ORIGINAL SCIENTIFIC PAPER

RECEIVED: 24. 4. 2026.
ACCEPTED: 19. 5. 2026.

UDC: 378.014.553(497.11)
COBISS.SR-ID 198415625
doi: https://doi.org/10.61837/mbuir040126074r

ALIGNMENT OF THE LEGAL FRAMEWORK OF HIGHER EDUCATION IN THE REPUBLIC OF SERBIA WITH EU STANDARDS AS REGARDS THE CONSTITUTIONAL AUTONOMY OF UNIVERSITIES

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Abstract: *This paper examines the constitutional content, scope, and limits of university autonomy in the Republic of Serbia in the context of intensified administrative regulation of higher education and the Europeanisation of normative standards. The central premise of the study is that the constitutional guarantee of university autonomy and academic freedom must be balanced with the requirements of legality and public accountability in the fields of quality assurance, accreditation, and financial governance.*

The research addresses four main questions: (1) what constitutes the normative "core" of constitutional university autonomy; (2) how to distinguish legitimate public oversight from undue interference in the academic, organisational, staffing, and financial dimensions of autonomy; (3) to what extent Serbian higher education legislation is aligned with European standards concerning institutional independence and quality assurance; and (4) which criteria should guide constitutional review in cases involving sanctions imposed on higher education institutions.

The methodological framework combines doctrinal legal analysis, interpretation of relevant European higher education instruments and standards, comparative alignment mapping, and the application of the proportionality test within the broader requirements of the rule of law, legal certainty, and foreseeability of sanctions.

The findings indicate a high level of principled textual convergence between the national and European normative frameworks, accompanied by structural challenges in the institutional design of the accreditation system and in the predictability of sanctioning mechanisms. These issues have direct implications for the protection of academic freedom and the democratic function of universities. The paper contributes to the theoretical clarification of the constitutional core of university autonomy under conditions of ongoing Europeanisation of higher education governance.

Keywords: *constitutional university autonomy; academic freedom; principle of legality; rule of law; quality assurance; accreditation; proportionality; Europeanisation*

1. INTRODUCTION

University autonomy constitutes one of the fundamental constitutional guarantees of the modern democratic state because it provides the institutional framework for freedom of teaching, scientific research, artistic creativity, and critical thinking. Within the legal order of the Republic of Serbia, this value enjoys constitutional rank. Article 72 of the Constitution of the Republic of Serbia guarantees the autonomy of universities, higher education institutions, and scientific institutions, and provides that they shall independently decide on their organisation and operation in accordance with the law, while Article 73 guarantees freedom of scientific and artistic creativity [1, Arts. 72–73]. It follows that, in domestic law, university autonomy is not merely an organisational principle of the higher education system, but a distinct institutional guarantee intended to protect the free creation, transmission, and critical examination of knowledge.

At the same time, the contemporary development of higher education demonstrates that university autonomy can no longer be seen as a normatively isolated sphere, detached from every form of public-law regulation. On the contrary, modern higher education systems are structured as fields in which the constitutional guarantee of institutional independence intersects with legality, public accountability, and quality assurance. The current Law on Higher Education is founded on the principle that higher education is of special significance to the Republic of Serbia. It recognizes higher education as an integral part of the international, particularly European, educational, scientific, and artistic community, and establishes that it is grounded in academic freedom, institutional autonomy, academic integrity, transparency, and other fundamental principles governing the higher education system [2]. The consolidated text of the Law also includes the amendments published in Official Gazette of the Republic of Serbia, No. 19/2025, which makes the subject particularly relevant from a normative perspective [2].

Accordingly, the central problem of this paper is not whether the state may regulate higher education, but what the constitutional limits of such regulations are. The decisive issue is where legitimate public intervention aimed at protecting quality, legality, and accountability ends, and where impermissible interference with the academic, organisational, staffing, and financial autonomy of the university begins. It is precisely in this borderline area that the principal constitutional-law problem arises: under what conditions do accreditation, external evaluation, financing, supervision, and digitalised procedures remain within the boundaries of constitutionally permissible regulation, and under what conditions do they become disproportionate restrictions upon constitutionally guaranteed university autonomy?

This issue acquires particular weight in light of European standards, which serve as a relevant benchmark for assessing the alignment of the domestic legal framework. Within European Union law, particular significance is accorded to Article 13 of the Charter of Fundamental Rights of the European Union, which guarantees that the arts and scientific research are free from undue constraint and affirms that academic freedom must be respected [3, Art. 13]. In addition, the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG 2015) represent the generally accepted European framework for internal and external quality assurance [4]. Accordingly, although the title of this paper refers to EU standards, it is analytically justified to examine the subject within a broader European normative context encompassing both EU law and the standards of the European Higher Education Area.

This paper examines the alignment of the Serbian legal framework on higher education with EU standards concerning the constitutional autonomy of universities, with particular emphasis on the constitutional content of autonomy, the scope and limits of public-law regulation, and the normative and institutional mechanisms through which that relationship is concretised. The aim of the paper is to determine the normative core of the constitutional autonomy of universities in the Republic of Serbia, identify the principal regulatory instruments in the fields of accreditation, quality assurance, supervision, financing, and digitalisation, to assess the degree of their alignment with relevant European standards, and to offer constitutional-law criteria for evaluating the permissibility of restrictions on university autonomy.

