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Elements of a Democratic Society and State in Transition: the Case of Albania

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Abstract

This paper examines the key elements of a democratic society and state in the transition phase, focusing on the case of Albania. It identifies fundamental elements of a democratic state, such as free and fair elections, the rule of law, freedom of expression, and the role of democratic institutions. By reflecting on Albania's historical context, including the post-communist period and the challenges it has faced in the transition process, specific issues dedicated to the country are discussed, such as political corruption, the rule of law, and political inclusion. Furthermore, the paper evaluates significant steps taken to address these challenges, including judicial reform, the consolidation of democratic institutions, citizen awareness, and the aim of European Union integration. Finally, the importance of foreign assistance and international cooperation in supporting Albania's democratic transition is analyzed. This research aims to provide a comprehensive and informed overview of the challenges and opportunities for a society and state in democratic transition, with reference to the specific case of Albania. Through this analysis, it seeks to contribute to the debate and discussion on increasing awareness and understanding of the democratic transition in the Albanian context and beyond.

Keywords: Transition, corruption, rule of law, reform, elections.

Introduction

Following the collapse of the communist system in the 1990s, Albania faced the challenges of building a democratic society and creating a state that respects the rule of law and human rights. The transition towards democracy is a complex process that requires transformations in institutions, political culture, and citizen engagement. Albania, as a country with a long history of dictatorship and transition challenges, offers an interesting case to examine the key elements of a democratic society and state in the transition phase.

The main purpose of this paper is to analyze and explain the fundamental elements of a democratic society and state in transition, focusing on the specific case of Albania. The aim is to understand the challenges the country has faced during the transition process, as well as the opportunities to progress towards a consolidated democratic society and state. To achieve our goal, we will use a combination of academic sources, reports from international organizations, and official documents to support our arguments and analysis.

Definitions

A democratic society is a broad and complex concept that encompasses many dimensions of social and political life. In a democratic society, power comes from the people and is exercised through democratic processes such as elections, referendums,

public debates, and freedom of expression. Democracy has fundamental values and principles, including respect for human rights, the rule of law, freedom of expression, the separation of powers, and government accountability to citizens.[1] In addition, a democratic society promotes citizen participation in political processes and decision-making, ensures the political and civil rights of individuals, and encourages social dialogue and cooperation.

The Elements of a Democratic State

A democratic state is characterized by fundamental elements that make it function in accordance with the principles and values of democracy. Some of the key elements of a democratic state include:

1. *Elections*: Free and fair elections are an important part of the democratic process. Through elections, citizens have the opportunity to express their political preferences and choose their representatives in governing institutions. [2]
2. *Rule of Law*: A democratic state must respect and enforce the law equally for all citizens. The rule of law is crucial to ensure justice, protect human rights, and ensure the independent and impartial functioning of public institutions. [3]
3. *Freedom of Expression*: Freedom of expression is another key element of a democratic state. It allows citizens to express their opinions, criticize the government, and engage in political and social debates. Media freedom is also an important aspect of freedom of expression.
4. *Civil Society*: A vibrant civil society, including non-governmental organizations, trade unions, and advocacy groups, plays a crucial role in a democratic state. Civil society organizations promote citizen participation, advocate for rights and interests, and provide oversight of government actions.
5. *Human Rights*: Respect for human rights is fundamental to a democratic state. This includes the protection of individual freedoms, equality, non-discrimination, and the promotion of social justice.

These elements are interrelated and mutually reinforcing, creating the foundation for a democratic state that upholds the principles of democracy, respects the rights of its citizens, and ensures their active participation in the decision-making process.

The Role of Institutions in Transitional Society

Democratic institutions play a crucial role in transitional society. These institutions include the parliament, judiciary, independent oversight bodies, ombudsmen, human rights commissioners, and others. The role of these institutions is to ensure the balance of powers and protect the rights of citizens. In transitional society, democratic institutions are essential for improving democratic processes, combating corruption, guaranteeing freedom and justice, and assisting in the development of a lasting democratic culture.

1. *Parliament*: The parliament is a key democratic institution that represents the will of the people and enacts laws. It plays a vital role in shaping policies, providing checks and balances on the government, and facilitating public debate and decision-making.
2. *Judiciary*: An independent and impartial judiciary is essential for upholding the rule of law and ensuring justice. The judiciary interprets and applies laws, protects

[1] Diamond, L. (2008). The Spirit of Democracy: The Struggle to Build Free Societies Throughout the World. Macmillan.

[2] Norris, P. (2014). Why Electoral Integrity Matters. Cambridge University Press.

[3] Rule of Law. (2021). In Encyclopædia Britannica. Retrieved from: https://www.britannica.com/topic/rule-of-law.

individual rights, and safeguards the principles of fairness and equality.

3. *Independent Oversight Bodies*: Independent bodies tasked with oversight, such as anti-corruption commissions and audit institutions, play a critical role in combating corruption, ensuring transparency, and holding government officials accountable for their actions.
4. *Ombudsman and Human Rights Commissioners*: Ombudsmen and human rights commissioners act as independent watchdogs, protecting and promoting the rights of individuals. They investigate complaints, address grievances, and advocate for human rights within the society.

These institutions work together to establish a system of checks and balances, safeguard democratic principles, and protect the interests and rights of citizens. They contribute to the stability, transparency, and accountability of the transitional society.[4]

Furthermore, it is essential for these institutions to have sufficient resources, independence, and public trust to effectively carry out their mandates. Strengthening these institutions and ensuring their integrity and effectiveness is crucial for the successful transition to a consolidated democratic society.

The historical context of transition in Albania - Transformation from dictatorship to democracy

Albania underwent a long and challenging path towards democratic transition after the collapse of the communist dictatorship in 1990. After decades of authoritarian rule and restrictions on freedom, the Albanian people faced a significant task: to build a society and a state based on the principles of democracy and justice. The transition from dictatorship to democracy was not an easy process. Albania experienced major political, economic, and social changes. Political power shifted from a totalitarian regime to a democratic system, bringing forth numerous challenges and political conflicts. The importance of democratic institutions was emphasized, and it was necessary to establish and strengthen institutions to support and preserve the democratic process.[5]

Challenges and difficulties in the transition process

The transition process in Albania faced numerous challenges and difficulties. Some of the main challenges include:

Economic transition: Albania encountered significant challenges in the economic field following the fall of the communist regime. While doors were opened to a free market and economic reforms were undertaken, the process of restructuring and modernizing the country's economy was challenging and involved a lengthy transition.

Corruption: One of the major challenges in Albania's democratic transition has been corruption. The high level of corruption has affected the development of democratic institutions, hindered the rule of law, and impeded efforts to promote transparency and accountability.

Political polarization: Albania has experienced deep political polarization, which has hindered cooperation and dialogue among political actors. This has had an impact

[4] Méndez, J. E., & O›Donnell, G. (Eds.). (2014). The Role of the Judiciary in the Consolidation of Democracy: Lessons from South America. University of Notre Dame Press.

[5] Zmas, A. (2012). The Transformation of the European Educational Discourse in the Balkans. European Journal of Education, 47(3), 364–377. http://www.jstor.org/stable/23272460.

on political stability and the country's ability to improve democratic processes and develop strong institutions.[6]

Despite the challenges and difficulties of the transition, Albania has made considerable progress towards a democratic society and state. It is important for this process to continue with full commitment and dedication to fulfill the principles and values of democracy.

Challenges of a society and democratic state in transition like Albania - Political corruption

One of the key challenges for a society and democratic state in transition is political corruption. Albania has experienced a high level of corruption, where narrow political interests have influenced decision-making processes and key state institutions. Political corruption has led to a lack of trust in public institutions by citizens and a decrease in support for the democratic process. To address this challenge, it is necessary to strengthen the rule of law and justice and take further steps to combat corruption. Despite some efforts being made for judicial reforms and the establishment of independent investigative mechanisms, it is crucial to continue the fight against corruption and establish strong mechanisms for the prevention and punishment of political corruption.[7]

Concerns Regarding the Rule of Law and Human Rights

The rule of law and respect for human rights are essential for a society and a transitional democratic state. However, there have been concerns and criticisms regarding these aspects in Albania. One of the main issues is the lack of independence of the judicial system and political influence in judicial processes. This has led to the instrumentalization of the judiciary for political interests and a lack of transparency and objectivity in decision-making.[8] This challenge to the rule of law has created distrust in the judicial system and has hindered the development of a strong democratic society.

To address these challenges, it is important to strengthen the institutions of justice, ensure full independence of the courts, and take steps to increase transparency and accountability in the judicial system. Additionally, promoting and protecting respect for human rights, including freedom of expression and media freedom, is necessary.

Political Involvement and Influence of Narrow Interests

In the democratic transition of Albania, another significant challenge is political involvement and the influence of narrow interests. Due to political polarization and intense political competition, there have been concerns about the use of public institutions for personal and partisan interests. This has affected objective decision-making and the ability of institutions to fulfill their democratic role. To meet the requirements of a democratic society and state, it is important to take measures to ensure the independence and integrity of public institutions. Reforms in the electoral

[6] Loughlin, John & Bogdani, Mirela. (2007). Albania and the European Union: The Tumultuous Journey to Integration and Accession. 10.5040/9780755619511.

[7] Åse B. Grødeland. (2013). Public Perceptions of Corruption and Anti-Corruption Reform in the Western Balkans. The Slavonic and East European Review, 91(3), 535–598. https://doi.org/10.5699/slaveasteurorev2.91.3.0535

[8] Rupa, Y. (2017). The Albanian Reform in the Institutions of Justice and Its Impact on the Integration of Albania in the European Union. Mediterranean Journal Of Social Sciences, 8(1), 196. Retrieved from https://www.mcser.org/journal/index.php/mjss/article/view/9681

system and the separation of powers are essential to enhance accountability and prevent political interference in institutions. [9] Citizen engagement and involvement of civil society organizations in the political process are also important to strengthen democracy and ensure the representation of broad societal interests.

Institutional Capacity and the Effectiveness of Public Administration

Another challenge for a society and transitional democratic state is institutional capacity and the effectiveness of public administration. After years of dictatorship, Albania faced the need to build democratic and functional institutions that could fulfill their duties. However, there have been deficiencies in public administration, such as corruption, nepotism, and a lack of necessary competencies. To address this challenge, measures need to be taken to strengthen institutional capacity and improve the performance of public administration. Investing in training and development of public servants, establishing mechanisms for control and accountability, and utilizing technology to enhance efficiency are important steps towards a responsible and effective administration.

The Media and Their Role in a Democratic Society

The role of the media is crucial in a democratic society and state. They contribute to promoting transparency, accountability, and freedom of expression. However, during Albania's democratic transition, the media has faced challenges and obstacles. One of the main challenges is political control and influence over the media. Albania has experienced political interference in the flow of news and biased political preferences. This has limited freedom of expression and hindered the development of independent and objective media. To ensure media freedom and their role in a democratic society, it is important to take steps to promote media independence, strengthen professional and ethical standards, and encourage diversity of opinions. Ensuring equal access to information and developing independent media protected from political influences are crucial steps to improve the media climate and promote an informed democratic society.

Opportunities and Challenges of Albanian Democratic Transition

The democratic transition in Albania is a complex and challenging process that has brought profound changes to society and the governance system. To progress towards a consolidated democratic society and state, it is necessary to address several challenges and leverage the available opportunities.

Justice reform and the fight against corruption

Justice reform is a key step towards the consolidation of democratic transition in Albania. Corruption and the lack of independence in the judicial system have been major challenges on the path to the rule of law and political stability. In this context, a comprehensive reform process has been initiated to improve the independence, efficiency, and accountability of the judicial system. In the fight against corruption, it is crucial to take measures to strengthen public accountability institutions, increase transparency and accountability in the administration, and foster a culture of awareness and respect for rules. .[10] Collaboration with international organizations

[9] Merita Toska, Anila Bejko (Gjika) (2019) Decentralisation and Local Economic Development in Albania, Annual Review of Territorial Governance in the Western Balkans, I, 2019, 53-68 https://doi.org/10.32034/CP-TGWBAR-I01-05

[10] U4 Anti-Corruption Resource Centre, 2011, Albania: overview of corruption and anti-corruption https://www.

and improving the control and monitoring system are also important to combat corruption.

Political stability and the consolidation of democratic institutions

Political stability is a primary priority on the path to successful democratic transition in Albania. Political challenges, polarization, and ideological divisions have affected political stability and the functioning of democratic institutions. To consolidate democratic transition, it is necessary to strengthen mechanisms for political dialogue, promote cooperation, and improve the political climate to achieve consensus and broad stability. The consolidation of democratic institutions is another key aspect to progress towards a society and state in democratic transition. Strengthening the Parliament, independence of the judiciary, effectiveness of public administration, and respect for human rights are crucial elements to ensure the functioning of democratic institutions. [11] Enhancing institutional capacity and promoting accountability are challenges that Albania needs to address to strengthen democratic institutions.

