

The principle of legality in criminal law in the Republic of Albania

Dr. Luan Hasneziri

*Judge at the Court of Serious Crimes, Tirana
Lecturer at the "Albanian University", Tirana*

Abstract

The criminal law of every democratic state is based on several principles which constitute the pillars of its existence, because they serve as a guarantee for the protection and guarantee of rights and freedoms. One of these principles is the principle of legality, known in Latin with the term "Nullum crimen, nulla poena sine lege".

The recognition and prediction of this fundamental principle of criminal law is one of the basic requirements for the criminal legislation of a state, to be considered as democratic and contemporary. But we must consider the other fact that is formal prediction of this principle in criminal law or in the Constitution of a State and the other thing is its effective implementation in practice. This second requirement relates to real and effective implementation of the principle of legality and represents a great importance for countries like Albania, where the implementation of legislation in general and the rule of law still has problems. It is no coincidence that one of the requirements that the European Union has imposed to Albania, but also to other countries aspiring to integrate in this organization, is the implementation of effective law and real guarantee of the rights and fundamental freedoms. The principle of legality is a multi-dimensional principle. It has at the same time national and international character, legal and constitutional, and consists of several sub principles or elements. The dimensions of this principle would be the scientific purpose of this article, which will be reflected in the conclusions and references based in this article.

Keywords: the principle of legality, European integration, human rights and fundamental freedoms, the prohibition of analogy, legal security.

Introduction

The principle of legality is the fundamental principle of criminal law, and at the same time the oldest principle elaborated by the science of criminal law. According to this principle one cannot be sentenced for committing a criminal offense if it was not previously anticipated as such (as an offense) in criminal law. Also, this principle implies that, to anyone, cannot be assigned a type and measure of punishment, which was not previously provided in the law for committing that offense. The principle of legality, consists of several sub principles, which will be handled by us, in detail, below. The reason or the cause why this principle of criminal law was born, is connected with the need to limit and control, the arbitrariness of the state and state authorities during their activities. During its activity, the state and its organs, may violate in an arbitrary manner the rights and fundamental freedoms.

The principle of legality, intends, to restrict and control the arbitrary operations and illegal activities of the state from one side, and to protect and guarantee the rights and

fundamental freedoms, on the other side.

This principle also means that the state and its organs, are subject to law and justice and shall not act contrary to law and justice (Salihi, 2012, 133). This principle is a condition for the existence of democracy and rule of law.

The principle of legality is recognized and enforced in Roman law known with the term "*Nullum crimen, nulla poena sine lege*", term, which can be translated: "*No crime and no punishment, without a law*". The principle of legality was provided shortly after the beginning of French Revolution in 1789, the Declaration of Human Rights, which determine explicitly that only law, can predict punishments and no one can be punished for an offense which was not anticipated before by the law as a criminal offense. The principle of legality as one of the fundamental principles of criminal law, after its forecasting to the Declaration of Rights for Human and Citizen, was introduced for the first time in the Criminal Code of France in 1791, and the Criminal Code of 1810 known as the Napoleonic Penal Code. This principle, then, during the nineteenth century it used by almost all Criminal Codes of Europe and the world, until today. The principle of legality is provided in international acts, conventions and various international treaties, ratified by most countries, being both a principle of international criminal law. Thus, specifically, the principle of legality, is provided in the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations, on 10 December 1948, in which was stated that no one can be punished for behavior, which was not provided as a criminal offense by domestic law or international law, at the time that this offence was committed, and can not be assigned a severe punishment, from what was anticipated at the time of the offense.¹ In connection with this international convention it is interesting to note the fact that it has provided, besides the principle of legality, two additional elements, who are an integral part of the principle of legality.

The first sub-principle is that, pursuant to this Convention, the favorable criminal law, decriminalize or abrogates the offense or provides a measure of punishment, easier, for the crime, has retroactive effect. The second sub-principle has to do with the fact that the Convention provides an exemption from the application of the principle of legality..

According to this exception, a person can be sentenced, even though his behavior is not prescribed by law as a criminal offense, when this behavior, is qualified as criminal under the general principles of international criminal law.²

¹ Paragraph 2 of Article 11 of the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations, dated on December 10, 1948, provides:

"No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed".