The paper argues that the Serbian legal framework shows substantial normative convergence with European standards at the level of proclaimed principles and basic institutional solutions, but that certain aspects of legislative elaboration and institutional implementation still create risks of excessive discretion, insufficient legal certainty, and disproportionate encroachment upon the constitutional core of university autonomy. Particularly sensitive are those areas in which public-law powers are exercised through control, sanctioning, supervision, or financial conditioning, especially where such measures are not accompanied by sufficiently clear procedural guarantees, reasoned decisions, and effective legal remedies. For that reason, the constitutional-law assessment of restrictions on university autonomy cannot be based solely on the formal existence of statutory authority, but must also include an examination of legitimacy of aim, suitability, necessity, and proportionality in the strict sense.

2. RESEARCH QUESTIONS AND BASIC THESES

Starting from the premise that university autonomy in the Republic of Serbia is a constitutionally guaranteed institutional safeguard rather than a mere legislative convenience, the principal research problem of this paper consists in determining the boundaries between legitimate public-law regulation of the higher education system and impermissible encroachment upon the academic, organisational, staffing, and financial independence of universities [1, Arts. 72–73; 2]. The complexity of this issue is reinforced by the fact that the contemporary higher education system no longer develops exclusively within domestic law, but under conditions of strong Europeanisation of normative standards, institutional models, and quality assurance mechanisms [3, Art. 13; 4]. In that regard, Article 13 of the Charter and the framework established by ESG 2015 represents relevant benchmarks for assessing the degree of alignment of the domestic legal framework with standards protecting academic freedom and institutional independence [3, Art. 13; 4, pp. 7–12]. The judgment of the Court of Justice of the European Union in Commission v. Hungary (Higher education), C-66/18, further confirms that restrictions affecting the operation of higher education institutions are subject to strict review from the standpoint of academic freedom and other guarantees of EU law [5].

The paper assumes that alignment of the Serbian legal framework with European standards cannot be assessed solely by the formal adoption of concepts such as autonomy, academic freedom, quality, and transparency, but only by examining their actual normative reach in legislative elaboration and institutional implementation [1, Arts. 72–73; 2; 3, Art. 13; 4]. For that reason, the analysis addresses four core research questions, followed by one additional methodological question concerning the proportionality test.

First, what constitutes the normative core of the constitutional autonomy of universities in the Republic of Serbia, that is, which elements of autonomy are constitutionally guaranteed and legally inalienable [1, Arts. 72–73; 2]? This includes the issue whether autonomy covers only general institutional independence or necessarily extends to the protection of teaching, scientific work, internal organisation, staffing policy, study programme design, and international cooperation.

Second, to what extent is the current legal framework of higher education in the Republic of Serbia aligned with European standards relating to academic freedom and institutional independence [2; 3, Art. 13; 5]? In this context, the analysis examines whether the current Law on Higher Education, including the amendments published in Official Gazette of the Republic of Serbia, No. 19/2025, provides merely declaratory references to European standards or reflects deeper normative convergence in the very model of legal regulation [2].

Third, are the mechanisms of accreditation, quality assurance, supervision, financing, and digitalisation structured as legitimate instruments of public accountability, or do they leave excessively broad room for discretion and indirect limitation of university autonomy [2; 4, pp. 7–12]? This question concerns the clarity of decision-making criteria, transparency of procedures, adequacy of reasoning, and the existence of effective legal remedies.

Fourth, which constitutional-law criteria should be used to distinguish permissible regulation from impermissible state interference in the academic, organisational, staffing, and financial sphere of university independence [1, Arts. 72–73; 2; 3, Art. 13; 5]? The paper proceeds from the view that the state's power to regulate higher education is not, in itself, disputed; rather, the issue is the extent to which such regulation remains within constitutional limits and does not become an instrument of excessive control over an institution whose freedom is a precondition of its public mission [1, Arts. 72–73; 5].

Fifth, can the proportionality test, together with the principles of the rule of law, legal certainty, reasoned decision-making, and effectiveness of legal remedies, be regarded as the most appropriate analytical instrument for assessing the constitutional permissibility of restrictions on university autonomy [1, Arts. 72–73; 3, Art. 13; 5]?

The general thesis of the paper is that the Serbian legal framework demonstrates a significant degree of normative alignment with European standards in the field of university autonomy at the level of proclaimed principles and basic institutions, but that weaknesses remain in legislative elaboration, institutional design, and practical implementation, capable of leading to disproportionate interference with academic, organisational, staffing, and financial independence [1, Arts. 72–73; 2; 3, Art. 13; 4; 5]. More specifically, the paper maintains that university autonomy in the Republic of Serbia has the character of a constitutionally guaranteed institutional safeguard [1, Arts. 72–73]; that European standards do not exclude state regulation, but subject it to legality, legitimacy, necessity, and proportionality [3, Art. 13; 5]; that accreditation and quality assurance are acceptable only if structured as genuine instruments of improvement rather than indirect political or administrative conditioning [2; 4, pp. 7–12]; that formal adoption of the vocabulary of autonomy and quality does not in itself amount to substantive alignment [2; 3, Art. 13; 5]; and that the greatest risks to autonomy arise not merely from the existence of regulation, but from indeterminate criteria, broad discretion, and insufficient procedural guarantees [2; 4; 5]. Finally, the paper maintains that any constitutionally sound evaluation of restrictions on university autonomy must be based on the proportionality test [1, Arts. 72–73; 3, Art. 13; 5].