Raising awareness and citizen engagement

In democratic transition, raising awareness and citizen engagement are crucial to strengthen democracy and influence political processes. Increasing awareness and educating citizens on democratic issues and their rights is an important step to promote active participation and positive citizen influence in political decision-making. Civil society organizations and independent media play a significant role in this process. Continuing campaigns to educate and improve the effectiveness and quality of awareness are recommended to increase citizen engagement. It is evident that the more educated the society is, the higher the likelihood of participation in voting, which translates into citizen engagement. However, there is still a significant group of "passive citizens" identified.[12]

Integration into the European Union as a main aim

Integration into the European Union is a key objective for Albania on the path to democratic transition. EU membership offers the perspective of improving justice standards, democracy, and economic development. To achieve this goal, Albania needs to engage in the inclusion and implementation of comprehensive reforms in all areas of political, economic, and social life.

The Significance of External Aid and International Cooperation

In the democratic transition of Albania, external aid and international cooperation play a crucial role in advancing the process and strengthening democratic society and the state. Financial and technical assistance from international organizations and other countries have contributed to the strengthening of Albania's democratic transition. This assistance has been provided to support economic development, improve infrastructure, enhance institutional capacities, and promote reforms in various areas of governance. [13] Financing development projects, personnel training, as well as the transfer of technology and expertise from other countries, have facilitated improvements in the conditions for democratic transition.

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u4.no/publications/albania-overview-of-corruption-and-anti-corruption.pdf.

[11] Schmitz, H. P. (2004). Domestic and Transnational Perspectives on Democratization. International Studies Review, 6(3), 403–426. http://www.jstor.org/stable/3699697.

[12] As shown from the data collected in the research on "Self-Assessment of Citizen Participation and Engagement in Albania" in framework of PhD research of author.

[13] European Commission. (2019). EU Assistance to Albania. Retrieved from: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2019/al_assessment_report_2019.pdf .

International institutions such as the European Union, the United States, the United Nations, the International Monetary Fund, the Organization for Security and Cooperation in Europe, and NATO have played a significant role in promoting democracy and stability in Albania. In addition to financial and technical assistance, these organizations have provided monitoring and evaluation of the democratic transition process and influenced the determination of political agendas and necessary reforms. [14] Relations with other countries, including strategic partnerships and bilateral cooperation, have contributed to the exchange of experiences and knowledge transfer for democratic transition.[15] The importance of external aid and international cooperation cannot be underestimated in Albania's democratic transition. Continuous efforts are necessary to ensure ongoing assistance and cooperation with international organizations and other countries to achieve a sustainable democratic society and state.

Conclusion and Recommendations

Overall, Albania's democratic transition has witnessed significant progress in recent years. Advancements have been observed in areas such as freedom of expression, institutional independence, economic development, European integration, and improvement in citizens' living conditions. However, substantial challenges remain to achieve a complete and sustainable democratic society and state. Future challenges encompass political, economic, and social spheres. It is crucial for Albania to continue on the path of justice reforms, anti-corruption efforts, improvement of institutional capacities, and guaranteeing media freedom. Sustained commitment to European integration and the strengthening of international cooperation are also essential to ensure a promising future for Albanian society and its democratic transitional state.[16] If Albania successfully addresses current challenges and continues on the path of reforms and modernization, it has the potential to consolidate a sustainable, inclusive, and developed democratic society and state.

References

Åse B. Grødeland. (2013). Public Perceptions of Corruption and Anti-Corruption Reform in the Western Balkans. The Slavonic and East European Review, 91(3), 535–598. https://doi.org/10.5699/slaveasteurorev2.91.3.0535

Diamond, L. (2008). The Spirit of Democracy: The Struggle to Build Free Societies Throughout the World. Macmillan.

European Commission. (2019). EU Assistance to Albania. Marrë nga https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2019/al_assessment_report_2019.pdf

European Commission. (2020). Albania 2020 Report. Marrë nga https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20200506-albania-report.pdf

Freedom House. (2021). Freedom in the World 2021 - Albania. Marrë nga https://freedomhouse.org/country/albania/freedom-world/2021

IMF. (2021). Albania and the IMF. Marrë nga https://www.imf.org/en/Countries/ALB

[14] IMF. (2021). Albania and the IMF. Retrieved from: https://www.imf.org/en/Countries/ALB.

[15] NATO. (n.d.). Albania and NATO. Retrieved from: https://www.nato.int/cps/en/natohq/topics_49212.htm

[16] European Commission. (2020). Albania 2020 Report. Retrieved from: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20200506-albania-report.pdf.

Loughlin, John & Bogdani, Mirela. (2007). Albania and the European Union: The Tumultuous Journey to Integration and Accession. 10.5040/9780755619511
Méndez, J. E., & O'Donnell, G. (Eds.). (2014). The Role of the Judiciary in the Consolidation of Democracy: Lessons from South America. University of Notre Dame Press.
Merita Toska, Anila Bejko (Gjika) (2019) Decentralisation and Local Economic Development in Albania, Annual Review of Territorial Governance in the Western Balkans, I, 2019, 53-68 https://doi.org/10.32034/CP-TGWBAR-I01-05
NATO. (n.d.). Albania and NATO. Marrë nga https://www.nato.int/cps/en/natohq/topics_49212.htm
Norris, P. (2014). Why Electoral Integrity Matters. Cambridge University Press.
Rule of Law. (2021). In Encyclopædia Britannica. Marrë nga https://www.britannica.com/topic/rule-of-law
Rupa, Y. (2017). The Albanian Reform in the Institutions of Justice and Its Impact on the Integration of Albania in the European Union. Mediterranean Journal Of Social Sciences, 8(1), 196. Retrieved from https://www.mcser.org/journal/index.php/mjss/article/view/9681
Schmitz, H. P. (2004). Domestic and Transnational Perspectives on Democratization. International Studies Review, 6(3), 403–426. http://www.jstor.org/stable/3699697
U4 Anti-Corruption Resource Centre, 2011, Albania: overview of corruption and anti-corruption https://www.u4.no/publications/albania-overview-of-corruption-and-anti-corruption.pdf
Zmas, A. (2012). The Transformation of the European Educational Discourse in the Balkans. European Journal of Education, 47(3), 364–377. http://www.jstor.org/stable/23272460

Essential Contract Conditions

Assoc. Prof. Dr. Luan Hasneziri

Abstract

In regard to the contract conditions, it should be stated in advance that they constitute a concept that is treated more by the doctrine of contract law than by legal norms, nevertheless, as demonstrated below, there are several provisions in the civil legislation that indirectly provide for the contract conditions, in cases where the law stipulates about the conclusion of the contract or about a certain category of contract conditions, such as "general conditions".
This paper shall focus on dealing with two main issues related to the essential contract conditions. The first issue will deal with the meaning and content of the essential contract conditions, as well as their difference with its essential elements. A special attention shall be paid in this case to the issues encountered regarding the correct understanding of these conditions and the difficulties that the judicial practice has confronted in this regard.
In the second issue, the focus shall be on a detailed treatment of the "general conditions" of the contract as one of the main types of essential conditions. These conditions are becoming more and more present in today's commercial practice and are conditions that are drawn up in advance by one party, whilst the other party is entitled to make only additions or changes thereof, and the existence of such conditions bring into being the so-called "contracts of adhesion" or contracts that are concluded on the basis of forms or models.
In this issue, the ideas of different authors shall be subject to discussion regarding the fact, whether in contracts of adhesion the will of the parties to conclude the contract is completely free or not and the measures that the legislator should take when these contracts are concluded by entities that provide monopoly services in society. At the end of the paper, its conclusions will be provided, as well as the bibliography on which it is based.

Keywords: contractual freedom, general contract conditions, the will of the parties, contracts of adhesion, sustainable economic development.

1. Introduction

For the essential contract conditions, before conveying their meaning, it is appropriate to distinguish between them and the elements of the contract. Making this distinction is necessary because in some cases from the theory of contract law and from judicial practice, it is found that these legal concepts are mixed or confused with each other, whilst they are essentially different.
Moreover, the difference between the elements of the contract and its conditions is also necessary for the other fact that for one of the types of contract conditions, specifically for its essential conditions, there is a great similarity with the essential elements of the contract, since both they are necessary for the existence or validity of the contract.
Nevertheless, between the essential elements of the contract and its essential conditions, there are differences both in the formal-legal aspect and also in terms of their essence or nature and their content. Thus, from the formal-legal point of view, *the essential elements of the contract differ from its essential conditions, because the former are expressly provided for in the law completely or exhaustively*, and there are only four;

the will of the parties, the object, the cause and the form, whilst the essential contract conditions are not provided by the law in an express and exhaustive manner, on the contrary, *with the exception of the contract object, the other conditions are countless and are provided by the law usually in each specific contract concluded by the parties.* Another difference from the formal-legal point of view between the essential elements of the contract and its essential conditions is that *the essential elements are provided only by the law, even exhaustively, whilst the essential conditions are provided not only by the law but also by the will of the contracting parties*. Apart from the formal point of view, the essential elements of the contract differ from the essential conditions in terms of their nature and content, regardless of the similarities between them. Therefore, it is true that both the essential elements and one of the essential contract conditions which is *the object, are necessary for the existence or validity of the contract,* but on the other hand there are differences between the object as the essential element and the object as one of the essential contract conditions.

Therefore, *the object as an essential element of the contract is consistent with the content of the contract,* consisting in the obligation of the debtor to deliver an item or to perform or not perform a certain action, against which there is the right of the creditor to request the delivery of the item or the performing or not performing of the action. On the other hand, *the object as an essential condition of the contract means the concrete materialization of the object as an essential element, constituting the concrete thing or right, or the action or inaction that the parties agree upon for the conclusion of the contract.*

Another difference between the object as an essential element of the contract, with the object as its essential condition is the fact that *the object as an essential element of the contract is a broader legal concept,* which also includes the conditions for it to be valid, which are its legality, as well as the fact that it is possible, defined or definable, *whilst the object as an essential condition is a narrower concept, as it means a concrete thing or right, or the performance or non-performance of one or several actions exactly defined,* as well as the object as an essential condition of the contract does not deal with the conditions of validity of the object, which it borrows from the doctrine of contract law when it treats the object as an essential element of the contract. As a final difference between the object as an essential element of the contract and the object as its essential condition, we may affirm that in the first case *when we elaborate on the object as an essential element, we have in mind an abstract legal concept,* which in order to be understood needs detailed legal treatments and clarifications, whilst when we mention *the object as an essential condition of the contract, we are in front of a concrete legal concept,* tangible from a legal point of view, which consists of the concrete thing or right or concrete action or inaction for which the parties have agreed for the stipulation of the contract and being a concrete concept, it is easily understandable and it is not necessary to make a detailed legal treatment for its clarification[1].

Having made the main distinctions between the essential elements of the contract and its essential conditions, making other distinctions between the essential elements of the contract and the other contract conditions, which are the usual and incidental conditions is easier and more understandable, therefore it is not necessary to dwell in detail on these differences, with only mentioning them being sufficient. Thus, the essential elements of the contract differ from its usual conditions, because *the*

[1] See also: Tutulani-Semini; M; "*The Law of Obligations and Contracts, the General Part and the Special Part*", published by the publishing house "*Skanderbeg Books*", Tirana 2016, page 65.

former are expressly provided by the law as necessary elements for the being or existence of the contract, whilst the usual conditions are provided by the law as part of the content of each separate contract and are not related to the validity or invalidity of the contract. Moreover, the essential elements of the contract differ from the incidental contract conditions, *because the latter are provided by the parties in order to build their economic interests,* conditions which should not come under the mandatory norms of the law, *whilst the essential elements have a completely different nature, they are necessary for the existence or not of the contract.*

It is also necessary to distinguish *between the incidental contract elements, with the incidental contract conditions, since they have in common the fact that they can be foreseen by the parties and are not provided in law as part of the existence or validity of the contract.*

The first difference that exists between them is the fact that *the incidental contract elements are provided, expressly in the law, exhaustively and there are only three; the condition, term and encumbrance, meanwhile incidental conditions are provided by the will of the contracting parties and not by the law.*

Another difference between incidental contract elements and incidental conditions is that the latter *can be provided by the parties even to change the usual contract conditions or to make provisions contrary to the usual conditions,* which is not the case with incidental contract elements. Another difference between the incidental contract elements and the incidental conditions is the fact *that the incidental contract elements, if included as part of the content of the contract, may be transformed as essential contract conditions, which is not the case with the incidental contract conditions.* For instance, if the parties conclude a sales contract with a suspensive condition, this circumstance, the suspensive condition which is an incidental element of the contract, constitutes an essential condition of the contract, since only with its verification, the sales contract can be concluded by the parties thereto, if the suspensive condition is not verified, the contract is considered void, as if it does not exist between the parties.

