

The function and content of the enterprise during communism in Albania

Prof. assoc. Dr. PhD (Uni Graz) Mag. Iur (Uni Graz) Endri Papajorgji
Vice Rector and Dean of the Faculty of Law of Tirana Business University

MSc Greta Alikaj
Ministry of Economic Development, Tourism, Trade and Entrepreneurship

Abstract

Marks, Engels and Lenin's ideologies were the foundation of the theory of law, in the Albanian legal system. They were not contra positioned to the private law system, but were in contradiction with the bourgeois society and its private ownership (Reich, 1972, 27). Socialist law literature was based on the principle that state-owned enterprises had great advantages not only compared to enterprises but also compared to large capitalist corporates; not only because of their socialist nature which led to the disappearance of the exploitation of the masses, but also because of their economic nature, as part of a large and mechanized economy in which the successes of modern science and technology could be maximally implemented (Marjani, Malindi, Shtepani, 1982, 16).

Either Article 8 of the Constitution of 1946, nor legal changes to 1950, or Article 26 of the Constitution of 1976 did contain a definition of the enterprise. The Constitution regulated only the basic principles of the planning economy, which was based on the planning economy and state-owned enterprises, cooperatives and other workers associations. Article 26 and 27 of the Constitution of 1976 define the following:

“For the administration of the means, which are in ownership of the people, the state creates companies, which operate in the interest of the society, defined in the state plan”.

“The prices of selling products of the companies and purchase prices of fruit products and animals are determined by the state”.

These constitutional norms forced state-owned enterprises and agricultural cooperatives, to use the means of production in a centralized form, to meet the obligations of the plan and to ensure the interests of society (Çela, Çami, Hysi, Omari, 1978, 125).

In this context, main aim of this article is the function and content of the enterprise during communism in Albania.

Keywords: state-owned enterprise, Albania, communism.

Introduction

In Albania, the laws of 1947 and 1966 about the enterprise contained rules, which defined the enterprise as an entity, which exercised its activity in the sector of production, distribution, services and construction in accordance with the data of the economic plan and pursue the goal of increasing economic efficiency and increasing the standard of the people.

According to Article 35 of the Albanian Civil Code of 1981, state-owned enterprises, agricultural cooperatives and state economic organizations,¹ were legal entities with

¹ According to the doctrine of socialist law, state economic organizations were supervised from major economic units. They assisted the economic organization on the realization of the state plan. The General Directory of Gas worked as a single state economic organization, which had under its supervision a considerable number of gas enterprises, which also function as legal persons; (Biçoku, Hicka, Çela, Sheshi, Ndrenika, 1984, 75).

material and monetary means, which were aimed at the fulfillment of rights and obligations.

Contract disagreements between state enterprises or natural and legal persons were regulated by the courts, except when the arbitration was stipulated in the contract.² Shortly before the collapse of the regime Decree Nr. 7373, "On Enterprises" dated 5.8.1990 entered into force. Article 1 of this decree defined the enterprises as the main unit of the socialist economy, in order to produce goods and implement services. These changes came too late, because on 10.8.1991 law no 7512 "On sanctioning and protection of private property, free initiative, private independent activities and privatization" came into force. The most significant economic organizations during socialism were: a. Agricultural cooperatives; b. Agricultural cooperatives of high type; c. Production and consumption cooperatives; and d. State-owned enterprises.

Agricultural cooperatives

Agricultural cooperatives were agricultural economic entities that had as their basic element the collectivization of all production means. Article 1 of the "Decree on the establishment of agricultural cooperatives" defined agricultural cooperatives as economic units, which united the work and land of the villagers based on their free willingness.³ Theoretically villagers had the right at any time to seek admission to these organizations and after a period of 3 years, they had the opportunity to leave the cooperative (article 3); practically it was compulsory to join cooperatives. Cooperatives capital consisted of the agricultural land, animals and the means of work. Villagers had the right to own up to one hectare and a limited number of animals for the fulfillment their needs (article 13). At the first congress of agricultural cooperatives in 1949, the first statute on founding of the cooperatives entered into force (Biçoku, Hicka, Çela, Sheshi, Ndrenika, 1984, 82). According to this statute agricultural cooperatives consisted of the General Assembly,⁴ which was the highest executive organ, the meeting of Representatives, Audit Committee and Brigade. The statutes of cooperatives should be approved by the General Assembly. The legal capacity of the agricultural cooperatives was acquired by registering in the court of the prefecture; (article 5). Selling of cooperative property was prohibited (Article 9), all means of production, such as: cars, work animals, cooperative buildings, etc., were collectivized.⁵ In the end of 1957-1968 agricultural cooperatives were established, which constituted 46.6% of all agricultural households (Haxhi, 2002, 61). In 1957, the collectivization of agriculture was completed, as 86.6% of all agricultural land belonged

² This procedure was primarily regulated by law no 5009 dated 1.1.1973. Issues related to state bodies procedures and contractual obligations among them were regulated by the state arbitration. The reason for this legal change was related to the closeness of these state administrative bodies with the state arbitration. Another reason was the fast and flexible process; (Çeço, Malindi, Hasani, 1986, 349).

³ In fact the union of villagers in cooperatives was forced by the Communist Party with the aim to establish collective property and repeal private property.

⁴ The decisions were taken only if a minimum of half of the members of the cooperative were present. Qualified majority was taken on the financial and administrative issues of the cooperative. For the election of representatives in the assembly, at least 2/3 of the members of the cooperative had to be present; (Dodbiba & Dervishi, 1956, 114).