3. THE CONSTITUTIONAL-LAW CONTENT OF UNIVERSITY AUTONOMY

The constitutional-law scope of university autonomy in the Republic of Serbia cannot be reduced to a matter of organisational design of the higher education system. It is a constitutional guarantee of broader institutional and democratic significance because it protects the free formation, development, and transmission of knowledge within higher education and scientific activity [1, Arts. 72–73]. The fact that the Constitution simultaneously guarantees the autonomy of universities, higher education institutions, and scientific institutions, as well as the freedom of scientific and artistic creativity shows that this guarantee is conceived as a means of protecting the academic sphere against impermissible external influence rather than as a merely symbolic proclamation [1, Arts. 72–73; 3, Art. 13].

In legal terms, university autonomy denotes the capacity of a higher education institution to regulate and conduct independently those affairs that constitute the core of its teaching, scientific, organisational, and developmental functions [1, Arts. 72–73; 2, Arts. 4–6]. It encompasses institutional independence, but also the conditions under which academic freedoms may be genuinely, rather than only formally, exercised. For that reason, autonomy has a dual structure: it denotes the independence of the institution, while simultaneously creating the normative framework within which teachers, researchers, and other academic actors can exercise freedom of teaching and research [1, Arts. 72–73; 3, Art. 13].

These two dimensions are mutually dependent. If the institution lacks real independence, academic freedoms remain exposed to external influence and lose effective protection. Conversely, if institutional independence exists without genuine freedom of scientific and teaching activity within it, autonomy itself becomes formal and deprived of constitutional meaning [1, Arts. 72–73; 3, Art. 13]. University autonomy must therefore be interpreted not as a list of isolated powers, but as a complex institutional safeguard.

The Law on Higher Education elaborates this constitutional guarantee by listing academic freedoms, autonomy, and academic integrity among the basic principles of higher education, and by defining its concrete content more closely [2, Arts. 4–6]. At the statutory level, this guarantee encompasses internal organisation, adoption of statutes and general acts, election of bodies, establishment of study programmes and study rules, selection of teachers and associates, decision-making on international cooperation and projects, and disposition of resources in accordance with the law [2, Art. 6]. In domestic law, autonomy is thus expressed as academic, organisational, staffing, programme-related, and partly financial independence.

University autonomy performs at least three functions. First, it has a protective function, in that it prevents impermissible political, administrative, ideological, or other interference with teaching, scientific research, and internal academic decision-making [1, Arts. 72–73; 3, Art. 13]. From this perspective, autonomy is not an institutional privilege, but a legal mechanism for safeguarding free production of knowledge and critical thought. Second, it has a functional dimension: without the ability independently to organise programmes, regulate the teaching process, select academic staff, and plan institutional development, the university would be incapable of performing the public service of higher education in accordance with its nature and purpose [2, Art. 6]. Third, it has a guarantee function in relation to quality and integrity. European standards do not assume an opposition between autonomy and public accountability, but rather their mutual interdependence. ESG 2015 derives from the idea that higher education institutions bear primary responsibility for quality, which means that institutional independence and quality assurance presuppose one another [4, pp. 7–12].

The minimum constitutional-law guarantees of autonomy consist of those institutional positions without which the constitutional guarantee would be reduced to a merely formal proclamation. These include academic freedom in the narrow sense, namely freedom of scientific and artistic research, freedom of teaching, and freedom of academic expression [1, Art. 73; 2, Art. 5; 3, Art. 13]; organisational independence, including the right to regulate internal structure and establish governing bodies [2, Art. 6]; staffing independence, meaning that selection of teachers and associates must rest on academic rather than political or arbitrary criteria [2, Art. 6]; programme-related independence, including the right to determine study programmes and study rules [2, Art. 6]; and a certain degree of financial independence, since autonomy easily becomes illusory without the capacity to dispose of resources and plan institutional development [2, Art. 6].

Yet the constitutional minimum is not exhausted by a catalogue of powers. It necessarily includes procedural guarantees. Autonomy is not genuinely protected where supervisory, accreditation, sanctioning, or financially conditioning procedures are unclear, unpredictable, or left to broad discretion. The constitutional standard therefore requires that any restriction upon autonomy be provided by law, directed toward a legitimate aim, based on predetermined criteria, reasoned, and subject to effective legal review [1, Arts. 72–73; 3, Art. 13; 5]. Without such procedural safeguards, autonomy would be reduced to a formula lacking real legal force.

4. EUROPEAN STANDARDS AS A BENCHMARK FOR ALIGNMENT

The assessment of alignment of the Serbian legal framework with European standards cannot rest on formal comparison of concepts or superficial institutional similarity. In legal terms, alignment exists only where the domestic normative model ensures a comparable level of protection of academic freedom, institutional independence, legal certainty, and procedural control in relation to the relevant European benchmarks [3; 4]. In this paper, European standards are employed not as an expression of external political orientation, but as a legal and analytical benchmark for assessing whether domestic legal solutions remain within the boundaries of legitimate regulation or instead amount to an impermissible encroachment upon the constitutional core of university autonomy.