Of the three types of contract conditions, its *essential conditions* are the most important conditions, which *must be stipulated by the parties to the contract, otherwise the contract does not exist or is invalid.* The applicable Civil Code, does not contain any special provision by which to give the meaning of the essential contract conditions, leaving this issue for solution to the doctrine of contract law.

Nevertheless, there is a provision in the Civil Code from the interpretation of which the meaning of the essential contract conditions can be derived. This provision is its article 676 which provides for the cases when the contract is considered concluded, according to which *it is considered stipulated when the parties have agreed on all its essential conditions*[2].

From the interpretation of this legal provision, in compliance with other provisions of the Civil Code, it can be affirmed that the essential contract conditions are those that are necessary for the conclusion of the contract and the absence of one or some of them leads to making the contract void or absolutely invalid. Such conditions must exist in any contract, depending on the specific contract concluded by the parties thereto, expressly in the special part of the contract law. These conditions must also exist in cases where the parties enter into an atypical or unnamed contract, which

[2] The first paragraph of Article 676 of the Civil Code provides:
"The contract is stipulated when the parties have demonstrated their mutual will, agreeing to all the essential conditions of it.".

are contracts that are not expressly regulated by the provisions of the Civil Code and where the existence of the essential contract conditions may be more difficult to ascertain.

The applicable Civil Code, apart from not providing the meaning of the essential contract conditions, does not even provide in its provisions what these conditions are concretely, leaving the solution of this matter to the theory of contract law and judicial practice. On their part, it is accepted that *as essential contract conditions are all those circumstances and facts that are provided, expressly by the law or by the agreement of the parties, which are necessary for its existence.*

The doctrine of contract law, when it mentions the essential contract conditions, takes into account *the essential conditions that must exist in any contract, regardless of the type of contract or concrete contract that the parties have concluded.* Given that the parties, whilst conducting their economic and business activity, may conclude various types of contracts that are provided for by civil legislation, including atypical contracts that do not find express regulation in this legislation, *the doctrine of contract law has agreed in unison that the only essential condition that must exist in all contracts is the contract object.* If the contract lacks its object, then the contract does not exist or is incomplete, since the contract object constitutes, as discussed above, one of its essential elements and without the contract object we cannot consider the contract as one of the main types of legal transactions[3].

Apart from the contract object which is a universal or general essential condition for all types of contracts, other conditions may or may not be essential, depending on the specific type of contract that the parties have entered into. *For bilateral contracts with a consideration, it is generally accepted that, in addition to the object, price and term are their essential conditions.* For instance, in the sales contract or in contract of entrepreneurship, price and term are essential conditions in addition to the object.

This is due to the fact that, if the parties do not provide in the sales or business contract the sales price that the buyer must pay for the purchased item or the price that the customer must pay for the work performed by the entrepreneur or they do not define the concrete conditions according to which this price becomes definable, then, the parties thereto have not agreed on all the essential contract conditions and consequently there is no contract concluded between them. The same can be affirmed about the deadline in these two contracts, if the parties do not foresee a deadline for the delivery of the item from the seller to the buyer or for the delivery of the work from the undertaker to the customer or do not define the concrete conditions and circumstances when it becomes definable, this indicated that the parties have not agreed on all the essential contract conditions and have not entered into any contract.

Nevertheless, it is worth emphasizing the fact that *the price and term of the contract do not constitute in any case essential contract conditions even when we are dealing with bilateral contracts with consideration,* such as the sales contract or in a contract of entrepreneurship, treated in the example provided above. This is because in the sales contract, the parties may determine the contract object, which is an essential condition for any type of contract, and they may not determine the price, nor foresee the circumstances and conditions when this price will become definable later and *again the contract will be valid and it's considered that the parties have agreed on all its*

[3] See also: Tutulani-Semini; M; "*The Law of Obligations and Contracts, the General Part and the Special Part"*, published by the publishing house "*Skanderbeg Books*", Tirana 2016, page 64.

essential conditions. In these cases, the price of the item sold can be determined by by-law, or when there is a market price or stock exchange or basket price for that type of item, it can be determined by referring to these lists.
The same can be affirmed about *the deadline as an essential contract condition, which is not the same in every case even in contracts with consideration*. Thus, in the example of the contract of entrepreneurship, if the parties have not determined the concrete deadline for the delivery of the work by the entrepreneur and its acceptance by the customer or have not determined the concrete conditions and circumstances when this deadline can become definable later, again the contract of entrepreneurship is valid, because the deadline for the delivery of the work can be determined by the by-laws or it can be determined by commercial customs and finally it can be determined by a court decision.
To conclude, it can be affirmed that the price and term are not essential conditions for the existence of any contract and this may be one of the reasons why the Civil Code has not provided, in an express way, what the essential contract conditions are. In addition to the object, which is an essential condition for all types of contracts, the *price and term are essential conditions, only for those contracts that the law expressly provides that they are as such*[4].

2. The general contract conditions and the difficulties of their accurate understanding

The doctrine of contract law as part of the essential contract conditions also accepts its "general conditions", which are provided by civil legislation. *The general contract conditions are those circumstances, facts and clauses of the contract which have been prepared and drawn up in advance by one contracting party, which is usually also the most powerful economic party, and which are offered to the other party for acceptance, the latter choosing to accept or not the contract.* Contracts in which general conditions are provided are known as standard contracts or type contracts or *adhesion contracts.* Such contracts in the conditions of today's economic development and the fastest and uniform circulation of goods and services are becoming more and more important, especially in developed capitalist countries with high living standards, but their importance is growing recently also in Albania.
These contracts are usually reflected in forms and models, in which the general contract conditions are provided, which in fact constitute all the conditions contained in the contract, since it does not have any conditions other than the general conditions drawn up by one party and which are offered to the other party for signature and for concluding the contract. A typical example of standard contracts where the general contract conditions are usually reflected in forms and models are contracts of life, health and property insurance that appear in the form of an *Insurance Policy*, where the contract conditions are all drawn up by the insurance company and the other party practically has no choice whether to sign the contract or not.
We use 'practically' intentionally in these contracts considering the other party has no choice, since legally and theoretically it has the possibility to add other conditions to these contracts, *and even the conditions added by the parties to the contracts drawn up in certain forms or models, have priority over to the conditions previously drawn up in the forms by the other contracting party, if there is inconsistency between the added conditions and the*

[4] See also: Nuni, A; Mustafaj, I; Vokshi, A; *"The law of obligations Part I",* Tirana 2008, page 58.

conditions provided for in the forms, even if the latter have not been expressly abrogated. Such a fact is expressly provided for in the Civil Code, according to which in contracts in which the contract conditions are reflected in forms or models and whose purpose is the uniform regulation of certain contractual relationships, the other contracting party is entitled to add new conditions and the conditions added to these forms take precedence over the conditions that were previously provided thereof, if there is any inconsistency between them, even if they are not expressly abrogated[5].

Regarding the general contract conditions, our civil legislation states that they have an effect on the other party only if, at the time of the conclusion of the contract, the latter knew these conditions or should have known them by showing due care. As can be stated, it is required that the contracting party, which has not drawn up the contract conditions, is attentive and careful when concluding a standard or adhesion contract, the conditions of which have been drawn up in advance by the other party in forms or models, so that they consider these conditions by reading and studying them carefully and must exercise the due care of a person of average quality in understanding them, otherwise they cannot claim that they are not valid.

Based on the fact that the general contract conditions, reflected in certain forms or models, are usually drawn up by the party that is economically stronger, but also has the necessary legal knowledge in the field of contract law, and since these conditions are drawn up in advance only by one party, without negotiations or talks with the other party, which is usually the weaker party from an economic point of view and without the appropriate legal knowledge, *the law has provided a special legal protection for the weaker party in these cases.* Therefore, *according to the applicable Civil Code, the general conditions that cause a disproportionate loss or damage to the interests of the contracting party are invalid, especially those conditions that differ substantially from the principles of equality and impartiality that govern the contractual relations as provided by the civil legislation* [6].

In addition to general conditions that cause a disproportionate loss or damage to the interests of the other contracting party and that differ substantially from the principles of impartiality and equality that regulate contractual relations, which are in any case void, the civil law has provided protection for the weaker party also for some other conditions, *but these conditions will be valid if they have been approved, in writing, specifically by this party*[7].

Consequently, one of the general conditions that are not valid unless approved in writing, specifically by the party that did not draft them, are the conditions that impose limitations on the liability of the party that previously drafted them. According to contractual law, each

[5] Article 687 of the Civil Code of the Republic of Albania provides:

"In contracts made by subscribing to models or forms aimed at the purpose of regulating certain contractual relationships in a uniform manner, clauses added to such models or forms prevail over the original clauses of said models or forms, when they are incompatible with them, even though the latter have not been abrogated ".

[6] The second paragraph of the Civil Code of the Republic of Albania provides:

" The general provisions that bring about a loss or disproportional infringement of the interests of the contracting parties are invalid especially when they differ essentially from the principles of equality and impartiality provided for in the provisions of this Code that regulate the contractual relationships.

[7] The third paragraph of the Civil Code of the Republic of Albania provides:

"Conditions are ineffective when they establish in favor of him who has prepared them previously, limitations of liability, the power to withdraw from the contract, or to suspend its performance, or which imposes time limits involving forfeitures on the other party, limitations on the power to raise counterclaims, restrictions on contractual freedom in relations with the third parties, arbitration clauses, or derogations from the competence of the courts, except when adopted separately in written by the other party.

of the parties is responsible for fulfilling the obligations assumed by the contract, based on the principles of bona fide and impartiality.

Another general condition drawn up in advance by one contracting party, which is not valid unless approved in writing, separately by the other party, is *that which limits the possibility of the party that did not draw up the contract conditions to withdraw from the contract*. Based on the principle of contractual freedom, each of the contracting parties is entitled to withdraw from the contract they have concluded, respecting the legal provisions that regulate this issue and the provision of conditions by one contracting party that limits the right of the other party to withdrew from the contract, contradicts the principle of contractual freedom and the autonomy of the will, and therefore these conditions are not valid, except when they have been approved, separately in writing by the other party.

Other general conditions that have been drawn up in advance by one contracting party, which are not valid unless approved in writing, separately by the other party, are *those related to the establishment of limitations of the other contracting party's right to adducing evidence".*

Adducing evidence is a legal concept that is addressed by the Code of Civil Procedure and the theory of civil procedural law, according to which *the party against whom the transaction is filed is entitled to make objections regarding the validity of the transaction brought against them based on evidence and law*. Adducing evidence is a procedural means of protection used by the defendant against the plaintiff, which is within the object of the lawsuit and through which the defendant presents its legal and factual claims regarding the acceptance or not of the filed lawsuit[8].

Since adducing evidence is one of the most important means of protection used by the defendant in a civil process, the provision by one of the contracting parties of limitations for the exercise of this right, fundamentally violates the adversarial principle and the principle of equality in the civil process, therefore such conditions are not valid, unless approved in writing, separately by the other consumer party. In this case, we apparently have a conflict between the norms of public law, which are the provisions of the Code of Civil Procedure, which require in every case to apply the principle of equality of the parties and the adversarial principle in the civil process, and the norms of private law which are the provisions of the Civil Code that provide that the parties to the contract can provide for general conditions drawn up in advance by one party, which impose restrictions on the right of the other party to adducing evidence, if they have been approved in writing, separately from the other consumer party.

Nevertheless, as an exception to the rule in standard or adhesion contracts, the party drafting the general contract conditions may provide for certain conditions that limit the contractual freedom of the other party in relationships with third parties, if they have been approved in writing, separately from the other consumer party and these conditions are valid. For instance, in a standard contract for the supply of liquefied gas for heating, the party that has prepared the contract conditions in advance can set restrictions so that the other party does not enter into contracts for the supply of gas with other entities operating in the gas market and these conditions to be valid, if the other party has agreed, approving them in writing, separately such conditions. Other general conditions that have been drawn up in advance by one contracting

[8] See also: Tafaj, Flutura; Vokshi, Asim; *"Civil Procedure, First Volume",* Tirana 2021, page 243.

party, which are not valid unless approved in writing, separately by the other party, are *those that impose restrictions on the right to refer to the arbitration court.* The resolution of disputes and conflicts between the parties can be performed by them by turning to the competent court or arbitration, which is an alternative way of resolving disputes, which, in addition to the disadvantages, also has some advantages compared to judicial resolution, such as the lack of formality, the choice of arbitrators by the parties, the shortest time for the resolution of the dispute, the resolution of the dispute by experts in the field, etc.