² Article 15 of the International Convention on Civil and Political Rights, adopted by the General Assembly of the United Nations, on December 16, 1966, which entered into force on March 23, 1976, provides:

"1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed". If, subsequent to the commission of a criminal offence, the law

The principle of legality is foreseen in the European Convention of Human Rights (ECHR), adopted by the Council of Europe on 4 November 1950 and entered into force on 3 September 1953, the Convention which is ratified by our state, and has a very important place in the hierarchy of legal acts, according to our Constitution. This Convention, as well as the International Covenant on Civil and Political Rights, adopted according to the framework of UNO, provides that, no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed.

The ECHR has provided a similar content to the principle of legality, with the International Covenant on Civil and Political Rights, and also set that favorable criminal law has retroactive effect, and the principle of legality, is not applicable in cases where the action or omission, although did not constitute a criminal offence under national or international law at the time when it was committed, is considered a criminal offense, under the general principles of international law.³

In domestic law, the principle of legality is intended expressly in the Criminal Code, as well in the Constitution of Albania, raising this principle, the constitutional level, which shows once again the importance that he has in criminal law in Albanian. Our Constitution provides that, no one can be punished, but also that no one can not be accused for any act or omission that was not provided as a criminal offense at the time when it was committed.

Also, the Constitution prescribes that, no one can be punished with a sentence heavier than the one that was applicable at the time the criminal offence was committed". At the same time, in accordance with the provisions of international treaties, the Constitution provides that the principle of legality, is not applied, exceptionally, only for acts or omissions which, at the time of their execution constituted war crimes or crimes against humanity, under international law.⁴

The principle of legality as one of the basic principles of criminal law, is provided in the Criminal Code of Albania, in two articles, Article 2 and 3 thereof. . The principle of legality provided is provided in the Criminal Code, it can be summarized in this way: no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, and no one can be punished with a type and measure of punishment which is not provided for in law.

provides for a lighter penalty, the offender shall benefit thereby

2. *This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.*"

³ See also: Article 7 of the European Convention of Human Rights, adopted by the Council of Europe on 4 November 1950 and entered into force on September 3, 1953.

⁴ Article 29 of the Constitution of the Republic of Albania provides that:

"1. No one shall be held guilty of any criminal offence which did not constitute a criminal offence at the time when it was committed., with the exception of offenses which at the time of their execution, constituted offenses like war crimes or crimes against humanity under international law.

2. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed".

3. A favorable criminal law has retroactive effect..

Sub-principles of the principle of legality

Taking into account the way, how the principle of legality is anticipated by the Albanian Constitution, we can conclude that:

a) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed

This sub-principle, it is known in Roman law, with the term "*nullum crimen sine lege*". The above sub-principle, constitutes the main sub-principle of the principle of legality, so when we talk about this principle usually means that it is a sub-principle. Sub-principle of the principle of legality "*nullum crimen sine lege*", means that a person can be charged and be sentenced for the commission of an offense (crime or criminal offense), only in cases when the criminal law, had previously anticipated the act or omission of a person as a criminal offense.

Sub-principle of the principle of legality "*nullum crimen sine lege*", which in a summarized way is stated in Albanian: "no crime without law", requires that the legislator should be able, to anticipate all acts or omissions which constitute an offense, in a democratic society. This is because, if the legislator does such a thing, it may happen that different persons perform acts or omissions that violate human rights and fundamental freedoms or interests of the state and these people are not penalized for action or inaction, because, their act or omission of at the time of the commission was not provided for by law as a criminal offense.

Under the principle of the principle of legality "no crime without law", or "*nullum crimen sine lege*", apart from the obligation that the state should provide by law, all actions or omissions that constitute the criminal offense, there is also the other side which is very important, according to which the state, in a democratic society, should provide as a criminal offense, not any action or omission, but only those actions or omissions which affect or threaten the rights and fundamental freedoms of human interests of the state and society as a whole.

Criminal legal norms, have restrictive and repressive (sentencing) and for this reason, the state should use these norms only when their use is absolutely necessary, and only when the protection of rights and legitimate interests of citizens and / or state, can not be done through these norms, such as, administrative and legal norms, legal and financial, civil justice, etc.

b) No one can be punished with a type and measure of punishment, if is not anticipated by law

This sub-principle of the principle of legality is implemented since the Roman law and was known with the term "*nulla poena sine lege*" which in a summarized way is stated in Albania: "no crime without law". According to this sub-principle, criminal law should provide not only the acts or omissions which constitute an offense, but also the type and measure of criminal penalty, provided for this offense.