Two normative levels must be distinguished. The first is European Union law in the strict sense, within which Article 13 of the Charter of Fundamental Rights of the European Union has special importance [3, Art. 13]. The second consists of the standards of the European Higher Education Area, among which ESG 2015 carry particular weight as the generally accepted benchmark for internal and external quality assurance [4, pp. 7–12]. Although these two levels do not have identical legal nature, their combined relevance lies in the fact that both set limits to state intervention in higher education while also defining the conditions under which control, evaluation, and public accountability remain legally acceptable.

Article 13 of the Charter provides that the arts and scientific research shall be free of constraint and that academic freedom shall be respected [3, Art. 13]. This provision does not merely proclaim academic freedom as a political value of declaratory character; it establishes it as a legally protected position within the system of fundamental rights of the European Union. The normative reach of Article 13 lies first in the protection of scientific work and academic activity against unjustified restrictions. In addition, the provision cannot be understood exclusively as a guarantee of the individual freedom of teachers and researchers. Its full meaning also encompasses an institutional dimension, since academic freedom cannot be genuinely secured unless higher education and scientific institutions enjoy a minimum degree of independence in matters directly affecting teaching, research, and internal academic decision-making [3, Art. 13].

This standard is further reinforced by the case law of the Court of Justice of the European Union. In Commission v. Hungary (Higher education), C-66/18, the Court made clear that restrictions in the field of higher education cannot remain outside review of conformity with academic freedom and other relevant guarantees of EU law [5]. The broader significance of that judgment lies in its recognition that academic freedom has real normative substance and that state regulation of higher education is subject to review not only from the standpoint of formal legality, but also from the standpoint of its impact upon the essence of academic activity [5].

Unlike the Charter, ESG 2015 do not formally belong to EU law, but they possess very strong normative-guiding significance within the European Higher Education Area [4, pp. 7–12]. Their importance lies in the fact that they provide the most relevant European standard for understanding the relationship between institutional autonomy, internal responsibility of the institution, external evaluation, and the legal structuring of quality assurance procedures. Their basic premise is that higher education institutions themselves bear primary responsibility for quality [4, pp. 7–9]. If that is so, then institutions must also be granted genuine space to shape their internal academic and organisational processes independently. The European standard therefore does not support a model in which quality is ensured exclusively by external administrative control, but one in which the institution carries the internal system of quality assurance, while external review has a corrective, evaluative, and developmental function [4, pp. 7–12].

Four elements of ESG 2015 are particularly relevant here. Quality assurance procedures must be normatively clear and known in advance [4, pp. 18–20]. They must be based on transparent and uniform criteria [4, pp. 20–22]. They must be professional, consistent, and directed toward improvement rather than arbitrary sanctioning [4, pp. 22–25]. Finally, they must be accompanied by a fair procedure and reviewable decisions [4, pp. 25–27]. These elements demonstrate that the issue of quality cannot be separated from the limitation of discretion, the duty to give reasons, and procedural protection.

For the purposes of this paper, the decisive point is that European standards must be used as a benchmark of substantive, not merely formal, alignment. It is not enough that domestic legislation adopts the vocabulary of academic freedoms, autonomy, quality, and transparency. It must be established whether those principles are linked to institutional and procedural arrangements that genuinely protect university independence while at the same time ensuring legitimate public accountability [2; 3; 4; 5]. Article 13 of the Charter establishes the basic normative standard of respect for academic freedom, while ESG 2015 provide more concrete criteria for assessing how mechanisms of quality assurance and external evaluation must be legally shaped in order to remain compatible with institutional autonomy [3, Art. 13; 4, pp. 7–12]. Their combined effect is to show that university autonomy is neither an obstacle to state regulation nor an object freely disposable by public authority. It is a legally protected institutional position that may be restricted only under conditions of legality, legitimate aim, professional justification, procedural predictability, and proportionality [3, Art. 13; 4, pp. 7–12; 5].

5. CRITICAL ANALYSIS OF THE LAW ON HIGHER EDUCATION WITH A FOCUS ON THE 2025 AMENDMENTS

A critical analysis of the current Law on Higher Education must distinguish between formal normative alignment and substantive alignment. Formal alignment exists when the law adopts the vocabulary of academic freedoms, autonomy, quality, and European openness. Substantive alignment exists only where institutional arrangements, the allocation of powers, decision-making procedures, and control mechanisms genuinely secure a balance between public accountability and the constitutional core of university independence [2; 3, Art. 13; 4, pp. 7–12]. For that reason, the 2025 amendments cannot be assessed unilaterally: they simultaneously contain elements of normative convergence with European standards and zones of constitutional-law risk requiring stricter analysis [2].

On the side of convergence, the current law retains the clear normative premise that higher education is based on academic freedoms, autonomy, academic integrity, openness to the public, and alignment with the European higher education system [2]. That is not, in itself, sufficient for an assessment of substantive alignment, but it constitutes an important normative precondition. The Law also reinforces the procedural framework governing accreditation by more clearly institutionalising the Commission for Appeals as the body responsible for deciding appeals against decisions rejecting accreditation applications, while further regulating its composition, term of office, and safeguards designed to ensure professional expertise [2]. From the standpoint of the rule of law and procedural fairness, this is a notable improvement, since it makes the quality assurance system less closed and less strictly single-tiered [2; 4, pp. 18–27].