The final conditions drawn up in advance by one contracting party, which are not valid unless they have been approved in writing, separately by the other party, are *those that impose restrictions regarding the avoidance of the powers of judicial bodies*. These general conditions specifically limit the right of the other contracting party to go to court, in case of disputes between the parties regarding the implementation of the contract.

In addition to the Civil Code, general conditions drawn up in advance by one contracting party, which are not valid unless they have been approved, separately in writing by the other party, are also provided for by law no. 9902, dated 17.4.2008 "*On consumer protection*", amended. The detailed treatment of these general conditions is beyond the scope of our subject, but herein we will only stop at touching upon such conditions, since their citation is crucial given that even according to the above special law, it is stipulated that similar rules apply, to those provided by the Civil Code, for the general contract conditions.

According to the law no. 9902, dated 17.4.2008 "*On the protection of consumers*", amended, *the contractual condition, which has not been negotiated separately, is unfair if it causes significant and distinct inequalities regarding the rights and obligations of the parties, arising from contract, to the detriment of consumers.* A condition shall be considered as not separately negotiated, when it has been previously drawn up by the entrepreneur and, as a consequence, the consumer has not been able to influence the content of the condition, especially in the text of the standard contract, previously formulated[9].

The issue related to the provision of unfair conditions in the contracts that entrepreneurs conclude with consumers has also been addressed by the *European Court of Justice in its decision dated March 14, 2013, in the Mohamed Azis C-415/11 case*. In this decision, this Court, inter-alia, stipulates that: "...the concepts of "bona fide" and "sensible and distinct inequalities in the rights and obligations of the parties arising from the contract, to the detriment of consumers", only define in general the factors that make the non-negotiated contractual condition unfair. In order to determine *the significant inequality between the parties, it should be considered in particular which norms of national law would be applied in the absence of an agreement of the parties in that direction.* Such a comparative analysis would enable national courts to assess whether, and if so, to what extent, the contract places the consumer in a less favorable legal position than that provided by the national applicable legislation. For this purpose, an assessment must be undertaken regarding the legal situation of that consumer, taking into account the means available to him under national legislation, to prevent the continued use of unfair conditions... [10].

[9] See also: Article 28 of Law no. 9902, dated 17.4.2008 *"On consumer protection"*, amended.

[10] See also: Decision of the European Court of Justice, dated March 14, 2013, on the Mohamed Azis case C-415/11.

The problem related to the fair implementation of the general contract conditions, drawn up in advance by one of the contracting parties, has also been addressed *in the Civil Unifying Decision of the Supreme Court, no. 932, dated 22.06.2000*, where this Court, inter-alia, reasoned that: "...

According to Article 422 of the Civil Code, *"The creditor and the debtor must behave towards each other correctly, impartially and according to the requirements of reason". The content of this provision and those that determine the general conditions of contracts leads to the conclusion that the freedom of contracting is not absolute. In view of this, it can be "limited" by some economic and moral factors, such as those mentioned in the above-mentioned provision, which must be taken into account by the court in solving each concrete case. Ignoring the above factors leads to a lack of proportionality, or, as the legislator states, to disproportionate damage to the interests of the contracting party, which means that the will (consent) of this party was not completely free.* According to Article 686/2 of the Civil Code, *"The general conditions that bring a disproportionate loss or damage to the interests of the contracting party are invalid, especially when they differ substantially from the principles of equality and impartiality expressed in the provisions of this Codes that regulate contractual relations*"...[11]

The essential contract conditions are also indirectly recognized by the Civil Code of 1982, which when stipulating about the conclusion of the contract determined that the contract was considered concluded when the parties had agreed on all the essential conditions that were necessary for its conclusion. In bilateral contracts with consideration, the contract object, the price and the term were considered essential conditions, although the last two conditions were not considered essential conditions in every case, but only in cases where the law provided for them, expressly as such.

The 1956 Law *"On Legal transactions and Obligations"*, similarly to the Civil Code of 1982, indirectly recognized the essential contract conditions, but did not provide their meaning nor did it prescribe what these conditions were. The legal doctrine of the time dealt with the essential conditions as conditions which, due to the law or based on the declaration of one of the parties, were necessary for the conclusion of the contract. According to it, the agreement of the parties on the contract object was an essential condition for all contracts, because if the parties did not agree on the object, the contract was not considered concluded because one of its essential elements was missing[12].

From the theory of contract law of this period, it was reasoned that in the legal provisions that regulate special contracts, the essential conditions are provided, specifically for each contract, such as a contract of sale, lease, enterprise, etc. These provisions that provided for the essential contract conditions were considered as mandatory in nature, which could not be changed by agreement between the parties. It was also accepted that as essential conditions were not only those conditions that are foreseen as necessary for the conclusion of the contract by the law, but also those that were foreseen by the parties by agreement between them[13].

The Civil Code of Kosovo does not deal with the contract conditions, neither explicitly nor indirectly, but it expressly provides for the *general contract conditions*, which have been evaluated by us as its essential conditions. As general conditions, the said

[11] See also: Civil Unifying Decision of the High Court, no. 932, dated 22.06.2000.

[12] See also: Law no. 2359, dated 15.11.1956 *"On legal transactions and obligations".*

[13] See also: Sallabanda, A; *"The law of obligations (General part)",* Tirana 1962, page 59-60.

Code refers to those that have been drafted by one party and the other party has not negotiated individually for their drafting. The general conditions are binding on the other party that did not participate in their drafting, if it knew or should have known about their existence at the time of the conclusion of the contract. In the same way as our applicable Civil Code, the Civil Code of Kosovo also provides for special legal protection for the party that did not participate in the drafting of the general contract conditions. According to it, *the party drafting the general conditions must take reasonable steps to draw the attention of the other party to the existence of these conditions, at the time of the conclusion of the contract. The general condition of the contract is invalid, if taking into account the circumstances at the time of the conclusion of the contract, the nature of the contract and all its essential conditions, such a condition is clearly unfair to the other party*[14]. In the Civil Code of Kosovo, *the general unfair conditions for consumer contracts are also provided for*, which, as stated above, although they are outside the scope of our subject, we deem it is crucial to mention them herein due to the fact they are provided for, expressly from this Code, as well as to compare them with the unfair conditions made by our special law *"On the protection of consumers"*[15].

All the above conditions, except in cases where it is possible to prove the opposite, as a rule are considered invalid, according to the Civil Code of the Republic of Kosovo. As an exception to the rule, *these conditions shall be considered valid, if they have been approved in writing, separately by the consumer.* Nevertheless, the said Code defines that are invalid even though they have been approved in writing, separately by the consumer, the conditions that establish the exclusion or limitation of the responsibility of the merchant in cases of damage to the health or death of the consumer, due to the actions or omissions of the entrepreneur, those that determine the exclusion or limitation of legal transactions or actions of the consumer towards the entrepreneur or any other party, in case of full or partial non-fulfillment of obligations by the merchant, as well as those that extend the scope of acceptance by the consumer to conditions for which they have not had a real opportunity to know before the conclusion of the contract.

Conclusion

From the treatment of the above topic several conclusions can be drawn, one of which is the fact that the general contract conditions are treated more by the doctrine of contract law than by the civil legislation. For the accurate understanding of such conditions, it is quite necessary to distinguish between them and the contract elements, especially with the essential elements of the contract.

The essential contract conditions, regardless of the differences they have with its

[14] Article 113 of the Civil Code of the Republic of Kosovo provides:

"1. A condition given in the general conditions of the contract will be void if, if regarding to the circumstances existing at the time of the conclusion of the contract, the nature of the contract and all other conditions of the contract, such condition is grossly unfair for the party to whom the general conditions have been given.

2. For the purpose of paragraph 1, clauses that limit or exclude the liability of one party for non-performance or that allow one party to perform work substantially differently from what the other party reasonably expects are presumed to be grossly unfair.

3. The provision of paragraph 1 does not apply to the adequacy in the value of the obligations of one party compared to the value of the obligations of the other party.

4. The general conditions included in consumer contracts are subject to the provisions of subchapter IX of this Chapter".

[15] See also: Article 125 of the Civil Code of the Republic of Kosovo.

essential elements, have in common the fact that they must be provided for, in an express way in the contract, since otherwise the contract is deemed invalid. The doctrine of contract law, as well as judicial practice, agree in unison that the only essential condition of the contract is its object, and a contract that lacks this very condition is considered null or void or absolutely invalid.

For the other contract conditions, starting from its price or even the term, it is accepted by contractual law that they do not constitute essential conditions of any contract. Nevertheless, in the case of contracts with consideration, which constitute the majority of contracts in civil circulation, the price and term are considered their essential elements and in most cases their absence makes the contract invalid.

Regarding the essential contract conditions, doctrine and jurisprudence pay a lot of attention to its "general conditions", which are conditions that are drawn up in advance by one party, by establishing standard or adhesion contracts. In the case of such contracts, regardless of different opinions, it is accepted that the will of the parties in these contracts is free, but the court must be careful in interpreting such contracts and in extracting the true will of the parties.

In order to protect the weaker parties, which constitutes the party that does not draw up the contract conditions, the civil legislation has provided that those general contract conditions that bring a disproportionate loss to the interests of the contracting parties and that essentially differ from the principles of equality and impartiality expressed in the civil law that regulates contractual relations, are invalid. Moreover, the general conditions that limit the contractual freedom of the parties are not valid, unless they have been accepted, specifically in writing by the other party.

The general contract conditions become problematic, especially when they are drawn up by a state or private company that has a monopoly on the provision of a certain service which is vital in nature, such as electricity supply, water supply, landline or mobile phone services, etc. In these cases, for the protection of the consumer, the state should establish independent professional bodies in order that these companies that offer monopoly services do not abuse the price, the quality of the service offered, etc.

References

Tutulani-Semini; M; *"The Law of Obligations and Contracts, the General Part and the Special Part", ("E drejta e Detyrimeve dhe e Kontratave, Pjesa e Përgjithshme dhe Pjesa e Posaçme",)* published by the publishing house *"Skanderbeg Books",* Tirana 2016;

Civil Code of the Republic of Albania.

Nuni, A; Mustafaj, I; Vokshi, A; *"The law of obligations Part I" ("E drejta e detyrimeve Pjesa I",)* Tirana 2008.

Tafaj, Flutura; Vokshi, Asim; *"Civil Procedure, First Volume", ("Procedura Civile, Volumi i Parë",)* Tirana 2021.

Law no. 9902, dated 17.4.2008 *"On consumer protection",* amended.

The decision of the European Court of Justice, dated March 14, 2013, on the Mohamed Azis case C-415/11.

Civil Unifying Decision of the High Court, no. 932, dated 22.06.2000.

Law no. 2359, dated 15.11.1956 *"On legal transactions and obligations";*

Sallabanda, A; *"The law of obligations (General part)" ["E drejta e detyrimeve (Pjesa e përgjithshme)],* Tirana 1962.

Civil Code of the Republic of Kosovo.

A two-step selection in portfolio optimization with no expected returns involved

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Abstract

The Risk Parity models equalize the risk contribution of each asset that compose the portfolio. Today, we have a different of assets that can compose out financial portfolio, starting from stock, bonds, commodities, and lately cryptocurrency without considering the option, future and other derivatives Since the Risk Parity models consider all the choices given, they maximize the diversification, but they lack on the selection, thus they performance will be low. For that in this paper we will select the first time using the traditional Mean Variance Model and Conditional Value at Risk a smaller group of assets from a large group of stocks. In these models we will put at the minimum level of riskiness, in other words, we will take off the models the constrain on the expected returns. In the second step we will apply on this smaller group the Risk parity with the standard deviation for the group selected with Mean-Variance Model and Risk parity with Conditional Value at Risk for the group selected with Conditional Value at Risk. We will call it the two-step procedure in the portfolio optimization.

In this way we will not need as an input the estimation of expected return for the assets in all our models. The optimization models that require the expected returns, produce extreme weights and have significant drawdown over time. Thus, a significant variation of the input parameters can significantly change the composition of the portfolio, like in the Mean Variance portfolio. Models that rely on expected returns tend to be very concentrated on few assets and perform poorly out of sample (Merton,1980). The mean-variance model heavily relies on specific assumptions, such as normality of returns and investor risk preferences. Deviations from these assumptions can lead to suboptimal or unrealistic portfolio allocations. The model's sensitivity to these assumptions limits its robustness and applicability in real-world scenarios. The mean-variance model does not explicitly consider transaction costs, taxes, or other constraints that may impact portfolio construction and performance. In practice, these factors can have a significant impact on the realized returns and feasibility of implementing the optimal portfolio. Almost in the same way as the mean variance model, the CVaR focuses on the extreme tail of the distribution, emphasizing the probability and magnitude of losses beyond a certain threshold. While this can be useful for risk management, it also means that CVaR is highly sensitive to extreme events and outliers, which might not be representative of the overall risk profile.