The sub-principle: "no crime without law" or "*nulla poena sine lege*", applies not only to the type and measure of punishment, but also to any other measures, the law provides for a person who commits the offense. For those who commit crimes, our Code Penal provides, three main types punishments, fines, imprisonment, and the

sentence of life imprisonment, which applies to persons who commit crimes, , very serious, and present a high risk social.

However, as we will see below, a person can be proved to have committed the offense and against him, should not appointed one of the punishment mentioned above, because at the time when it was committed, this person was mentally insane or has not reached the age of criminal responsibility.

In such cases, although it is proved that the person has committed the offense, whether the offense is too heavy, against this person can not be appointed punishment, with fine or imprisonment or life imprisonment, but, against him, must assigned another measure, different from the punishment of a fine or imprisonment, a measure which, it must also be provided, explicitly, by law, pursuant to sub-principle "there is no penalty if is not anticipated by law".

Today, at a time when more and more demand, so that state power to be exercised in accordance with the principles of state of law, accountability and limited governance, sub-principle, there is no crime without law, It includes not only the obligation of the state to provide, explicitly, types and punishments for acts or omissions that are considered as criminal offenses, but also the obligation to type and the measure of the punishment for the offense, to be fair, then, to be in proportion to the dangerousness of the specific offense . This element is not reflected explicitly in the Criminal Code, however, this does not mean that it is not taken into account by the legislator, when he predicted the types and measures of punishment for any specific offense. Instead, the new draft of Penal Code, our legislator as a rule, has taken into account this element of the principle of legality, by predicting the types and measures of punishment for any offense, in accordance with the danger that they represent. On this issue a great contribution has given the distinguished Italian lawyer Cesario Bechar, in his work "On crimes and punishments", which, in relation to the qualities that the punishment should have for a criminal offense, for the first time he had some new ideas, which persist even today, to the foundation of modern Criminal Codes.

According to Becharias, in order that the provided punishment for a criminal offense, to be fair and necessary in a democratic society, must meet the following qualifications (Salihi, 2012, 83):

- sentence must respond to the need to protect society from crime, because if he decided not to do so, he becomes an act of violence, which is exercised by the state;
- punishment should be in proportion to the offense, the more serious the offense is, the more severe the punishment should be and vice versa;
- punishment should be provided in the interest of the whole society and not for the protection of a particular group;
- punishment should be public, quick, necessary and easier as possible ;
- the purpose of punishment should not be the punishment and revenge, but to prevent the author to commit another offense in the future;
- the higher the level of cultural life of a people is, the lower should be penalties;
- death sentence, except in extraordinary circumstances, it is not necessary, and it is harmful, this sentence is not right and in fact, it is a fight that makes the state against citizens.

The issue of providing fair punishments from criminal law, is treated on the decision

no. 47, dated 26.07.2012, of the Constitutional Court of Albania, which has come to the conclusion that Article 29, last paragraph, and Articles 190 and 191 of the Criminal Code that sanction the prevision, simultaneous, two major penalties , imprisonment and fine, come into conflict with Article 17 of the Constitution and as such should be repealed.

In the above decision, for that matter, among others, it justifies:

".. 39. Consequently, when determining the sentence, the legislative body must not be aware only the principle of providing law of punishment and legal security. He must take into account the concept of guilt , according the principle of state of law and through the design of the sanction, enable a judge to grant a fair and proportionate trial in specific cases. . The concept of guilt and the selective criteria of legal consequences are in a relationship of tension with each other, for which we must find a functional constitutional balance (See the decision BVerfG 105, 135 of the German Constitutional Court).⁵

c) Nobody can be judged or punished twice for the same offense

Another sub-principle of the principle of legality, is to prevent a person by being judged or punished twice for the same offense, sub-principle that was applied in the Roman law, which was known by the name " ne bis in idem " , a term which, in legal language, in Albania, is known as "the already judged thing" . Under this sub-principle, a person who has been judged or punished once, with a final judgment for the commission of a criminal offense can not be judged or punished again for that offense, except when , it has been ordered a retrial of the case by a higher court, according to the procedure prescribed by law.

