et al., 2006). In 2010 approximately 89% of users supported this approach (67% very much; 22% with some reservations) and in 2014 73.5% supported it (33% of users very much; 40.5% with some reservations). A comparison shows that in 2014 the percentage of users who “very much support” Web 2.0 decreased by a half; on the other hand, the percentage of users who “only” support this technology increased to the same extent. Since the public production of this project only started in October 2009, we assume that at the beginning users were more optimistic as regards this mode of collaboration, since it was a novelty in the PA environment. However, during recent years, with the project existing already half a decade, users became more reserved as a result of different factors, i.e. a deeper understanding of the system and therefore the possibility of finding answers to their questions already through existing published cases (cf. Figure 3), the growth of the crisis also in PA has had an influence on users’

(dis)trust, thus deepening their inactivity and fear of exposing themselves. However, it can be concluded that the general trend in both compared years shows a still high percentage of support for Web 2.0, proving that this technology supports the integration and intertwining of various stakeholders and scientific disciplines, which together generate a joint product, i.e. a problem-based research platform for administrative operations.

However, as of 2014 the ACW comprised over 1,500 published cases (with approx. 700 in 2009). Thus, there is a great probability that a solution to a certain dilemma has already been published, at least to some extent or for some legal issues. This explains why users are mostly focused on reading already resolved and published cases (89.6%) when searching for a solution that fits their own case. Approximately 10% of thereof pose new, additional questions and present new dilemmas based on published cases. About 90% of the users in 2010 and 2014 found answers to their questions on the ACW, which means that the ACW serves its targeted purpose (Figure 3). This also confirms the usefulness and transferability of the generalized case-solving approach.

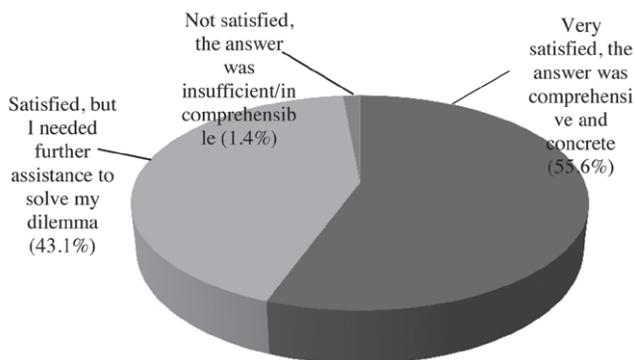
Figure 3: DID YOU FIND THE ANSWER TO YOUR CONCRETE PROBLEM ON THE ACW PORTAL?



Source: own analysis.

Users who posed new questions obtained a solution to their dilemma in 5-10 days on average (86.6%), which means that the ACW network is rather accurate, responsive, and well organized. Timely and quick answers are of great importance for users who are bound by time limits (for example, to lodge an appeal, etc.). On average, more than half of the users were satisfied with the received answer, finding it comprehensive and concrete. In comparison with 2010 when 10% of the users were not satisfied with the answer (being either insufficient or incomprehensible), such share decreased to only 1.4% in 2014 (see Figure 4).

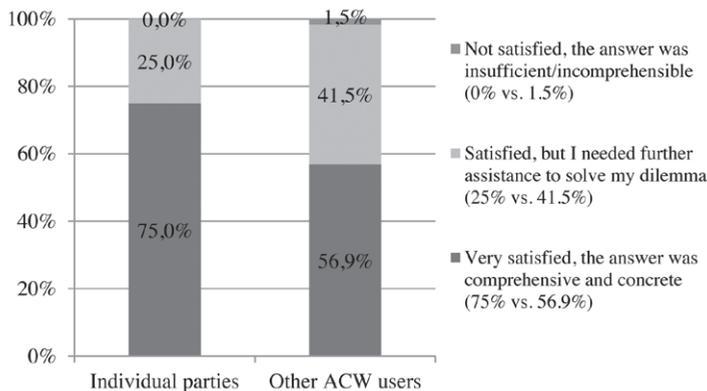
Figure 4: IF YOU POSED A QUESTION TO THE ACW, HOW WOULD YOU ASSESS THE ANSWER?



Source: own analysis.

