1 Introduction

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This book analyses and discusses issues related to the accountability and transparency of public power and mutual interactions between the two concepts.

We believe that the term 'accountability' is quite elastic and inclusive. One has to remember that conceptualising this term may present difficulties due to the lack of a proper equivalent in other languages. We argue, however, that it includes various procedures for assessing individual behaviours of incumbents of state organs in the performance of their duties (including punitive ailments that may befall them but also rewards), many mechanisms involving reporting on this performance (reporting), and various instruments that refer to material (organisational) substrates of a state organ or the whole branch of government. Thus, the notion of accountability includes some kind of relationship between either an individual (i.e., an incumbent of a state organ) and an institution endowed with competences in this respect or between two institutions. The spectrum of these relations may include specific elements described by using expressions (apart from accountability) such as 'responsibility' or 'liability'. In the sphere of constitutional and legal norms in a national state or at the level of a supranational organisation, the aforementioned relationship undoubtedly has normative significance, including legal consequences of applying accountability measures. Nevertheless, some legally prescribed accountability procedures may not evoke an immediate legal effect, or these legal effects may be more general and limited to a particular branch of the law. Within such an approach, one can mention, for instance, the so-called political accountability mechanisms, such as deciding upon a vote of no-confidence motion by a chamber of parliament. In turn, the legal accountability of state organs' incumbents may also signify applying a direct, repressive legal sanction for breaching the constitution or a statute (a constitutional tort).

The direct link between accountability and transparency has at least a twofold meaning. First, we have to assume that all measures connected with holding people and institutions accountable must be straightforward, clear, and open to eliminate illegal behaviour and the possibility of corruption. Second, both notions interact with each other as they constitute important public values connected with the idea of democracy and the rule of law, and with other critical constitutional components such as separation of powers and checks-and-balances

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mechanisms (Harlow 2014). The sovereign can make conscious electoral decisions only when the activities of those who are in power are transparent. In turn, 'good transparent policies contain methods of accountability', and 'transparent policies also provide information to citizens and improve their ability to make choices about the services they receive' (Ball 2009, p. 300). Thus, transparency and accountability interrelate with fundamental constitutional principles, which are also characteristic features of the idea of good governance (Harlow 2006, p. 204ff.). On the other hand, Kosař and Spáč observe that transparency does not necessarily contribute to public institutions' proper and desirable actions, which is why accountability and transparency should be treated separately. Nevertheless, they rightly add that transparency is a prerequisite for accountability, and the former is a separate concept that 'operates as the contingent circumstance that might influence whether a certain form of accountability will bring about a particular set of results' (Kosař and Spáč 2018, p. 42).

The contributions included in this collective volume have been divided into three parts: the institutional and objective approach (Part I: Law); the subject approach, referring to a recipient of rights (Part II: Fairness and Rights); and the functional approach, referring to the executors of law (Part III: Authority).

In Chapter 2, Kyriaki Topidi argues that the traditional framework governing the relationship between the state and citizens has changed radically in the 21st century. Instead of a binary structure between the two main actors—the state and citizens—the present setting involves multiple state and non-state actors as well as transnational ones, all involved in the process of producing public goods. The shift is also connected to the extension of the public space to the digital sphere. One of the core questions in terms of governance, therefore, relates to the ways the state can position itself in the battle for accountability that occurs in the media, including social and alternative media. These trends are most evident in the regulation of online content at the EU level. The exercise of free speech can be offensive and can contribute to a climate of prejudice and discrimination against certain groups. Kyriaki's chapter engages with the normative dimensions of the balance between the need to control and limit incitement to violence and the fundamental right to freedom of expression as it is exercised in online contexts.

In Chapter 3, Grzegorz Kuca concentrates on the impact of economic crises on the budget process. Specifically, the author states that the budget process is now beginning to vary from its traditional theoretical model, which entrusts the government with the power to prepare and execute and parliament to adopt and control a state budget. This transformation refers to both formal and substantive matters; that is, it concerns form and content as well as the actual course of the budget process. It also changes the control of both the parliament's and government's actions with judicial review. Therefore, from the perspective of public debt and budget deficits, numerous essential questions must be answered, including those referring to the change in the central bank's role. The author attempts to identify these issues and propose possible solutions to some of them.

In Chapter 4, Jelena Kostić and Marina Matić Bošković raise the issue of financial accountability and transparency of public sector financial operations in the Republic of Serbia. Financial accountability in the public sector in this context includes accountability to ensure efficient, economical, and effective public spending. Transparency of public spending is part of accountability to citizens since they contribute to public revenues. The authors explain key challenges for financial accountability and the key reasons for the development of such challenges, and the behaviour of financial control institutions in Serbia that frame challenges. Based on an analysis of the Supreme Audit Institution's reports of the Republic of Serbia, the authors highlight the problems that exist in practice and propose recommendations for improving the current situation.

In Chapter 5, Piotr Mikuli and Maciej Pach focus on the current legal measures concerning disciplinary accountability of judges in Poland. The authors focus on solutions applied in Poland after several legal modifications that the Law and Justice Party introduced between 2015 and 2020. The Polish case constitutes a warning that the concept of accountability, especially related to judicial power, may be applied in an abusive way. The disciplinary liability measures were introduced in this country under the guise of ensuring greater efficacy of such procedures and judicial power transparency, but they de facto aim to intimidate the entire judicial system. This must also be perceived in light of the systematic breach of the rule of law in Poland.