The significant will be for assets that have more than . It is interesting to see that this method will have a good performance and will the diversification in the second step. Also, the turnover will be lowered, which is good strategy in case we have transaction cost.

Keywords: Portfolio optimization, Asset allocation, diversification, Suboptimal selection.

1. Introduction

The field of portfolio optimization has witnessed significant advancements in recent decades, driven by the need for robust investment strategies in an increasingly complex and volatile financial landscape. Investors must strike a delicate balance

between maximizing returns and minimizing risks to achieve optimal portfolio performance. Traditional approaches often fall short in capturing the intricacies of market dynamics, leading to suboptimal outcomes. To address these challenges, various quantitative models have emerged, each offering unique insights into the portfolio optimization problem. The seminal work of Harry Markowitz in the 1950s revolutionized portfolio theory by introducing the concept of mean-variance analysis. The Markowitz Model enables investors to construct portfolios that optimize the trade-off between expected returns and risks. By considering the covariance matrix of asset returns, this model generates an efficient frontier—a set of optimal portfolios with different risk-return profiles. However, the Markowitz Model relies on the assumption of normally distributed returns and assumes investors' risk aversion to be characterized solely by variance. These assumptions may limit its effectiveness in capturing extreme market events and investors' preferences.

In response to the limitations of the Markowitz Model, researchers have proposed alternative portfolio optimization models, such as Conditional Value-at-Risk (CVaR), also known as Expected Shortfall. CVaR extends the traditional mean-variance framework by incorporating downside risk measures. Instead of solely focusing on variance, CVaR considers the tail distribution of returns, emphasizing the management of extreme losses. This approach provides a more comprehensive understanding of risk and addresses the weaknesses associated with normality assumptions. By optimizing portfolios based on CVaR, investors can achieve higher downside protection while still pursuing desirable returns. Since CVaR focuses on the extreme tail of the distribution, emphasizing the probability and magnitude of losses beyond a certain threshold, it can be useful for risk management, it also means that CVaR is highly sensitive to extreme events and outliers, which might not be representative of the overall risk profile. As a result, it fails to capture the asymmetry, skewness, or kurtosis of the underlying risk distribution, which can be crucial for understanding risk dynamics. CVaR provides a measure of the average loss beyond a certain threshold, but it does not provide information about the entire distribution of losses. It fails to capture the dispersion, volatility, and tail behaviour of the risk distribution, limiting its ability to fully capture the risk profile of an investment or portfolio. CVaR requires the determination of a threshold or confidence level to calculate the risk measure. Choosing an appropriate threshold is subjective and can significantly impact the CVaR results. Different choices of the threshold can lead to different risk assessments, making it challenging to compare CVaR values across different investments or portfolios.

Apart from the Markowitz Model and CVaR, a multitude of other models have emerged to cater to different investment objectives and risk preferences. Some notable approaches include the Black-Litterman Model, Risk Parity, Maximum Sharpe Ratio, and Minimum Variance Model. These models offer distinct perspectives on portfolio optimization, emphasizing factors such as factor-based diversification, risk balancing, and maximizing risk-adjusted returns.

This paper aims to conduct a comparative analysis of the Markowitz Model, CVaR, and the same tittles with Risk parity models. For this, we will select the first time using the traditional Mean Variance Model and Conditional Value at Risk a smaller group of assets from a large group of stocks. In these models we will put at the minimum level of riskiness, in other words, we will take off the models the constrain on the expected

returns. In the second step we will apply on this smaller group the Risk parity with the standard deviation for the group selected with Mean-Variance Model and Risk parity with Conditional Value at Risk for the group selected with Conditional Value at Risk. We will call it the two-step procedure in the portfolio optimization.
We will examine the underlying principles, mathematical formulations, and computational aspects of each model. Furthermore, we will evaluate their performance in different market conditions, considering the robustness of their assumptions and sensitivity to parameter estimation. By comparing these models, investors can gain insights into their strengths, limitations, and applicability across various investment scenarios.
The significant will be for assets that have more than . It is interesting to see that this method will have a good performance and will the diversification in the second step. Also, the turnover will be lowered, which is good strategy in case we have transaction cost.
The models have been applied to daily and weekly frequencies in order to have a good approximation of Risk Parity with $CVaR_{\alpha}(x)$. Since the last year the commodities market had been afflicted from high volatility and a negative trend, the focus will be on how the portfolio created will perform in these cases. The algorithms for the optimization are developed in Matlab 2012b ©, which is very effective in the calculation of portfolios with a large number of assets. For the Risk Parity with $CVaR_{\alpha}(x)$, we use an interior point algorithm with a defined number of iterations.
In conclusion, portfolio optimization is a multifaceted task that demands the application of sophisticated mathematical models. The Markowitz Model, CVaR, and other portfolio optimization approaches provide investors with invaluable tools to navigate the complexities of financial markets. Understanding the nuances of these models is essential for constructing portfolios that align with investors' risk preferences, financial goals, and market conditions. By undertaking a comprehensive comparative analysis, this paper aims to empower investors with the knowledge required to make informed portfolio optimization decisions.

Methodology

For a portfolio with n assets and weights $x = (x_1, x_2, \ldots, x_n)$, the standard deviation

$$\sigma_P(x) = \sqrt{\sum_{i=1}^{n}\sum_{j=1}^{n} x_i x_j \sigma_{ij}} = \sqrt{x'\Omega x}$$

Where Ω is the positive-definite covariance matrix of the returns. If the vector of returns is

$R = (r_1, r_2, \ldots, r_n)$ than the portfolio return is $R_P = R'x = \sum_{i=1}^{n} x_i r_i$ where each return is calculated as :

$$r_{i,t+1} = \frac{P_{i,t+1} - P_{i,t}}{P_{i,t}}$$

The Conditional Value at Risk can be calculated as expected shortfall, or by simple as follow:

$$CVaR_{\alpha}(x) = -E[\, R_P | R'x \leq -VaR_{\alpha}(x)]$$

Or in continuous function be the definition of $CVaR_\alpha(x)$ (Uryasev, 2000) we have

$$CVaR_\alpha(x) = \frac{1}{\alpha}\int_0^\alpha VaR_v(x)\mathrm{d}v$$

With α is the degree of freedom, which for numerical approximation we will set it to 10%.

$Mean\ Variance$	$Conditional\ Value\ at\ Risk(10\%)$
$Min\ \sigma_p^2$	$Min\ CVaR$
$R_P = \sum_{i=1}^{n} x_i r_i$ (no use)	$R_P = \sum_{i=1}^{n} x_i r_i$ (no use)
$\sum_{i=1}^{n} x_i = 1$	$\sum_{i=1}^{n} x_i = 1$
$x \geq 0 \quad (no\ short\ selling)$	$x \geq 0 \quad (no\ short\ selling)$

If the first step we choose only with Mean Variance and CVaR.

If we take of the constraint of expected returns of the portfolio, we set each model to the minimum risk as graphically we can see:

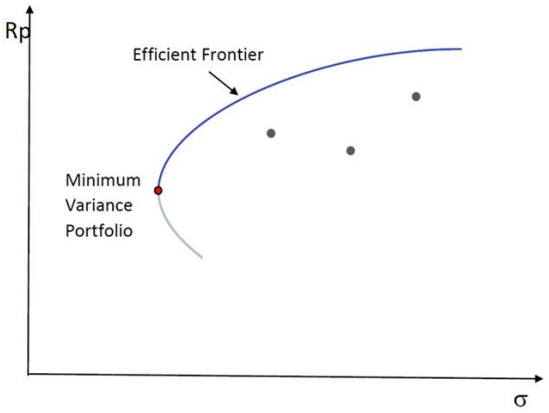

Fig. 1. Efficient frontier

In this point also the performance is at its minimum, we just use to identify the group of assets from a large class. We will consider significant only assets that have more than 10^{-6}.

In the second step we will apply on this smaller group the Risk parity with the standard deviation for the group selected with Mean-Variance Model and Risk parity with Conditional Value at Risk for the group selected with Conditional Value at Risk.

On the subset selected by Mean Variance model for instance: $y = (y_1, y_2,..,y_m)$

Where usually the number of elements is smaller $m \leq n$ than the initial set n.

For the Equally risk contribution (risk parity condition) with the standard deviation as risk measure the calculation is as follow:

$$TRC_i(y) = y_i \frac{\partial \sigma_P(y)}{\partial y_i} = x_i \frac{\partial \sigma_i^2 + \sum_{j=1}^{n} y_i \sigma_{ij}}{\sigma_P(y)} = y_i \frac{(\Omega y)_i}{\sqrt{y'\Omega y}}$$

$$\sum_{i=1}^{m} TRC_i(y) = \sum_{i=1}^{n} y_i \frac{(\Omega y)_i}{\sqrt{y'\Omega y}} = \sqrt{y'\Omega y} = \sigma_P(y)$$

Recall that the solutions Mean-Variance model solves the following problem:

$$\frac{\partial \sigma_P(x)}{\partial x_i} = \frac{\partial \sigma_P(x)}{\partial x_j}$$

In other words, it equalizes the marginal risk contributions, instead of the total risk contributions as in case of the Risk Parity:

$$TRC_i(x) = TRC_j(x) \; \forall \; i \, , j$$

The Risk Parity model can be formulated as the following optimization problem:

$$y^* = \arg\min \sum_{i=1}^{m} \sum_{j=1}^{m} \big(TRC_i(y) - TRC_j(y)\big)^2$$

$$\sum_{i=1}^{n} y_i = 1$$

$$y \geq 0$$

Since $TRC_i(y) = y_i \frac{\partial \sigma_P(y)}{\partial y_i}$ and $TRC_i(y) = \frac{\sigma_P(y)}{m}$, the problem can be written as follow:

$$x^* = \arg\min \sum_{i=1}^{m} \sum_{j=1}^{m} \big(TRC_i(y) = TRC_j(y)\big)^2$$

$$\sum_{i=1}^{m} y_i = 1$$

$$y \geq 0$$

Also, for this model the short selling are not allowed, even for the subset of elements.
The problem can be solved as an optimization problem in which we minimize the distance.
For this, a MATLAB code has been created using a linear programming (linprog) and for Mean Variance model using a quadratic function (quadprog).
In case of Conditional Value at Risk, the optimization is still linear, in both cases , but we need first to guarantee some conditions on the convergence of the model in the application of the calculations of the partial derivates.

$$\frac{\partial CVaR_\alpha(x)}{\partial x_i} = \frac{1}{\alpha} \int_0^\alpha \frac{\partial CVaR_\alpha(x)}{\partial x_i} \mathrm{d}v = -\frac{1}{\alpha} \int_0^\alpha E\big[r_i | -R^{'}x = VaR_\alpha(x)\big] \mathrm{d}v =$$

$$-\frac{1}{\alpha} \int_0^\alpha E[r_i | X = q_\alpha(X)] \mathrm{d}v = - \; E[r_i | X \leq -VaR_\alpha(x)]$$

The same result starting from the Expected shortfall $ES_\alpha(x)$,which is equivalent to the $CVaR_\alpha(x)$, as Tasche (2000) and Stefanovits (2010) showed in their work, under the condition that $E[X^-] < \infty$.
The Total Risk contribution for each asset i of a portfolio is given by the following expression:

$$TRC_i^{CVaR_\alpha(x)}(x) = x_i \frac{\partial CVaR_\alpha(x)}{\partial x_i}$$

The expression in case of continuous returns distribution is the following:

$$TRC_i^{CVaR_\alpha(x)}(x) = -x_i E[r_i | X \le -VaR_\alpha(x)]$$

$$CVaR_\alpha(x) = \sum_{i=1}^{n} TRC_i^{CVaR_\alpha(x)}(x) = -\sum_{i=1}^{n} x_i E[r_i | X \le -VaR_\alpha(x)]$$

Also, the risk parity with CVaR, is applied after we selected first with CVaR, to see which group have me minimum global riskiness.
For the numerical approximation of $CVaR_\alpha(x)$ using historical scenarios of assets returns, the following explanation is needed.