⁵ Collectivisation meant a particular form of agricultural property under socialism through the merger of physical persons in organizations, associations or cooperatives. ; (Biçoku, Hicka, Çela, Sheshi, Ndrenika, 1984, 135).

to the state and cooperatives (Schwanke, 1961, 113-114).

Though *Enver Hoxha* was not an economist, after the break with China in the 70-s, he gave the order to complete the collectivization of the economy. For the implementation of the order served article 35 and 38 of the Albanian Civil Code from 1981 (Biçoku, Hicka, Çela, Sheshi, Ndrenika, 1984, 82). The last statute of agricultural cooperatives came into force by the Decision of Council of Ministers no. 437, dated 05.12.1988⁶- in a time when in the city markets and stores agricultural products were no longer offered.

Agriculture cooperatives of the high type

The conclusion of the process of collectivization in 1967 (Biçoku, Hicka, Çela, Sheshi, Ndrenika, 1984, 82) and the increase of agricultural cooperatives facilitated the establishment of agriculture cooperatives of the high type, which were established through the merger of many agricultural cooperatives (Haxhi, 2002, 64). They constituted a singularity of Albania's agricultural sector in comparison to the other socialist states. In Article 1 of the "Decree on the establishment of agricultural cooperatives of the high type" these economic organizations were defined as:

"Large collective economy, which exercises its activity with the means and support of the state"

In this context a statute which regulated this organization came into force.⁷ Agricultural cooperatives of the high type were established from the union of three or four existing agricultural cooperatives. They were established in order to serve the modernization of Albania's national economy, in which the socialist state participated with investments in the form of refundable loans (Höcker-Weyand, 1990, 53), comparable to subsidies with the aim of developing the collective economy (Marjani, Malindi, Shtepani, 1982, 31).

The means of production consisted of: land, work animals, buildings, transportation means and agricultural machines. Every family had the right to own a personal garden up to 300 m². Cooperatives of this type exercised their activity based on a 1-year plan, which was authorized by the executive committees of the people's councils, in accordance with the state's one-year plan. Agriculture cooperative of the high type had the same structure as agricultural cooperatives. With the Constitution of 1976 and the abolition of private property, these organizations became the most important state institution in agriculture.

Production,-fishing,-crafts,-and consumption cooperatives

These economic organizations were established in the early years of the liberation and during the first steps of socialism building. They meet the needs of the members towards lower payments with food (Gjeçovi, Milo, Meta, Sadikaj, Dyrmishi, Rama,

⁶ Decision of the Council of Ministers No 437 On Allowing the Statute of Agricultural Cooperatives, dated 5.12.1988, FI Z 1988, Nr 4, 57.

⁷ Decision of the Council of Ministers No 116 On the approval of High type agricultural cooperatives statute, dated 12.7.1971, FI Z 1971, Nr 8, 117.

Mato, Papagjoni, Kuçuku, Lalaj, Abdyli, Limani, Verli, Vokri, Kosumi, Pushkolli, 2008, 208). Gradually with the development and increase of production and consumption these cooperatives developed their statutes. They had the same bodies with the same competences as agricultural cooperatives. In 1969 craft cooperatives were merged and their activity was transferred to state-owned enterprises.⁸

State-owned enterprises

The establishment and organization of state enterprises was done through decisions of the Council of Ministers. At the same time, the "Law on State Enterprises, dated 22.03.1947" came into force and was amended in 1966, 1971, 1974 and 1990. State enterprises were legal entities defined as economic units based on state properties and exercised their activity on production, services and distribution sectors, in accordance with the national plan. According to Article 200 of the law on civil procedure, they were responsible only with the invested capital (Biçoku, Hicka, Çela, Sheshi, Ndrenika, 1984, 74). State enterprises consisted of 3 bodies: the Director, Technical-economic Council and Administrative Governing Body (Bollano & Backa, 1988, 30-31). The Director organized and directed the activity of the enterprise with the help of the Technical-economic Council, as an advisory body. He was appointed by ministries and was responsible for the economic and financial situation of the enterprise, while subordinate enterprises, departments, sectors, agencies and other headquarters were managed by an administrative governing body (Biçoku, Hicka, Çela, Sheshi, Ndrenika, 1984, 75).

Conclusions

The analysis conducted in this article indicated that the theory of the socialist countries, in the framework of the system of law that was set for 40 years in Albania, was formulated in a different form, which stated⁹ that any private activity for the establishment of economic power was prohibited and that any private economic initiative had ceased to exist. The development of law is comparable with other socialist families. In addition, all economic activities of agricultural-, production-, and consumption cooperatives were transferred to state-owned enterprises. In this context, it is worth mentioning the agricultural cooperative of the high type. The state remained the only manager of economic activities. From this analysis it became clear that a radical break from the past and the old system, could not be accomplished within a few years, after the fall of communism in Albania, but needed a long time to change and adapt the new way of thinking, not only in the institutional and state framework, but also in terms of private property and free entrepreneurial initiative.

⁸ Decision of the Council of Ministers No 33 „On Merger of artisans' cooperatives as economic organizations and the transfer of the activity in industrial state-owned enterprises“, dated 11.3.1968, FI Z 1969, Nr 2, 45.

⁹ See for example article 14 Paragraph 1 of the Constitution of East Germany dated 7.10.1974: „Private economic unions for creating economic power are prohibited“.

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