Additionally, we carried out an evaluation of user subgroups within the ACW, namely differing individual parties in administrative procedures versus other users (Figure 5). As expected, the latter have other resources as compared to the former, who are fully dependent on the ACW. Nevertheless, the comparison indicates a significant difference, with 75% being very satisfied parties vs. 56.9% thereof among other users. Furthermore, 76.7% of the users find the answers on the ACW to be clear and adequately professionally explained and only 11.3% as being too short or simple and 9% too detailed or complex. This again proves the thesis of the ACW being a knowledge-providing interpretative legal resource with the specific added value of the ACW as a collaborative tool in particular between authorities and addressees of authoritative norms/decisions.

Figure 5: EVALUATION OF USER SUBGROUPS



Source: own analysis.

User evaluation is also seen in the analysis of their expectations compared to the actual state of affairs. In 2010 there were certain minor differences between expectations and the actual state of affairs, and the former to a certain extent exceeded the latter. The 2014 analysis, however, revealed that the actual state of affairs sometimes even exceeded user expectations, particularly in terms of ACW usability and receiving professional answers, followed by trust in the experts preparing the answers and by the suitability of the Faculty and the Ministry as implementers of such project. The highest increase in satisfaction compared to 2010 was observed in the volume of questions. The outcomes confirm the usability of the project and the relevance of the ACW as a tool offering an online source of complementary and constantly upgraded knowledge.

### *A SWOT analysis of the ACW as a tool of collaborative administration*

Finally, the ACW as a tool of collaborative administration was analyzed in terms of a SWOT analysis (Table 1), with regard to which the first line indicates the current state of affairs, while the second line indicates development, and the left column highlights its positive aspects vs. the negative ones on the right. We assume the ACW as a networking platform aimed at collaborative administration has positive results, but also certain limitations, particularly as regards the level of collaboration in relation to possible misuses, risks, and tensions (cf. Vigoda, 2002: 528).

As systematically indicated, the ACW has certainly proved its potential as regards collaborative PA, although there is still room for improvement. PA and hence administrative procedures and participants' roles therein are changing rapidly.<sup>12</sup> Therefore, in the interpretation of administrative rules, increasing emphasis is placed on the use of additional methods of public policy design and implementation. New, knowledge-providing (legal) sources are used in addition to theories, regulations, and case law. Quite often a key role in such regard is played by the development of e-government or the theory and practice of e-participation (see Klein, 2008) – with the development of ICT, network-building became even easier and faster. One can argue that the ACW, above all, opens the possibility of development moving from the mere delegation of power to “genuine” collaboration. The latter characterizes such partnerships as the “new interplay” between the state, business, and civil society, since it enables a shift from government and difficult law-driven public policies by hierarchically organized public

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<sup>12</sup> For more on “next generation” or “culture reconstruction”, cf. Barnes, 2008; or Vigoda, 2002: 531, with the exchange of profiles where – through delegation and responsiveness – citizens become the owners of interactions and are thus no longer subject to coerciveness as in the traditional, “old” generation of PA.