Suppose that the *i*-th asset return r_i consist of T number outcomes r_{ji} with i=1,.....,n and j=1,...,T. For each portfolio $x \in \mathbb{R}^n$ where n is the number of assets in the market, the vector of the observed portfolio returns is $R_P = (r_{p1}, \dots\dots, r_{pT})$ where:

$r_{pj} = x' r^j$ with j=1,....,T

where $r^j = (r_{j1}, \dots\dots, r_{jT})$.

If the number of observation T is large enough, we can apply the Law of Large Numbers for the numerical approximation of the empirical distribution of the historical portfolio return:

$$P(R_P \le y) \approx \frac{\#\left(j = 1, \dots\dots, T | r_{p1} \le y\right)}{T}$$

Therefore, we compute the $VaR_\alpha(x)$ and $CVaR_\alpha(x)$ of portfolio returns as follows:

$$VaR_\alpha(x) \approx -r_{\mathrm{p}\lfloor \alpha \mathrm{T} \rfloor}^{\mathrm{sorted}}$$

$$CVaR_\alpha(x) \approx -\frac{1}{\alpha \mathrm{T}} \sum_{\mathrm{j}=1}^{\lfloor \alpha \mathrm{T} \rfloor} r_{\mathrm{p\,j}}^{\mathrm{sorted}}$$

where α is a specified significance level and $\mathrm{r}_{\mathrm{p\,j}}^{\mathrm{sorted}}$are the sorted portfolio returns that satisfy

$$r_{p\,1}^{sorted} \le r_{p\,2}^{sorted} \le \cdots r_{p\,j}^{sorted} \le \cdots \le r_{p\,j}^{sorted}$$

Using historical data, from (1.4) the approximation of the partial derivatives $CVaR_\alpha(x)$ for each asst *i* becomes:

$\frac{\partial CVaR_\alpha(x)}{\partial x_i} \approx -\frac{1}{\alpha \mathrm{T}} \sum_{\mathrm{k}=1}^{\lfloor \alpha \mathrm{T} \rfloor} r_{\mathrm{k\,i}}^{\mathrm{sorted}} \quad \forall\, i$=1,...,$n$

and then the total risk contribution of asset *i* is

$$TRC_i^{CVaR_\alpha(x)}(x) = x_i \frac{\partial CVaR_\alpha(x)}{\partial x_i} \approx -\frac{1}{\lfloor \alpha \mathrm{T} \rfloor} x_i \sum_{\mathrm{k}=1}^{\lfloor \alpha \mathrm{T} \rfloor} r_{\mathrm{k\,i}}^{\mathrm{sorted}}$$

where $r_{\mathrm{k\,i}}^{\mathrm{sorted}}$ are the corresponding returns of asset *i* to the sorted portfolio returns. This method was suggested by Stefanovits (2010) in his master thesis, where he applies the equally risk contribution in case of standardized multivariate distribution, using a Gaussian kernel estimation. He implemented Risk Parity approach to Expected Shortfall assuming normally or t-student data in a parametric approach. In order to seize the idea, we put also the Uniform portfolio.
The results are compared before and after the two-step selection, for which only the risk strategies will change in terms of compound return.

$$\mu_k^c(R_P) = \prod_{j=1}^{k}\left(1 + r_{pj}\right) - 1$$

Empirical Research and Results

We choose a period of observation from 1/1/2000 to 4/7/2014 consisting of 756 weeks or 174 months (14.5 years). The data is with weekly frequencies provided from data stream THOMSON REUTERS and they refer to the adjusted closure. We do not include all titles because of missing data or interrupted series. The groups are selected with different numbers of assets in order to study how Risk Parity strategies perform out of sample. We compute the Risk Parity with standard deviation, the Risk Parity with the CVaR, Risk Parity with CVaR naïve (worst scenario), the uniform and the Mean Variance and CVaR at the global minimum.
In all cases we apply models with no short selling and no leverage. Also, we do not consider weights smaller than .
The case of study is the assets of FTSE100. We consider 77 assets out of 100, cause of missing data. We create a rolling time window with in sample period L=4 years and out of sample period H=4 weeks.
Here is the table of the performance for weekly frequencies.

	R.P. -STD	**M-V**	**R.P. CVaR N.**	**R.P. CVaR**		**Uniform (Naive)**
(%)	0.1398	0.1801	0.1334	0.1418	0.1501	0.1441
(%)	7.5361	9.8103	7.1764	7.6473	8.1093	7.7729
(%)	82.0888	141.9759	75.2453	85.2133	104.829	78.8365
(%)	2.4360	1.9135	2.4573	2.3899	1.9386	2.7232
	0.4290	0.7110	0.4050	0.4437	0.5801	0.3958

Table 1. The performance of the portfolios with assets of FTSE100 on the first selection

From the summary table we notice that there is no significative difference between Risk Parity with the standard deviation and Risk Parity with CVaR. The Mean Variance model leads the performance. The Naive Risk Parity with CVaR is like the Uniform portfolio since it has no benefits of true diversification. This is a particular case because we have chosen a portfolio with 77 assets; since the Risk Parity strategies group and the uniform portfolios must take into consideration every single asset, it

appears to have a lower performance than the portfolios that are more concentrated. (Fig. 2)

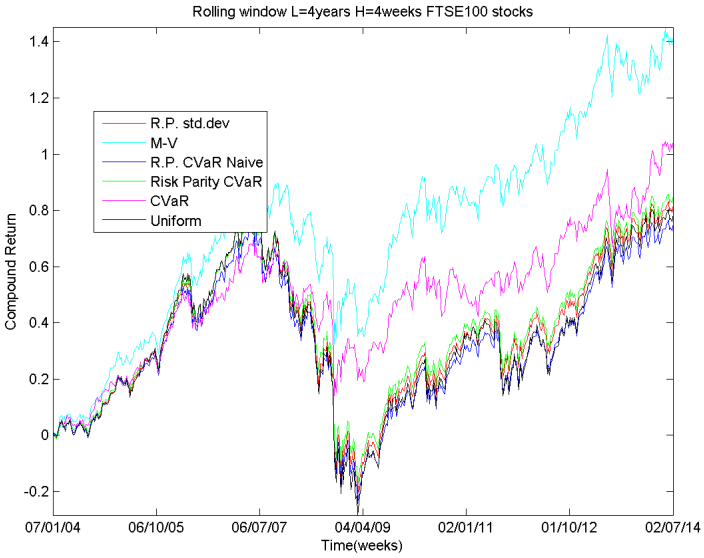

Fig. 2 The Cumulated return of each portfolio created from assets of FTSE100
It is interesting to see the number of assets for which each of the model is focused:

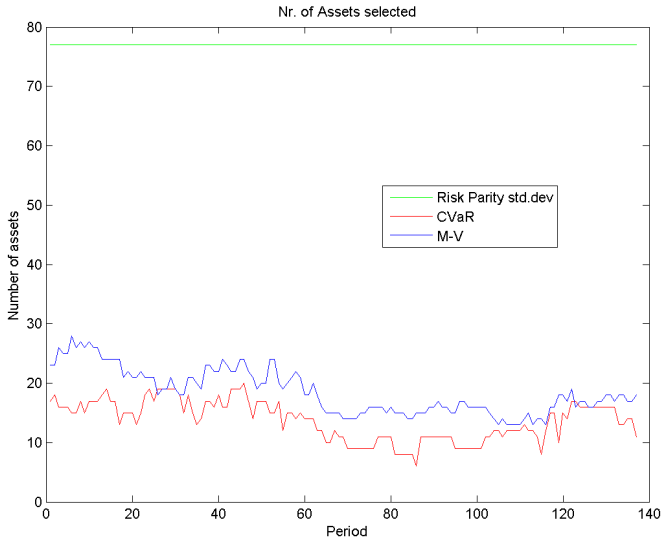

Fig. 3 Number of assets selected
As we said before, we consider significant only the asset with the weights greater that one per million (**x**>0.0000001). The Risk Parity with standard deviation, the Risk Parity with the CVaR, Risk Parity with CVaR naïve (worst scenario) and the uniform select a significative weight but Mean Variance and CVaR at the global minimum select a number between 8 to 25 over the possible 77.

Starting from the subset of assets selected from Mean Variance and CVaR models, we apply the Risk Parity strategies using the same time series and the Rolling time window of the case above.This time the Risk parity with CVaR is applied to a much smaller number of assets. This correction improves the performance (terminal compounded return from 85.2133 to 129.7467) and the diversification.

	R.P. -STD	M-V	R.P. CVaR N.	R.P. CVaR		Uniform (Naive)
(%)	0.1689	0.1801	0.1746	0.1707	0.1501	0.1441
(%)	9.1707	9.8103	9.4943	9.2715	8.1093	7.7729
(%)	126.9397	141.9759	134.749	129.7467	104.829	78.8365
(%)	1.9383	1.9135	1.9143	1.9164	1.9386	2.7232
	0.6561	0.7110	0.6878	0.6709	0.5801	0.3958

Table 2 . The performance of the portfolios with assets of FTSE100 on the second selection step

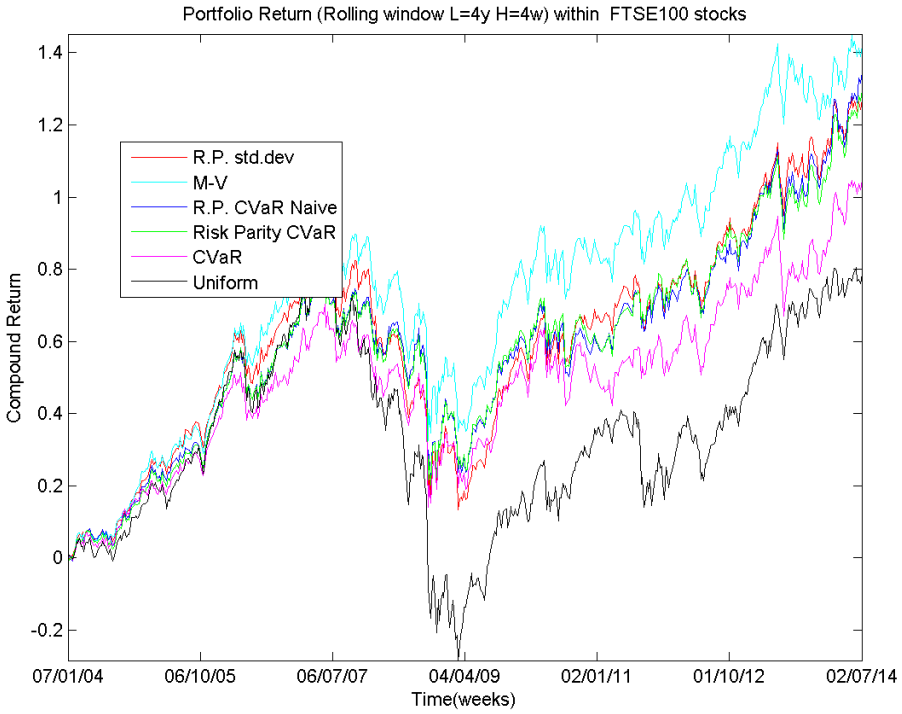

Fig. 4 The Cumulated return of each portfolio created from assets of FTSE100 on the second step selection.

With the second selection risk parity group will respond better to the 2008 market crash by having a smaller drawdown.

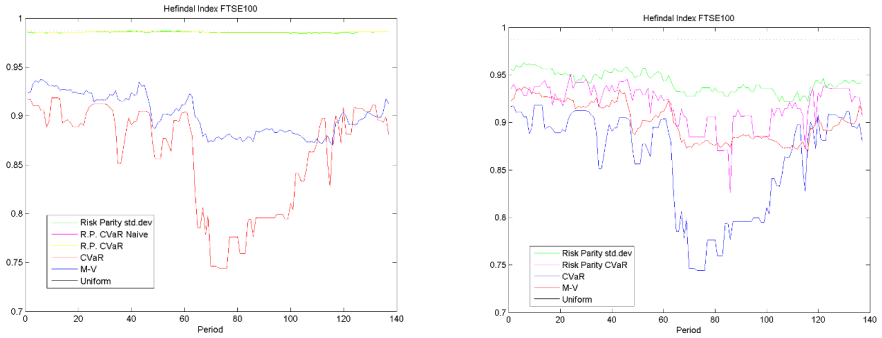

Fig. 5. The Herfindal index before and after (on the wright).

In figure 4 we should and index of diversification, the Herfindal index measured as:

$$D_{Her} = 1 - xx'$$

which takes the value 1/2 if the portfolio is concentrated in one asset and the maximum value for the equally weighted (or naive) portfolio.

From the point of view of diversification Mean Variance and CVaR, do not change, but other models are still better diversified compared to them.

Proceeding this way, we limit the selection of assets in a smaller group obtaining a better performance and a better diversification for the Risk Parity strategies.