The principle of the thing already judged or "ne bis in idem", as part of the principle of legality, constitutes, at the same time a principle of international criminal law and is projected by some international agreements ratified by our country. Thus, in Protocol. 7 of the European Convention of the Human Rights, which is part of the Convention, which, as is known, not only is ratified by our country, but occupies a special place in the constitutional and legal system of Albania, it is anticipated that, no one can be prosecuted for an offense for which, previously, been pleaded not guilty or convicted by final judgment. In this protocol it is also provided the exemption under which the right not to be judged twice for the same offense, does not apply in cases where, in accordance with the law and procedure, there come forth facts or new evidence or there is a fundamental gap that may affect a given decision.⁶

This principle lies noted in the International Covenant on Civil and Political Rights, which is also an international agreement ratified by Albania, in which it was determined that no one can be prosecuted or punished for an offense for which he was acquitted or sentenced by a final decision in accordance with the law and penal

⁵ See more: Decision no. 47, dated 26.07.2012 of the Constitutional Court of the Republic of Albania.

⁶ Article 4 of Protocol no. 7 of the European Convention for the Protection of Human Rights provides:

"Nobody can be criminally prosecuted and punished under the jurisdiction of the same State for an offense for which he has already been acquitted or convicted by a final decision in accordance with the law and penal procedure of that State.

The provisions of the preceding paragraph shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if new or newly discovered facts, or a fundamental flaw in the previous procedure are of such a nature that they could affect the given decision"

procedure of that State.⁷ The way this international act has regulated the principle of the thing already judged, it appears that it did not foresee explicitly the exemption under which the application of this principle, does not prohibit the reopening of the process, when it is decided by a higher court, in accordance with the law when out new facts or evidence, or when as a result of a fundamental flaw, it appears that the decision rendered is not fair.

Given the importance that it represents the principle of "the thing already judged", as sub-principle of the principle of legality, it is envisaged, in expressed form, in the Constitution of Albania, in which it is determined that no one can be charged nor punished more than once for the same offense, unless it is decided the retrial of the case by a higher court, according to the procedure prescribed by law.⁸ This principle is material and procedural, which means that not only prohibits a person to be punished twice for the same offense, but prohibits the same person to be judged twice for the same offense, when the decision is final.

However, although this principle has dual nature, both material and procedural and is one of the most important sub-principles of the principle of legality, it is not envisaged in the Criminal Code, but it is provided for only in the Criminal Procedure Code. The latter, in relation to this principle provides that no one can be judged again for the same offense, for which he has been tried before with a final judgment, unless it is decided retrial of the case by competent court.⁹

d) Criminal offenses and penalties, should be provided only by law

Another important sub-principle of the principle of legality, is what is known in the science of criminal law by the name, "*Clause of the legal stocks*", according to which the offenses, penalties and / or other measures taken against the perpetrators of the offense, should be prescribed only by law and not by the rate of any other remedy, as it can be decrees of the President of the Republic, Government decisions, orders etc. In this case, the term "law" should be interpreted in its close terms, therefore, only in the sense of a legal norm issued by the Parliament, according to the procedure provided for in the Constitution, and the Rules of the Assembly and not to the broadest sense, as understood in everyday life by lawyers. The term "law" in the broadest sense, means any norm of the legal system, starting from the Constitution and international agreements ratified by our country, laws passed by the Parliament, decrees of the President of the Republic, laws passed by the Government and other bodies of administrative structures of government and independent institutions, meaning, which, does not apply in the case of criminal law.

Moreover, the Constitution of Albania, for the sub-principle of the principle of legality, has placed an additional guarantee, which is not found in some constitutions of other democratic states. According to our Constitution, an act or omission can be

⁷ Paragraph 7 of article 14 of the International Covenant on Civil and Political Rights provides:

"7. No one can be prosecuted or punished for an offense for which he was previously declared guilty or been convicted by a final decision in accordance with the law and penal procedure of each country".

⁸ See more: Article 34 of the Constitution of the Republic of Albania.

⁹ Article 7 of the Code of Criminal Procedure of the Republic of Albania provides:

"1. No one can be tried newly for the same offense, for which he was sentenced by a final decision, except when it is decided the retrial of the case by the competent court".

criminalized by foreseeing criminal conviction for its performance, not by any law passed by Parliament, but only by a law approved by a qualified majority of 3/5 of all members of the Assembly.