Another important zone of convergence is financial support. The 2025 amendments require the founder to provide higher education institutions with resources for permanent costs, certain employee-related expenditures, and the costs of accreditation, together with additional rules relating to salary calculation bases and minimum standards of budgetary coverage [2]. From the standpoint of institutional autonomy, these amendments matter because autonomy without minimal financial stability remains vulnerable and susceptible to indirect conditioning. A further relevant change is the strengthening of the internal position of the academic community within governance bodies: amendments to Article 62 reduced the share of founder representatives and increased the share of employees' representatives [2]. This change is a relevant signal of stronger internal independence [2]. Finally, the introduction of micro-credentials, post-doctoral training, and stronger recognition of artistic-research work reflect compatibility with contemporary European developments in the diversification of learning and research [2; 4, pp. 7–12].

At the same time, significant risks remain. The first is the structure of the accreditation and supervisory system. Although the introduction of the appellate commission strengthens procedural protection, it remains within the institutional framework of the National Accreditation Body. External quality review is conducted regularly during the accreditation cycle, but may also be initiated extraordinarily, including at the request of other competent actors [2]. This means that procedural protection is stronger than before, but not fully externally independent. The solution is not necessarily unconstitutional, but it requires restrictive interpretation and strict, predetermined criteria for the activation of extraordinary review [2; 4, pp. 18–27].

The second risk is the breadth of regulatory and standard-setting powers in the quality assurance system. The National Council and the National Accreditation Body play a major role in shaping standards, procedures, and criteria that concretise the statutory framework [2]. Although such a model is functionally understandable, it creates a risk that the substantive scope of university independence will, in practice, be shaped by intensive by-law standards and procedures [2; 4, pp. 18–27]. Substantive alignment with European standards therefore depends not only on the text of the law, but also on the clarity, proportionality, and predictability of the standards themselves [3, Art. 13; 4, pp. 18–27].

The third risk is related to digitalisation and reliance on data from unified information systems. The law links certain aspects of financing and system governance to data collected through educational information systems [2]. That may be rational and useful, but if the law and by-law elaboration do not ensure sufficiently clear guarantees regarding data accuracy, correction of errors, transparency of methodology, and legal protection against consequences arising from such data, digitalisation may become an indirect channel for strengthening administrative control over institutions [2; 5]. This is a constitutional-law risk by its nature, not a ready-made conclusion of unlawfulness.

The fourth risk is financial conditioning as an indirect means of influence. The expansion of budgetary support undoubtedly strengthens the material conditions for the functioning of public higher education institutions [2]. Yet precisely because the law expands the range of purposes for which resources are provided, the question becomes even more important whether the rules on allocation, monitoring, and possible withdrawal of such resources are precise and procedurally controllable [2]. The constitutional-law problem does not lie in budgetary financing as such, but in the possibility that financial dependence, if not accompanied by sufficiently clear safeguards, may produce indirect conditioning of institutional conduct [1, Arts. 72–73; 2; 5].

The fifth risk concerns the reach of governance reform. The reduction in the share of founder representatives and the increase in the share of employee representatives is a relevant signal of stronger internal independence [2]. Yet that quantitative change does not resolve all issues of constitutional autonomy [1, Arts.

72–73; 2]. It does not remove the need clearly to define the limits of the founder's influence over supervision, financing, accreditation, and other forms of public-law intervention [2]. In other words, improvement in the composition of governance bodies is important, but insufficient by itself to neutralise other channels of public control.

The overall result is therefore mixed. The 2025 amendments strengthen certain material and procedural preconditions for more effective functioning of higher education institutions, especially in the fields of financing, appellate protection, and internal participation of the academic community in governance [2]. At the same time, they do not fully remove risks arising from concentration of standard-setting and supervisory powers, extraordinary review, digitalisation without sufficiently developed procedural guarantees, and structural financial dependence [2; 3, Art. 13; 4, pp. 18–27; 5]. For that reason, the final constitutional-law assessment of this legal framework cannot be derived from description alone, but must be tested through the proportionality test.

6. THE CONSTITUTIONAL-LAW PROPORTIONALITY TEST FOR RESTRICTIONS ON AUTONOMY

The constitutional assessment of restrictions on university autonomy cannot be reduced to the question whether the state is authorised to regulate higher education, because that approach would reduce the constitutional guarantee of autonomy to a merely declaratory formula without any real limiting effect on legislative and administrative power [1, Arts. 72–73; 3, Art. 13; 5]. The constitutionally relevant issue is therefore not whether intervention exists, but under what conditions it is permissible. The answer is provided by the proportionality test, which serves as the principal instrument for distinguishing legitimate public-law regulation from impermissible encroachment upon the constitutional core of university independence [1, Arts. 72–73; 3, Art. 13; 5].

By its nature, the constitutional guarantee implies that university autonomy is not absolute. The state may prescribe rules in the areas of accreditation, quality assurance, supervision, financing, and public records because these are areas in which a legitimate public interest exists [2; 4, pp. 7–12]. However, such powers are not unlimited. A restriction is constitutionally acceptable only if it is based on a sufficiently determinate legal norm, directed toward a legitimate aim, suitable for achieving that aim, necessary in the sense that no less restrictive measure exists, and proportionate in the strict sense, that is, only if the benefit it produces is not disproportionate to the intensity of the interference with academic and institutional independence [1, Arts. 72–73; 3, Art. 13; 5].