Table 1: SWOT ANALYSIS OF ACW POTENTIALS IN THE FRAMEWORK OF COLLABORATIVE ADMINISTRATION

<p><b>Strengths:</b></p> <ol style="list-style-type: none"> <li>1. An interdisciplinary approach to problem solving where necessary;</li> <li>2. Overall integration and collaboration of all stakeholders in administrative procedures: policymakers, officials conducting procedures, parties in procedures and their representatives, teachers and students of administration as future participants in the procedures;</li> <li>3. The many years of commitment of participating institutions and leading experts to the project and its substantive and comprehensive goals;</li> <li>4. Generalization of solutions to dilemmas, allowing broad applicability;</li> <li>5. User responsiveness and evaluation (see the data in the previous chapter, in particular the (increasing) satisfaction and high(er) satisfaction of external users);</li> <li>6. Constant upgrading of the project through research and the transfer of knowledge from theory to practice, analyses, and corrective measures;</li> <li>7. The ACW is recognized as a regulatory feedback loop.</li> </ol>	<p><b>Weaknesses:</b></p> <ol style="list-style-type: none"> <li>1. Lacks a formal project platform at the level of both institutions, which results in unsettled issues concerning the recognition of the work done and lower motivation of (several) experts, as well as low investment (e.g. in the development of Web 2.0);</li> <li>2. Limited resources lead to limited case acceptance capacity (demand exceeds capacities, therefore longer solution times result) and the limitation of the rules of administrative law (namely, there is a need to include substantive and procedural law as well, and other specific areas);</li> <li>3. Compliance with ACW opinions by policy makers and authorities depends on their goodwill;</li> <li>4. The existing APA in Slovenia relies on a rather obsolete concept of administrative procedure (formalized, only certain administrative acts are included, a lack of ADR, etc.), thus limited proactiveness and collaborativeness of the parties.</li> </ol>
<p><b>Opportunities:</b></p> <ol style="list-style-type: none"> <li>1. The ACW as a platform for unified interpretation of regulations;</li> <li>2. The ACW as an identifier of systemic needs for re-regulation of national regulations, both umbrella and sector-specific;</li> <li>3. The ACW as a single entry point for the minimum capacity empowerment of the parties in relation to the authorities by systemic support of resources (knowledge, HR, finance, equipment);</li> <li>4. Collaboration with, e.g., the national NGO center for more competent (contra)argumentation by the addressees of regulations;</li> <li>5. Cross-boundary transfer of the conceptual design of the project, regionally and in particular across various disciplines/professions;</li> <li>6. Higher efficiency of public policy implementation and development of citizens' trust in the authorities.</li> </ol>	<p><b>Threats:</b></p> <ol style="list-style-type: none"> <li>1. Authoritative conduct could be unified if linked to the positions provided by the ACW, yet there is a constitutional reservation entailing that administration is bound (only) by law;</li> <li>2. Growing tensions between responsiveness to citizens and effective collaboration therewith;</li> <li>3. Mass use of the ACW reduces the security of the system and data;</li> <li>4. The systemic need to regulate the relation between general and sector-specific regulations and the competent authorities; the ACW is just one of the collaborative tools;</li> <li>5. A lack recognition of the importance of administrative procedure as a driver of modern administration and society by policymakers, hence a lack of support for ACW-type projects.</li> </ol>

Source: own analysis.

actors only to governance based on soft law, and public-private partnerships, leading to a deliberative, open, and network-building society<sup>13</sup> and co-regulation (co-decision-making) as a higher level of acknowledging administrators and clients as partners.

For administrative procedures in particular and the ACW project, the following aspects of cross-boundary networking are explored:

- Cross-institutional networking within PA and PA vs. non-governmental (academic) professional institutions (the social aspect);
- Cooperation and collaboration between different entities, i.e. administrative authorities vs. individuals and the general public in the consensual resolution of concrete administrative issues despite being bearers of different legal interests (the cognitive aspect);
- Cross-discipline and cross-field integration of knowledge and skills in order to solve administrative problems in a given life event (i.e. legal, managerial, information-related, organizational, HR, and other professional aspects).

However, the ACW has gone through several developmental phases of defining boundaries, the management thereof, and forging common ground (especially by reflecting, connecting, and mobilizing; see Table 2; more in Lee et al., 2014: 5-14), in order to discover new frontiers to be overcome.

The analysis of the ACW in the context of boundary-spanning brings us to the following conclusions: if boundaries are recognized they can be further managed in order to search for shared consensus-oriented solutions. However, within the co-governance cycle the ACW is to a certain extent of co-participation limited, mainly enabling co-evaluation and co-design and less co-decision and co-production (the latter is usually expected as a first developmental phase; see Pollitt et al., 2006: 18, 20). Hence, the systemic inclusion of co-evaluation, in particular, such as the enlightened ruler model, seems promising for the further development of external demand-oriented and collaborative PA. As a consequence, the ACW may indeed be regarded as an example of good practice, especially to overcome social boundaries and cognitive and professional boundaries in understanding and conducting administrative procedures and even PA as a societal subsystem.

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<sup>13</sup> More in Bevir et al., 2011: 288, 386, 389, 393. See also McGuire et al., 2010: 11-22, who suggest that there are four required elements of collaborative public management: organizational interdependence, collaborative structures, collaborative roles, and managerial processes.