This is the position held by the Constitutional Court of Albania, in some of its decisions, in which it has sanctioned the actions or omissions that constitute a criminal offense, and penalties provided for them, can not be determined by the legislators, through an ordinary law, but only by a law approved by a qualified majority of 3/5 of the members of Parliament. And specifically, the Constitutional Court, with its decision no. 3, dated 05.02.2010, has decided the repeal as incompatible with the Constitution of the Republic of Albania, of the Article 58 of Law no. 10091, dated 05.03.2009 "On legal auditing, organizing profession of accounting expert and chartered accountant", in which it was envisioned as a crime, the unauthorized exercise of the profession of auditor, arguing that this provision, was approved with a simple majority vote and not by qualified majority, as required by Article 81, paragraph 2 of the Constitution of the Republic of Albania.

e) Penal legislation, which provides for criminal offenses and penalties, must be clear and precise

Since the legal-penal norms are of a punitive and restrictive nature for the fundamental rights and freedoms of people, and because they are mandatory for all citizens of a country, regardless of their level of education and intellectual, it is imperative that these standards are drafted clearly and understandable for everyone. This sub-principle of the principle of legality, in the science of criminal law, is also known as "the defining principle" and requires the legislator, when drafting a provision or criminal rate, to develop it, so clear and complete, by avoiding misunderstandings and subjectivisms that may arise from different interpretations that can be made (Elezi, Kacupi, 2014, 56).

The principle of determination or the clarity of the legal-penal rate, as sub-principle of the principle of legality, applies to all the provisions of the Criminal Code, not only to the General Part but also to the Special Part of this Code. Thusm this principle requires the penal norm to define, clearly and legibly, all the elements of the figure of the concrete criminal offense, which must exist in order that the entity to be subject to criminal responsibility for its commission. Also, this principle requires that criminal provisions on criminal liability and conditions that provide criminal penalties or other measures, which could be given to offenders, to be clear and simple to understand by ordinary people.

The principle of clarity and simplicity of the legal-penal rate, is also one of the elements of the principle of legal certainty as one of the basic principles of state of law. If, criminal norm is not clear, but it is dark and difficult to be understood by ordinary people and furthermore by justice professionals, then, this provision seriously violates the principle of legal certainty, and furthermore it violates the principle of legality, part of which it is. Clarity and simplicity of the legal-penal rate, as sub-principle of the principle of legality, it is important not only theoretically but also practicaly, because if the rate is unclear, or it is dark and incomprehensible, the person can not be held criminally liable, under that penal provision. Moreover, we believe that when we are before a criminal rate vague and difficult to understand,

the Constitutional Court must make its repeal, as contrary to the Constitution and international agreements, since it violates the principle of legality, which, as is known, is a constitutional principle, as a principle of international criminal law.

f) Prohibition of analogy

Another important sub-principle of the principle of legality, is to defer application of the criminal law by analogy. The term "implementation of the law by analogy" means the absence of legal provisions for settlement of subject matter, and the judge for its resolution refers to another provision similar to it, or general principles of law or legal order, in general. By implementation of the law by analogy we will understand the cases when the concrete legal-penal norm is missing, which, qualifies the act or omission as a crime and the judge to qualify the act or omission as a crime, refers to another similar penal provision "analogia legis", or refers to the legal order as a whole or the general principles of criminal law "Analog iuris"¹⁰.

Given the importance that represents the sub-principle of stopping enforcement of the criminal law by analogy, this sub-rule is provided in expressed way, in the Criminal Code, Article 1 / c of it, which determines that, application of criminal law by analogy is not allowed.

The essential reason why, in criminal law, law enforcement is not allowed by analogy, has to do with the nature or essence that has itself the criminal law. Since the criminal law by its nature, has a punitive and restrictive nature for the rights and fundamental freedoms, then, it is essential that citizens know exactly and explicitly, which are the actions or omissions that constitute offense, in order to take appropriate measures for not performing them. If we allowed the application of criminal law by analogy, this would lead to uncertainty and anxiety in the lives of citizens because they could stand before a penal punishment for an act or omission that was not predicted earlier by law as a criminal offense, and no one knew of them as such.

Given the different nature that these two rights, at the criminal law, it is not allowed the application of the law by analogy, while the civil law allows its implementation, even in civil law, there is another important principle, which, in certain cases, not only does allow, but obliges the court to apply the analogy. According to this principle applies in civil law, the court can not object to give a decision on resolving the issue through analogy.