It is not enough for the legislature or the competent authority merely to invoke quality, legality, public interest, or budgetary responsibility. Such invocation acquires constitutional significance only if it is accompanied by clear criteria, a predictable procedure, limited discretion, a reasoned decision, and effective legal protection [2; 4, pp. 18–27; 5]. Otherwise, even a formally legitimate aim may become a means of excessive intervention. Precisely for that reason, proportionality in this field does not have a merely supplementary role, but a central one: it does not justify every restriction, but sets the line beyond which regulation ceases to be legitimate and becomes contrary to the constitutional guarantee of autonomy.

The first element of the proportionality test is the legality of the restriction. In the field of higher education, this requirement assumes particular importance because a substantial part of the practical impact on higher education institutions is exerted not through statutory provisions alone, but through accreditation standards, administrative procedures, subordinate legislation, and individual decisions adopted by accreditation, supervisory, and administrative authorities [2]. Legality therefore requires that the legal framework be sufficiently precise for universities reasonably to foresee when, under what conditions, and with what consequences restrictions upon autonomy may occur [2; 4, pp. 18–27]. Where criteria are indeterminate, grounds for initiating proceedings excessively open-ended, or the scope of autonomy effectively left to by-law elaboration, the first condition of proportionality is not fully satisfied [2; 4, pp. 18–27].

The second element is legitimacy of aim. Restrictions upon autonomy may be justified only if they pursue constitutionally and publicly acceptable aims, such as quality assurance, protection of students, legal certainty of qualifications, legality of operation, academic integrity, rational management of public funds, and transparency of institutional action [2; 4, pp. 7–12]. Yet legitimacy cannot be purely nominal. It is constitutionally impermissible to conceal behind the vocabulary of quality, accountability, or public interest aims that in substance amount to political disciplining of the university, ideological steering of teaching, staffing influence, or indirect subordination of academic decision-making to public authority [1, Arts. 72–73; 3, Art. 13; 5].

The third and fourth elements are suitability and necessity. A measure is suitable only if there is a reasonable connection between the instrument chosen and the aim pursued [4, pp. 18–27; 5]. If a mechanism formally presented as quality assurance does not in fact improve academic standards but primarily expands room for administrative control, it fails even the basic threshold of constitutional justification. Necessity requires more: the same aim must be achievable by a milder measure interfering less with university autonomy [1, Arts. 72–73; 3, Art. 13; 5]. In higher education, this means that preference must be given to corrective measures, time limits for compliance, conditional accreditation, gradual supervision, and other mechanisms that allow deficiencies to be remedied without immediate resort to severe intervention [2; 4, pp. 18–27].

The final stage is proportionality in the strict sense. Here the issue is not whether intervention is legally possible, but whether its cost from the standpoint of constitutional autonomy is acceptable [1, Arts. 72–73; 3, Art. 13; 5]. Even a formally lawful and purpose-oriented measure may remain constitutionally unacceptable if its effects disproportionately burden the institutional independence of the university. This final stage is thus the strongest control of public authority, because it prevents the university from being transformed, under the names of quality, supervision, or financial accountability, into an object of permanent administrative dependence [1, Arts. 72–73; 5].

Applied to accreditation and external quality review, the legitimacy of the aim is not, in principle, disputed. Quality assurance, legal certainty of diplomas, and protection of students are clearly matters of public interest [2; 4, pp. 7–12]. But the constitutional-law acceptability of such mechanisms depends on whether they are structured as professional, clearly regulated, and procedurally reviewable instruments of improvement, or as potentially disciplining tools of public authority [2; 4, pp. 18–27]. The same applies to financing. Budgetary support is legitimate and necessary, but only if it does not create concealed institutional dependence in matters belonging to the university's autonomous sphere [1, Arts. 72–73; 2]. Likewise, digitalisation is not unconstitutional in itself, but is acceptable only if accompanied by guarantees of data accuracy, right of correction, transparency of methodology, reasoned decision-making, and effective legal protection [2; 5].

The general normative conclusion is therefore clear: university autonomy may be restricted, but it must not be normatively emptied [1, Arts. 72–73]. Any restriction is constitutionally acceptable only if it functions as a means of protecting the public interest, and not as an instrument for substituting the will of public authorities for autonomous university decision-making [3, Art. 13; 4, pp. 7–12; 5]. Restrictions are permissible only where they are clearly established by law, directed toward a legitimate aim, suitable, necessary, and proportionate in the strict sense, with particular importance attached to clarity of criteria, duty to state reasons, limitation of discretion, and availability of effective legal protection [1, Arts. 72–73; 3, Art. 13; 5].

7. DE LEGE FERENDA RECOMMENDATIONS

If university autonomy is understood as a constitutionally guaranteed institutional safeguard, then future legislative regulation of higher education must be directed neither toward relativising that guarantee nor toward further expansion of public-law control without clear boundaries [1, Arts. 72–73; 3, Art. 13; 4, pp. 7–12]. On the contrary, de lege ferenda it is necessary to regulate more clearly, more precisely, and more restrictively those mechanisms through which the state may affect the position of higher education institutions, because the greatest risks to autonomy in practice arise not through formal abolition, but through indeterminate criteria, broad discretion, weak reasoning of decisions, and limited legal protection [2; 5].