Conclusion

In conclusion, this paper aimed to conduct a comparative analysis of portfolio optimization techniques and evaluate their performance in generating optimal investment portfolios with a two-step selection. Through an extensive review of the literature and empirical experimentation, several key findings have emerged.

Firstly, it is evident that there is no one-size-fits-all approach to portfolio optimization. Different techniques, such as mean-variance optimization, risk parity, and robust optimization, have distinct strengths and weaknesses. The choice of optimization technique should be driven by the investor's preferences, risk appetite, and specific investment objectives.

Secondly, the empirical results showcased the importance of incorporating realistic assumptions and considering practical constraints in portfolio optimization. While theoretical models provide a foundation, they often overlook real-world complexities such as transaction costs, liquidity constraints, and market frictions. In the two step procedure we have improved the turnover, thus transaction cost had been decreased.

Thirdly, the paper identified the limitations and challenges associated with portfolio optimization. These include sensitivity to input parameters, data estimation errors, and the difficulty of accurately predicting future market conditions for the model such Mean Variance and CVaR. These factors highlight the need for ongoing monitoring, periodic rebalancing, and adaptation of the portfolio optimization approach to changing market dynamics which can mitigate by using the Risk Parity Models.

Furthermore, the paper emphasized the importance of diversification as a risk

management strategy. Diversification, measure by Herfindahl index, had been improved in the second step from the Risk Parity models helps to reduce portfolio volatility and improve risk-adjusted returns. Proper asset allocation and risk management techniques play a crucial role in achieving optimal portfolio outcomes. In summary, this comparative analysis of portfolio optimization techniques int the first step selected from Mean Variance or CVaR and in the second step applying to this subset the Risk Parity models highlights the significance of selecting appropriate models, considering practical constraints, and incorporating diversification strategies. By addressing the limitations and challenges, investors can make informed decisions and construct portfolios that align with their risk-return objectives. Future research should focus on refining existing models, exploring novel approaches, and integrating advanced risk management techniques to further improve portfolio optimization outcomes.

References

Artzner P., Delbaen F.(1999).Coherent measures of risk.*Journal of Mathematical Finance 9*:203-228.

Andersson F., Mausser H., Uryasev S.(2000) Credit Risk Optimization With Conditional Value at Risk Criterion.*Journal of Mathematical Programming*.

Bacon C.R.(2008), Practical Portfolio Performance Measurement and Attribution, *vol. 546*, Wiley,.

Bertsimas D., Lauprete G.,Samarov A.,(2004). Shortfall as a risk measure: properties and optimization. *Journal of Economic Dynamics and Control, 28, 7*, 1353-1381.

Bjerring, Thomas and Rasmussen, Kourosh Marjani and Weissensteiner, Alex, (November 15, 2016). Portfolio Optimization of Commodity Futures with Seasonal Components and Higher Moments Available at SSRN: https://ssrn.com/abstract=2869969 or http://dx.doi.org/10.2139/ssrn.2869969

Caporin M., Lisi F., Janin M.,(June 2012). A survey on Four Families of Perfomance Measures. Working papers series.

Chaves D., Hsu J., Li F., Shakernia O.(July 2012), Efficient Algorithms for Computing Risk Parity Portfolio Weights, *Working Paper*.

Colucci S.,(2013). A quick introduction to quantitative models that discard estimation of expected returns for portfolio construction. Working Paper.

Manganelli S., Engle R.F.,(2001) Value at Risk Models in Finance, European Central Bank (ECB) Research Paper Series Working Papers.

Maillard S., Roncalli T., Teiletche J.(2009), On the properties of equally weighted risk contributions portfolios.*Journal of Portfolio Management*

Maillard S., Roncalli T., Teiletche J. (2012), Managing Risk Exposures using Risk Budgeting Approach. Working Paper.

Markowitz H.M.(1952), Portfolio selection. *Journal of Finance, 7*:77.91,.

Markowitz H., (1987). Mean-Variance analysis in portfolio choice and capital markets, *Basil Blackwell*

Merton R.C.(1972), An Analytic derivation of the efficient portfolio frontier, Journal of Financial and Quantitative Analysis, vol. 7, pp. 1851-1872,

Merton R.C., (1980) On estimating the expected return on the market", Journal of Financial Economics, 8(4):323.361,.

Qian E., (2005). Risk Parity Portfolios. , *PanAgora Asset Management*,.

Risk Metrics(1996). Technical Document. *Morgan Guaranty Trust Company of NewYork*,.

Rockfellar R.T., Uryasev S., "Optimization of Conditional Value ar Risk", The Journal of Risk, 2000.

Sharpe W., (1964). Capital Asset Prices: A Theory of Market Equilibrium under Conditions of Risk. *Journal of Finance 19*. 425-442,.
Sharpe W.(1966). Mutual Fund Performance., *Journal of Business 39*: 119-138..
Stefanovits D.(2010).Equal Contributions to Risk and Portfolio Construction. Master Thesis, ETH Zurich, 33,.
Tasche D.(2000), Conditional expectation as quantile derivative. Risk Contributions and Performance Measurement. Preprint, *Department of Mathematics*, TU-Munchen,

Does online marketing have positive impact on sales growth in family businesses?

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Abstract

Online marketing topics are becoming more and more important every day. Studies on family business are now also focusing on the relevance of the online context to family businesses, given that the benefits of online marketing are evident. This study will investigate whether online marketing has a positive impact on increasing sales in family businesses in the Kosovar context.
Qualitative data collection methodology will be used in this study. The data will be collected through a structured interview aimed at family businesses in Kosovo, which will help us answer the study's research questions. In total, five interviews were conducted.
The data show that online marketing positively impacts the increase in family business sales in Kosovo.
The study will have theoretical and practical implications. Such scientific evidence will enrich the online marketing and family business literature to see the importance of the online context. Likewise, the practical implications should be evident by emphasizing the importance of the online context for family businesses that have yet to adopt it satisfactorily.

Keywords: online marketing, sales growth, family business, second generation.

1. Introduction

In Kosovo, no legal structure defines family businesses by referring to official data; therefore, family businesses are defined sociologically (Gashi & Ramadani, 2013). Rinvest (2015) presents research that argues that family businesses dominate the Kosovar environment. Studies argue that family businesses are very important for the country's economy. For example, Ramadani and Hoy (2015) argue that family businesses have a very important impact on many segments of a country's economy. It argues that family businesses help increase GDP, and employment, increase exports, and create innovations. That is why other scientific evidence argues that family businesses are the source of innovations (Toska et al., 2022a). Many studies have been conducted that show the specifics of a family business. For example., Handler (1989) argues that family business means an entrepreneur with family members involved in the business, specifically in management.
Studies are also advanced in more detailed problems in the field of family business.

Jahmurataj et al. (2023) analyze the factors that promote the longevity of family businesses. Women as entrepreneurs in family businesses (Bağış et al., 2022), human resources management in family businesses (Ramadani et al., 2020), and internationalization of family businesses (Ramadani et al., 2020). Then the studies come and deepen in the context of technology and innovation. Alberti and Pizzurno (2013), analyze the impact of technology on the performance of family businesses. The ability of family businesses to generate innovations (Ahmad et al., 2021). Finally, we have a study from Toska et al. (2022a) that analyzes successors' ability to generate innovations in family businesses, where innovations as a variable in the study are also related to online presence. In this study, it is suggested to focus more research on the connection between online marketing and family businesses. This suggestion remains the motivation to write this article addressing this issue.

The second reason is due to the fact that so far, we have yet to find a study that specifically addresses this topic. This study is expected to address this gap by serving the online marketing and family business literature as theoretical implications and then family businesses for the importance of the online context as practical implications.

The article will have this structure; it will start with the introduction, where the problem is elaborated, the literature review, methodology, results, and conclusion.

2. Literature review

The limitations of this study are focused on the Kosovar context; therefore, it is important for the readers to bring some important information about Kosovo. The Republic of Kosovo is part of the Western Balkans, with an area of 10,887 square kilometers and 1.9 million inhabitants (The Word Bank, 2020). Kosovo is bordered by countries such as Albania, North Macedonia, Montenegro, and Serbia.

Figure 1 Source: https://www.nationsonline.org/oneworld/map/Kosovo-map.htm?

The Republic of Kosovo's capital is Pristina, the largest city in the country. Tourist attractions in Kosovo are developed in Pristina, the Albanian Alps, Anamorava, the Sharri Mountains, and the northern part of Mitrovica (KAS, 2020a). Referring to the statistical agency of Kosovo, we see that in Kosovo, in 2022, we have 182,825 active businesses (KBRA, 2022). As emphasized at the beginning of the article, in Kosovo,

there is no legal structure for family businesses; they are treated in the sociological context (Gashi & Ramadani, 2013). The unemployment rate in Kosovo is 24.6% (KAS 2020b). Therefore, family businesses have a positive impact on mitigating unemployment in the Kosovar environment (Toska et al., 2022a). Gashi and Ramadani (2013) bring scientific evidence when they argue that 65% of family businesses in Kosovo are in the trade sector, while 94% of family businesses in Kosovo are founded by men.

The online context can be said to have developed in Kosovo. Referring to the Eurostat report (2021), it can be seen the countries of the Western Balkans have large access to the Internet, where accessibility varies from 73% in Bosnia & Herzegovina to 96% in Kosovo, the country with the highest Internet accessibility compared to the countries of the Western Balkans and some other European countries.

In the following table, we can see online purchases or orders made during the last three months from 2019-2021, which serves as a basis for analyzing the development of online purchases by Kosovar consumers, which translates into increased sales for companies (KSA, 2022).

Table 1: Purchase or online order 2018-2021

	2018	2019	2020	2021
Over the past 3 months	16.9%	22.7%	35.4%	23.1%

Source: (KSA, 2022)

Referring to the table, we note that there is an obvious increase from 16.9% in 2018 to 23.1% in 2021. The 35.4% increase in 2020 is related to the COVID-19 pandemic, where we have a large increase in online purchases due to anti-Covid measures. This statement is also argued by Toska et al. (2022b), where the authors brought scientific evidence that during the COVID-19 pandemic, there was an increase in online shopping even by older adults.

Family businesses

Studies argue that in the forms of business organization, family businesses are considered the oldest forms of organization (Comi & Eppler, 2014). One cannot continue to elaborate on the family business literature without mentioning the first scientific contributors in this field, Lansberg et al. (1988), who brought the first research paper on family businesses to the journal Family Business Review. There are many definitions of family business. Handler (1989) argues that family business means an entrepreneur with family members involved in the business, specifically in management. Ward (2011) considers the family business to be a business left in the successors' management and ownership. Whereas Caputo et al. (2018) define family business as the integration of two social contexts, entrepreneurship, and family members, family businesses are unique compared to other forms of business organization. It is important that family businesses are not perceived as small businesses; today, we know many businesses with global reach that have made innovative revolutions and, as such, are family businesses. Such businesses

are Walmart, Toyota Motors, Samsung, etc. (Toska et al., 2022a). One of the other important issues in family businesses is succession, which is considered part of the transfer of management and ownership to new generations who are related to the founder of the business (Caputo & Zarone, 2019; Toska et al., 2022a). As a result of this, various studies have been developed that emphasize succession in family businesses. For example, Ejupi-Ibrahimi (2021) analyzes the second generation of successful family businesses, emphasizing motivation and entrepreneurial mindset in the context of family businesses in North Macedonia. The authors suggest that other research should focus on other countries in transition. Later on, Toska et al. (2022a) analyze the successor's ability in family businesses in Kosovo to generate innovations; the authors suggest that other studies focus on innovation in the online context as a form of new and contemporary sales methods. Therefore, this study will address this issue, referring to this suggestion.

Online context

Today, five stages of marketing are known, which have been developed during different periods. Initially, it was Marketing 1.0, while today, Marketing 5.0 is being discussed. The online context is updated in Marketing 4.0, where we transition from traditional to digital forms. So Marketing 4.0 suggests targeting the customer digitally, while Marketing 5.0 argues for the maximum use of technology to give superior value to target customers by designing appropriate marketing strategies (Kotler et al., 2021). So online marketing means a set of applications on the Internet through which customer-company transactions and other marketing relationships are carried out. Through online marketing, companies can design appropriate strategies to provide value to target customers (Minculete & Olar, 2018). Today, online marketing literature recognizes some forms of online marketing companies use to communicate with target customers. The following forms are counted as such: e-mail marketing, mobile marketing, online catalogs, and new forms of direct online marketing. (Pramila and Kumar, 2018).
Online retail sales are increasing day by day. Regarding the importance of online sales, a study was carried out by the prestigious website eMarketer, which brings the projections of retail sales at the global level, which are presented in **Figure 2**.