Table 2: EVALUATION OF THE ACW AS A COLLABORATIVE BOUNDARIES-SPANNING TOOL

The ACW and administrative procedures – with respective boundary-spanning	Social Boundary-spanning	Cognitive Boundary-spanning	Professional Boundary-spanning
Context	Co-functioning in a given community or network	Balancing and conciliation of public vs. private values and interests	An interdisciplinary approach to resolving primary procedural dilemmas
Relationships / Organizations and roles	The authorities (the Ministry, officials as users), academia (the Faculty) and parties (citizens, etc.); networking in a strategic and long-term sense to develop new social capital	In particular, authorities vs. parties/users (citizens, NGOs, etc.); Faculty/ teachers vs. students	Bringing together experts in law, IT, organization and management regardless of their affiliation
Results indicated in / Tangibility of	A formal agreement on shared goals, resources, and results by the Ministry and the Faculty; a common commitment through the co-design of final procedural solutions by authorities and private parties; added value in terms of innovative PA – formally acknowledged by the EU (the 2013 Commission call)	Consensus-oriented interpretations and innovative solutions for the performance of public administration tasks; evaluations by means of user surveys, proving increased realization of the goals; some ACW cases act as a regulatory feedback loop	Coherently resolving multidimensional dilemmas in a certain life-event; an evolving cross-disciplinary understanding; within evidence-based future decision-making sectoral regulatory and organizational measures

Source: own analysis.

## Conclusion

The ACW is an interdisciplinary, scientific, problem-based research platform involving a circle of different stakeholders with their “typical” individual interests, which they pursue through the entire (administrative) process in accordance with their particular role. Users (individual citizens, NGOs, companies) use the ACW platform to mainly pursue their private interests, academia mainly pursues the public interest, and the Ministry of Public Administration pursues the public interest. The ACW is therefore a “junction” where these interests meet when constituting different relations among the

involved (interdependent) stakeholders. The latter's interests determine the nature of the collaboration as well as the boundaries between them (e.g. in administrative legal relations, citizens and authorities are "limited" by private and public interest(s), which set clear boundaries between them). However, defining boundaries is a precondition to overcoming them. The ACW is a tool that enables such progress, especially for overcoming social, cognitive, and professional boundaries in understanding and conducting administrative procedures in a more user-oriented manner.

As follows from our survey, the ACW is a knowledge-providing legal source for all stakeholders involved (private and public), as well as a co-creation platform. Namely, one of the main benefits of the ACW is the extensive usability of solutions as both questions and answers are generalized and made publicly available, providing individual as well as systemic solutions and as such contributing to society as a whole. In this respect, the ACW exceeds the concept of, for example, legal clinics. It enables the legitimate and effective identification of the concrete administrative/legal dilemmas of parties in practice, which serves as important feedback to public authorities (cf. Heckmann et al., 2007: 39). The project findings are applied by over a hundred users per day, including public authorities when further designing policies, e.g. for the elimination of administrative burdens or the provision of procedural rights in sectoral legislation.

The ACW provides systems a regulatory feedback loop through the awareness and redefinition of key problems when implementing horizontal and sectoral legislation. Policymakers (can) gain insights into potential gaps between goals and real practice by means of analyses of individual cases and in particular those that address a larger number of parties. Consequently, systemic issues can be identified and addressed to ensure further systemic improvements within the concept of evidence-based decision-making. *Ex post* evaluation in this sense can contribute to a so-called regulatory governance system, enhancing higher participation and collaboration step by step in order to strive for good administration (see Venice Commission, 2011; cf. Coglianesi et al., 2007). Moreover, the ACW explores IT and organizational solutions and entails an opportunity for students to gain practical experience. With such broad participation on all levels, horizontal and vertical, the ACW proves to be a platform that contributes to the development of more inclusive and effective PA, enabling the formation of different partnerships through the whole (administrative) process between the involved stakeholders, providing an integrated solution in one place.

We believe, from a comparative perspective, that the idea behind the ACW has high potential to be transferred to other European contexts as well. Namely, most countries have similar legal arrangements in the field of administrative law and understand administrative procedures as typical PA

processes. Additionally, despite different legal and economic frameworks, there is a significant converging trend (cf. Nehl, 1999: 81; Peters and Pierre, 2005: 260; Kovač and Sever, 2014). The ACW concept is also easily transposable in terms of its technical features.

However, the ACW currently only applies to administrative procedural law, yet the demands for correct legal interpretation with relevant case law arise also in other fields of public law (especially substantive rights and obligations, such as building permits, taxes, misdemeanors, etc.) or PA fields (such as civil service, TQM in PA, etc.). Nevertheless, despite restricted resources, the ACW acts, even in a restricted sense, as a driving force towards the uniform performance of all authorities in administrative procedures and administrative functioning as determined by the APA. Thus the ACW encourages the rule of law and the efficiency of administrative procedures in the context of good governance. As such, it can be further developed as a boundary-spanning and especially collaborative platform for good public administration.

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