In Chapter 6, Arianna Vedaschi explains how the tensions between transparency and accountability and state secrecy implied in security-related operations are addressed by Italian legislators and courts, especially in times of severe political stress; namely, those characterised by the ongoing threat of international terrorism. As a first step, the chapter explains the choice of the Italian jurisdiction as the main context for the research from a methodological perspective, and it defines the notions of transparency and accountability from a theoretical perspective. Vedaschi's research focuses on mechanisms designed to ensure oversight of intelligence operations and accountability of agents, and on the relationship between intelligence services and the executive as framed by laws that courts interpret. She also highlights some challenging issues emerging from the described background and discusses whether and how some aspects of the Italian intelligence framework could be improved to achieve a better balance between the values at stake.

In Chapter 7, Guillermo Jiménez explains that this institution, established in the late 1920s, has played a critical role in the Chilean constitutional landscape. It operated for decades as a court substitute and complemented judicial review in the task of ensuring executive branch accountability. The chapter describes this office's main structure and functions, emphasising its monocratic organisation and its combination of a variety of auditing, binding legal interpretations, and internal review powers, as well as its close interaction with both bureaucracy and the legislature. The chapter concludes by placing the Chilean comptroller-general in the broader context of Latin American struggles to ensure legality and subject governments to the rule of law.

In Chapter 8, Thomas Sedelius refers to accountability in the semi-presidential system of government. Despite an increasing amount of research about the formal role and prerogatives of the presidency in these systems, we still know little about the various channels for public accountability in dual executive systems. Sedelius' study partly addresses this gap by empirically examining how presidents in semi-presidential systems utilise their option to *go public* to establish citizen support to pursue their agendas. Aware of their popular support, presidents can effectively use the option of public addresses to compensate for their formally weaker powers. Sedelius uses a comparative case study design that includes two Central European countries (Lithuania and Romania) and Finland as long-lasting cases of European semi-presidentialism. He explains the interplay between executive power and citizens. Each country represents a unique semi-presidential path: high levels of institutionalisation and the weakening of a historically strong presidency in Finland in 2000; general intra-executive stability under a personalised political system in Lithuania; and party system instability, strong presidential influence, personalised politics, and high institutional tensions in Romania.

In Chapter 9, Eugenia Kopsidi and Ioannis A. Vlachos contend that the relationship between elected officials' political and criminal—or more broadly, legal—responsibility is linked inextricably to the quality of the rule of law. According to Article 86:

> Only the Parliament has the power to prosecute serving or former members of the Cabinet or Undersecretaries for criminal offences that they committed during the discharge of their duties, as specified by law. The institution of specific ministerial offences is prohibited.

In this sense, as the authors emphasise, the legislature seems to substitute the judiciary, which is a constitutional deviation from the foundational principle of separation of powers. Combined with the explicit prohibition of establishing specific ministerial offences, such as procedural immunity, seems to craft a rather entitled and privileged legal framework that encourages impunity among high-ranking political figures. Moreover, the parliamentary majority at any time can revoke impeachment resolutions or suspend prosecutions and relevant investigatory proceedings. Although officially intended to safeguard cabinet members from groundless complaints and politically driven prosecution, this special procedure governing criminal ministerial liability in Greece has led to constitutionally controversial solutions. The authors argue in this context that the vague notion of *political responsibility* tends to absorb its criminal counterpart, essentially leading to penal exoneration and escalating mistrust in political institutions.

In Chapter 10, Francesca Sgrò examines the constitutional value and legislative implementation of transparency and accountability concerning the public administration, with a particular emphasis on public contracts. She assesses how transparency and accountability—which are traditionally expressions of the constitutional principle of public administration's 'impartiality' according to the Italian Constitution's Article 97—have experienced progressive implementation; that is,

they have acquired an autonomous ontological relevance that partially emancipates them from the constitutional principle of impartiality, bringing them closer and functionalising them to other different constitutional principles that guide public action, such as 'good performance' (efficiency) and 'legality' (protection from corruption) within the public administration under Article 97. The chapter ends with some constitutional considerations about the highlighted evolution of the principles of transparency and accountability from the Italian perspective—from principles strictly linked to the public administration impartiality concerning autonomous principles and values that are open not only to administrative actions' legality but also to the good performance of the public administration.

In Chapter 11, Natalie Fox refers to the process of the UK's withdrawal from the European Union in the context of the Brexit negotiations started after the notification of Article 50(2) of the Treaty on European Union. The author wonders how accountability in the divorce process from the EU should be construed. This question is closely linked to the pro-Brexit campaign's main argument to 'take back control' and consequentially regain sovereignty. Parliament is obligated to monitor and control the negotiation process as a matter of accountability. The legal analysis is also complemented by an examination of the interpretation and application of the principle of transparency from a legal and political perspective. The 'maximum level of transparency' was embraced in the Brexit discussions, and the approach to openness was instrumental. Although the Brexit negotiations are a striking example of the rising importance of the concept of transparency, the UK government embraced the Brexit talks in a particular way. The UK sought to avoid the scenario called a 'no-deal' Brexit but consistently exposed a tough line on the issues where it was difficult to reach an agreement despite the fact it would result in the so-called hard Brexit.

To sum up, the chapters included in this volume contain reflections on the developments of the various accountability mechanisms and institutions in times of rapid change. We believe that these chapters, therefore, answer questions concerning the efficiency of accountability and transparency mechanisms from the perspective of consolidated democratic systems as well as various tendencies of democratic decay and infringement on the rule of law.

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