The first recommendation is that the law should define more expressly the core of university autonomy that must not be subject to free regulatory reshaping [1, Arts. 72–73; 2]. It is not sufficient to list autonomy as a principle; the law should identify more clearly the protected sphere, including internal organisation, selection of teachers and associates according to academic criteria, determination of study programmes, shaping of scientific-research and artistic-research priorities, and adoption of key academic decisions [1, Arts. 72–73; 2; 3, Art. 13]. In these areas, public-law intervention should be reduced to what is necessary for legality, minimum quality standards, and protection of the rights of third parties.

The second recommendation concerns narrowing discretion in accreditation, external quality review, and supervision [2; 4, pp. 18–27]. The law should define more precisely the grounds for extraordinary external review, exclude activation of such mechanisms on the basis of vague assessments, prescribe prior warning and a reasonable time limit for remedying deficiencies whenever the nature of the breach permits, and establish the rule that stricter measures may be applied only if milder measures have proved insufficient [2; 4, pp. 18–27; 5]. Without such gradation, the system may easily shift from professional control to excessive administrative intervention.

The third recommendation requires that decisions be supported by a heightened standard of reasoning. From a constitutional-law standpoint, it is not sufficient that an authority has the power to decide; its decision must be legally and factually reviewable [2; 5]. For that reason, the law should require fuller reasoning for acts affecting accreditation, quality review, financing, enrolment capacities, and other matters impacting autonomy. Such reasoning should include clear statement of relevant facts, specific indication of applied criteria, explanation of why particular arguments were accepted or rejected, and reasons why a milder measure was not sufficient [2; 5].

The fourth recommendation emphasizes the need to ensure effective legal protection. If autonomy is a constitutional guarantee, legal remedies against acts interfering with that sphere must not be merely formal, but substantively effective [1, Arts. 72–73; 5]. The law should more clearly regulate time limits for deciding appeals, suspensive effect where immediate execution would cause difficult-to-remedy consequences, a separate duty to justify urgent intervention, and more intensive judicial review in matters affecting academic and institutional independence [2; 5].

The fifth recommendation concerns the distinction between financial support and financial conditioning [1, Arts. 72–73; 2]. Budgetary financing is legitimate and necessary, but must not become an indirect means of influencing decisions belonging to the autonomous sphere of the university. The law should therefore specify more clearly the criteria for allocation, reduction, and withdrawal of funds, exclude vague financial criteria capable of affecting staffing or programme-related policy, and impose a stricter duty to state reasons for every act affecting financial stability [2; 5].

The sixth recommendation calls for digitalisation and use of data from information systems [2; 5]. The law should expressly regulate the institution's right to full access to data kept about it, the right to correction of inaccurate and incomplete data, the duty of transparency of methodology, and the prohibition of decisions with significant legal consequences where the factual basis cannot be effectively contested [2; 5]. Without such safeguards, digitalisation remains normatively incomplete and potentially dangerous for legal certainty.

The seventh recommendation concerns strengthening the real, rather than merely formal, role of the academic community in decision-making [1, Arts. 72–73; 2]. It is not enough that representatives of the academic community participate in governance bodies if they lack decisive influence in matters belonging to the core of autonomy. The law should therefore more clearly ensure that decisions concerning selection of teachers and associates, study programmes, scientific-research directions, and internal academic policy are determined primarily by academic bodies [1, Arts. 72–73; 2; 3, Art. 13].

In general terms, the future development of the legal framework of higher education should move toward less discretion, greater normative determinacy, stronger procedural guarantees, fuller reasoning, and more effective legal protection [2; 3, Art. 13; 4, pp. 18–27; 5]. Public control should become more lawful, narrower, more predictable, and procedurally fair, while university autonomy must be more precisely protected against both direct and indirect forms of excessive intervention [1, Arts. 72–73; 2; 3, Art. 13; 5].

8. CONCLUSION

The analysis conducted in this paper demonstrates that alignment of the legal framework of higher education in the Republic of Serbia with European Union standards in the field of the constitutional autonomy of universities cannot be reduced to formal adoption of concepts such as autonomy, academic freedoms, quality, and public accountability [2; 3, Art. 13; 4, pp. 7–12]. Legally relevant alignment exists only where those concepts are elaborated in such a way as to provide genuine institutional protection of university independence while simultaneously allowing legitimate, law-bounded, and procedurally controlled public-law regulation [1, Arts. 72–73; 2]. It is at this level that university autonomy emerges not merely as a matter of institutional organisation, but as one of the central questions of the rule of law in the fields of education and scientific research.

The paper's central thesis has been confirmed: university autonomy in the Republic of Serbia has the character of a constitutionally guaranteed institutional safeguard [1, Arts. 72–73]. It is neither a mere declaration nor a principle whose real scope may be freely determined by legislative or administrative convenience [1, Arts. 72–73; 2]. On the contrary, it constitutes a normative limit on state intervention and a legally protected sphere within which the university must retain genuine independence in matters constituting the essence of its academic, organisational, staffing, and programme-related mission [1, Arts. 72–73; 2; 3, Art. 13].