Given what was said above, we conclude that the sub-principle that prohibits the application of criminal law by analogy is a guarantee for the protection and guarantees more efficient human rights and fundamental freedoms. However, implementation of this sub-principle, is in full compliance with the principles of state of law and the rule of law in a democratic society. This is because, among other things, if we would accept the allowance of the application of criminal law by analogy, then, in some way, we would allow that not only the law-maker but also the judges, by through application of criminal law by analogy, would create a new penal norm, which it is inconsistent with the principle of separation of powers and balances, which stipulates that, it is the legislator who creates / approves laws, and court interprets

¹⁰ See more: Elezi, I; Kaçupi, S dhe Haxhia, M; "Kommentar i Kodit Penal të Republikës së Shqipërisë, Pjesa e Përgjithshme", Tiranë 2014, page 54.

them, during their implementation.

Conclusions

The principle of legality as one of the basic principles of criminal law of any democratic state, is provided expressly in the legal system of the Republic of Albania. This principle but a principle of the domestic law of any democratic state, is also a principle of international criminal law. As such it is expressly provided, in the most important international acts such as the Universal Declaration of Human Rights, dated December 10, 1948, in the International Covenant on civil and political rights, in the European Convention on Human Rights, etc.

This principle consists of several sub-principles, which were treated, in summary, in this article, such as "nullum crimen sine lege", "nulla poena sine lege", "ne bis in idem", sub-principle determination, prohibition of the application of analogy, etc. Each of these sub-principles of the principle of legality, has a much greater importance, as can be regarded as a separate principle, independent of the criminal law. The effective implementation the principle of legality, with all its sub-principles or elements, plays a dual role in a democratic society:

Firstly: This principle serves as a tool to limit arbitrariness and abuse of state organs, causing them to make their operations subject to the laws and,

Secondly: It is an indispensable tool for recognizing and guaranteeing the rights and fundamental freedoms.

Sanctions and forecast that the legal system in Albania, which includes the country's Constitution, the Criminal Code, but also other laws, make to the principle of legality, is in full compliance with international acts. However, we believe that implementation of this principle in practice, in Albania, still poses problems, which may occur in several directions. In the first note, a lack of legal culture in the implementation of legislation, generally by citizens in Albania, it either due to lack of tradition in this regard, but also because of social problems, such as poverty, low intellectual society, unemployment, etc. Another factor that contributes to the non-compliance of this principle is the lack of legal clarity and simplicity in drafting of the criminal legislation, where several penal provisions have been drafted in a way that is difficult to understand even from the lawyers, let alone by ordinary citizens. Even frequent changes of criminal law, is a factor that affects the failure to implement properly the principle of legality.

One of the most important factors affecting the non-implementation of the principle of legality in Albania, is the existence of a climate of distrust between citizens with each other, which further extends even to the political forces in the country, and to society as a whole, the feature that blongs to the lagging countries. Also, the lack of proper functioning of the justice system, as a result of political pressure exerted upon it, but also because of the professional problems and corruption attributed to this system is an important factor that affects not effective implementation of the principle of legality, as well as non-enforcement of the legal system as a whole, in Albania.

Despite these problems, that Albania presents, for the effective implementation of the

principle of legality, in recent years there were made positive steps in this direction, the justice system in Albania, is located in the stage of a process of profound reform, which will hopefully provide adequate results in this direction. The achievement of these positive results, is above all the demand all of the citizens, but also one of the basic conditions, if Albania wants to integrate into the European Union.

References

- Elezi, I; Kaçupi, S and Haxhia, M (2014). *“Commentary of Republic Albannia’s Criminal Law Part General”*, Tirana.
- Salihi, I. (2012). *“Criminal Law, Part General”*, Pristina.
- Constitution of the Republic of Albania.
- Criminal Procedure Code of the Republic of Albania.
- Penal Code of the Republic of Albania.
- Declaration of the Rights of Man and Citizen, adopted in France, on August 14, 1789.
- European Convention of Human Rights, adopted by the Council of Europe on 4 November 1950 and entered into force on September 3, 1953.
- International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations, on December 16, 1966, which entered into force on March 23, 1976.
- Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations, dated on December 10, 1948.