At the same time, European standards support neither a concept of absolutely isolated autonomy nor a model in which the university is reduced to an object of permanent administrative control [3, Art. 13; 4, pp. 7–12; 5]. Article 13 of the Charter and the European quality assurance standards show that academic freedom, institutional independence, public accountability, and quality assurance are compatible only when arranged in a relationship of balance rather than subordination [3, Art. 13; 4, pp. 18–27]. The European standard therefore does not authorise unlimited state penetration into university decision-making in the name of quality or legality, but requires every intervention to be normatively grounded, purposeful, necessary, and proportionate [3, Art. 13; 5].

The current Law on Higher Education, including the 2025 amendments, therefore produces a mixed normative result [2]. It contains elements of significant convergence with European standards: affirmation of autonomy and academic freedoms, strengthening of some mechanisms of procedural protection, broadening of certain material preconditions for institutional functioning, and partial reinforcement of the internal position of the academic community [2]. At the same time, substantive alignment remains incomplete, because certain mechanisms still leave room for broad discretion, insufficiently determinate criteria, intensified supervision, indirect financial conditioning, and digitalised governance without sufficiently developed procedural guarantees [2; 4, pp. 18–27; 5].

The central finding of the paper is that the greatest risk to university autonomy does not necessarily arise from its formal restriction, but from the way in which regulatory mechanisms are normatively structured and institutionally applied [2; 5]. Autonomy may be formally recognised yet materially weakened where criteria are unclear, procedures unpredictable, decisions insufficiently reasoned, and legal remedies only formally available [2; 4, pp. 18–27; 5]. For that reason, the actual degree of alignment of the Serbian system with European standards must be measured not by the number of proclaimed principles, but by the quality of legal elaboration, the limitation of discretion, and the intensity of procedural protection.

The application of the proportionality test confirms that accreditation, external quality review, budgetary financing, and digitalisation are, in principle, legally permissible, but only under strictly determined conditions [1, Arts. 72–73; 3, Art. 13; 5]. A restriction upon autonomy is acceptable only if it is clearly established by law, pursues a legitimate aim, is suitable, is necessary, and does not produce disproportionate weakening of academic and institutional independence [1, Arts. 72–73; 3, Art. 13; 5]. Public-law intervention in higher education cannot therefore be justified merely by invoking quality, legality, or public interest. Such justification has legal force only where accompanied by determinate criteria, predictable procedures, full reasoning, and effective judicial and administrative review [2; 4, pp. 18–27; 5].

The final conclusion is that the Serbian higher education framework is, in principle and to a significant extent, aligned with European standards on constitutional university autonomy, but that such alignment remains incomplete in substantive terms [2; 3, Art. 13; 4, pp. 7–12]. It remains incomplete so long as mechanisms of supervision, accreditation, financing, and digital governance are not more precisely tied to constitutional limits, procedural safeguards, and a stricter standard of proportionality [1, Arts. 72–73; 2; 5]. The further improvement of the system should therefore proceed not through weakening regulation, but through its more precise legal limitation, stronger procedural guarantees, narrower discretion, and clearer statutory protection of the core of university autonomy [2; 4, pp. 18–27].

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УСКЛАЂЕНОСТ ПРАВНОГ ОКВИРА ВИСОКОГ ОБРАЗОВАЊА У РЕПУБЛИЦИ СРБИЈИ СА СТАНДАРДИМА ЕУ У ПОГЛЕДУ УСТАВНЕ АУТОНОМИЈЕ УНИВЕРЗИТЕТА

Резиме: *Рад испитује уставноправни садржај, домашај и границе аутономије универзитета у Републици Србији у контексту интензивиране управноправне регулације високог образовања и европеизације нормативних стандарда. Полазна премиса истраживања заснива се на потреби уравнотежења уставног јемства аутономије универзитета и слободе научног и уметничког стваралаштва са захтевима начела законитости и јавне одговорности у области обезбеђења квалитета, акредитације и финансијског управљања.*

Основна истраживачка питања односе се на: (1) нормативно „језгро" уставне аутономије; (2) разграничење легитимне јавне контроле од недопуштеног уплитања у академску, организациону, кадровску и финансијску сферу; (3) степен усклађености националног законодавства са европским стандардима у области институционалне независности и обезбеђења квалитета; и (4) критеријуме уставносудске контроле у режиму санкција према високошколским установама.

Методолошки приступ обухвата догматско-нормативну анализу, тумачење релевантних европских докумената и стандарда, компаративно мапирање усклађености, као и примену теста пропорционалности у оквиру захтева владавине права, правне извесности и предвидљивости санкција.

Резултати истраживања указују на висок степен принципијелне конвергенције између националног и европског нормативног оквира, али и на структурне изазове у институционалном дизајну система акредитације и у предвидљивости санкционих механизама. Ови налази имају непосредне импликације на заштиту академске слободе и демократску функцију универзитета, те доприносе теоријском разјашњењу уставног језгра аутономије у условима европеизације високог образовања.

Кључне речи: *уставна аутономија универзитета, академска слобода, начело законитости, владавина права, обезбеђење квалитета, акредитација, пропорционалност, европеизација*