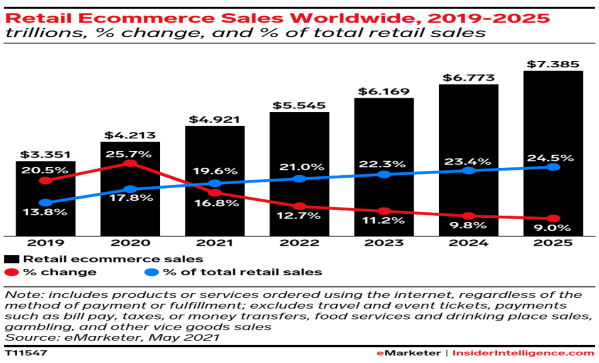

Figure 2: Retail Ecommerce Sales Worldwide, 2019-2025
Source: (eMarketer, 2021)

Referring to the projection of eMarketer (2021), we see an increasing progression of e-commerce globally, where in 2025 e-commerce is expected to cover 24.5% of total retail trade globally. Undoubtedly, this trend represents a clear opportunity for companies to target their online customers and increase sales. This statement is also confirmed by the following studies. Online marketing has a positive impact on improving the performance of sales in the company (Islam et al., 2020), then social media is considered as another form of online marketing, where studies show that it has a positive impact on purchase intentions and the creation of loyal customers (Manzoor et al., 2020; Zeqiri et al., 2020). The benefits of online marketing are evident even in SMEs, which enables these companies to create competitive advantages. (Lányi et al., 2021). From this perspective, it is seen that it is more than necessary to bring a scientific evidence for the impact of online marketing in increasing sales for family businesses.

3. Methodology

The qualitative approach to data collection will be used in this study. A structured interview will be applied to obtain information from respondents that will help us answer our research questions. Dana & Dumez (2015) argue that the qualitative methodology of data collection using interviews is the most appropriate form of scientific research for entrepreneurship. Therefore this approach of data collection using multiple case studies has been applied by other researchers in the field of entrepreneurship (Ejupi Ibrahimi et al., 2021; Toska et al., 2022a). As we argued above, no legal structure defines family businesses in Kosovo. Considering this fact, in this study, the "snowball" effect technique was used in data collection. As such technique, it was first used by Goodman (1961), where it is argued that such a technique can be applied when we have such research natures.

Data collection

The data in this study have been collected by referring to family businesses in Kosovo. So, as a sample of case studies, there were businesses that are owned and managed by family members. As specified above, the structured interview was used in this study. The shortest interview was 11 minutes, while the longest was 47 minutes. In total, five interviews were conducted, i.e. five case studies. The interviews were conducted in the field and via email. Details of the interviewees are presented in **Table 2**. The interviews were conducted in Albanian and then translated into English.

Table 2: Characteristics of interviewed

Intervi ewed	Age	Gender	Education	Name of company	Number of employees	Operation	Position	Years work
Case 1	31	Male	Faculty	PRO TERM SHPK	8	Wholesale of heating equipment	Manager	8
Case 2	37	Male	High school	TAVA GROUP SHPK	3	Wholesale of coffee and tea	Owner	18
Case 3	28	Male	Master	TOSKA ELECTRONICS	12	Retail and wholesale trade of household appliances	Manager	6

Case 4	31	Male	Master	FOTO ART DPZ	2	Photography studio	Director	13
Case 5	38	Male	Faculty	HECTOR Sh.P.K.	24	Production of kitchen furniture	Director	13

Source: Authors

The research questions of this study are as follows:
RQ1: Does your company have a presence in online marketing tools?
Then, the sub-questions that helped us answer the first research question were carried out. When did you start with your online presence? Which online tools do you use the most? Do you have online marketing tools integrated? What were the factors that prompted you to adopt online marketing in the company?

RQ2: Can you describe the benefits you get from applying online marketing in a sales context?
Then the sub-questions were realized, which helped us in answering the second research question. What are some of the benefits of online marketing to your company? Do you have increased sales after applying online marketing forms? Can you address the increase in sales to the application of online marketing? Has online marketing also influenced customer retention by developing longer-term relationships with them?

4. Findings and discussions

Based on the nature of the study, as well as relying on the justifications we gave in the methodology section, we conclude that the primary data methodology was the most adequate in this study. The study was based on multiple case studies where five companies were interviewed. In order to answer this study, two research questions were presented which were supported by sub-questions in order to obtain more accurate information from the selected respondents.
RQ1: Does your company have a presence in online marketing tools?
As argued above, the interview of this study was structured by being divided into two parts. In the first part, questions were asked about the characteristics of the selected respondents, while in the second part, we focused on the questions and sub-questions directed to the respondents in order to answer the first research question. The answers are as follows:
The successor of the company PRO TERM LLC expresses it like this:
"After finishing my studies, when I started working in the family business, I immediately committed myself to creating the online presence of our company. I first designed a website and then integrated it with Facebook. Competitive trends and changes in consumer behavior forced us to adopt online marketing in the company."
The owner of the company TAVA GROUP LLC, says:
"From the changes in lifestyle that technology brought, it was inevitable to implement online marketing in the company. Our company has a presence only on Facebook, where through this channel we communicate online with our customers."
In the case of the TOSKA ELECTRONICS company, the successor gives this answer:
"My field of study was focused on e-business. I came from a university that was very contemporary with technology trends. By engaging in the family business after completing my

studies, I designed a website that enables direct online sales. I have integrated the website with social media such as Facebook, Instagram and Linkedin, where the monthly discounts of our company are presented simultaneously on all four online channels. E-mail marketing is also another form used in our company, which helps us in the context of B2B Marketing. Strategic reasons were the driving factor for me to make my online presence more sophisticated."

The successor of FOTO ART company gives this answer:

"Our company has an online presence on social media, specifically on Facebook and Instagram. Changing trends in consumer behavior forced us to adopt online marketing, but the competitive factor should not be excluded, as our competitors also have an online presence."

In the case of the HECTOR LLC company, we have the following answer:

"Having an online presence has helped me a lot to break into the kitchen manufacturing market. I first created a Facebook page, and from there, I posted marketing offers to our clients. Now I also have a presence on Instagram. Competitive trends and changing consumer behavior were the main factors driving the online presence. I attribute this change in consumer behavior to dynamic life, which is becoming more dynamic day after day."

From the answers received from the five respondents, we can answer the first research question by concluding that family businesses have an online presence. They use online marketing tools, such as web marketing, social media (Facebook, Instagram, Linkedin), and e-mail marketing. Respondents argue that the dynamics of life, technological changes, changes in consumer behavior, and competition were some factors that prompted these family businesses to adopt online marketing.

RQ2: Can you describe the benefits of applying online marketing in a sales context? What are some of the benefits of online marketing to your company? Do you have increased sales after applying online forms of marketing? Can you address the increase in sales to the application of online marketing? Has online marketing also influenced customer retention by developing longer-term relationships with them?

The successor of the company PRO TERM LLC expresses it like this:

"The benefits of adopting online marketing are evident. We managed to generate new customers from online tools. The increase in sales can be attributed to the application of online marketing, since we were able to target customers in more distant areas that we could not target before."

The owner of the company TAVA GROUP LLC, says:

"Online marketing enabled us to increase sales and create new customers."

In the case of the TOSKA ELECTRONICS company, the successor gives this answer:

"We have many benefits from online marketing. Increased sales is a benefit. But also improving sales performance in general. So we managed to create loyal customers, keep customers, increase customer satisfaction. Online marketing enables us to increase engagement with customers, where we now have greater interactivity. The benefits of online marketing are also evident in the B2B context in our case. Where we have very successful communications with B2B customers, offering personalized offers."

The successor of FOTO ART company gives this answer:

"The benefits of applying online marketing are obvious. In addition to increasing sales, we managed to create better relationships with our customers by increasing interactivity with them. Customer retention is also a success that can be addressed in online marketing."

In the case of the HECTOR LLC company, we have this answer:

"Creating new customers, increasing sales, improving customer communications, keeping customers for repeat purchases were some of the benefits of online marketing."

From the answers received, we can also answer the second research question. So we

can conclude that online marketing positively impacted increasing sales and customer retention in family businesses in the Kosovar context. The findings are consistent with the study of Islami et al. (2022). Another benefit of applying online marketing is the creation of loyal customers, this finding is consistent with studies (Manzoor et al., 2020; Zeqiri et al., 2020). The businesses also declared that online marketing positively impacted the creation of new customers for the companies.

5. Conclusion

This study aimed to investigate the impact of online marketing on the sales growth of family businesses in Kosovo. The study first started with a description of the problem. Then, from the literature review, a gap was identified that deals with this topic in the field of marketing and entrepreneurship. The realization of this study was also a response to the suggestion of the authors Toska et al. (2022a) to advance studies in this field, specifically in online marketing for family businesses. The study then went deeper into the literature review, defining and arguing the specifics of family businesses. We then discussed the online context and the importance of this area. The study also justified the chosen methodology based on the suggestions of previous studies on why this methodology should be chosen. Through the case studies, we managed to answer our two research questions. The first conclusion is that family businesses in Kosovo have an online presence; mostly, web marketing, social media, and e-mail marketing are used in B2B marketing contexts. We also answered the second research question when respondents argued that online marketing positively impacted increasing sales and keeping customers in family businesses in the Kosovar context. The findings are consistent with previous studies by Islami et al. (2022). Likewise, other benefits from online marketing to family businesses were identified, the creation of loyal customers, being consistent with studies (Manzoor et al., 2020; Zeqiri et al., 2020). The respondents argued that the positive impacts of online marketing could also be seen in creating new customers for the company.

This study also has some limitations. The study was carried out in the Kosovar context. Qualitative methodology is used. The sample of this study was taken only in some parts of Kosovo; perhaps larger samples could generate other results. In this study, family businesses of Albanian ethnicity are included, not including other ethnicities. Further studies can be investigated in other countries to see similarities and differences; a quantitative data collection approach can be used. Other ethnicities may also be included in the other research.

References

Ahmad, S., Omar, R., & Quoquab, F. (2021). Family firms' sustainable longevity: the role of family involvement in business and innovation capability. *Journal of Family Business Management, 11(1)*, 86-106.

Alberti, F. G., & Pizzurno, E. (2013). Technology, innovation and performance in family firms. *International Journal of Entrepreneurship and Innovation Management, 17(1-3)*, 142-161.

Bağış, M., Kryeziu, L., Kurutkan, M. N., & Ramadani, V. (2022). Women entrepreneurship in family business: dominant topics and future research trends. *ournal of Family Business Management*.

Caputo, A., & Zarone, V. (2019). Uscio e Bottega: an exploratory study on conflict management

and negotiation during family business succession in Tuscany. *World Review of Entrepreneurship, Management and Sustainable Development, 15(1-2)*, 202-225.
Caputo, A., Marzi, G., Pellegrini, M. M., & Rialti, R. (2018). Conflict management in family businesses: A bibliometric analysis and systematic literature review. *International Journal of Conflict Management, 29(4)*, 519-542.
Comi, A., & Eppler, M. J. (2014). Diagnosing capabilities in family firms: An overview of visual research methods and suggestions for future applications. *Journal of Family Business Strategy, 5(1)*, 41-51.
Dana, L. P., & Dumez, H. (2015). Qualitative research revisited: epistemology of a comprehensive approach. *International Journal of Entrepreneurship and Small Business, 26(2)*, 154-170.
Ejupi-Ibrahimi, A., Ramadani, V., & Ejupi, D. (2021). Family businesses in North Macedonia: evidence on the second generation motivation and entrepreneurial mindset. *Journal of Family Business Management, 11(3)*, 286-299.
eMarketer. (2021). *eMarketer*. Retrieved from www.emarketer.com/content/global-ecommerce-forecast-2021
Eurostat. (2021). *Basic Figures on Enlargement Countries.* Luxembourg: European Union.
Gashi, G., & Ramadani, V. (2013). Family businesses in Republic of Kosovo: Some general issues. In *Entrepreneurship in the Balkans* (pp. 91-115). Berlin, Heidelber: Springer.
Goodman, L.A. (1961). Snowball sampling. *The Annals of Mathematical Statistics, Vol. 32 No. 1*, 48-170.
Handler, W. C. (1989). Methodological issues and considerations in studying family businesses. *Family business review, 2(3)*, 257-276.
Insituti Riinvest për këkrime zhvillimore. (2015). *Qeverisja Koorporative në Bizneset Familjare në Kosovë.* Prishtinë: Insituti Riinvest.
Islami, N. N., Wahyuni, S., & Tiara, T. (2020). The Effect of Digital Marketing on Organizational Performance Through Intellectual Capital and Perceived Quality in Micro, Small and Medium Enterprises. *Jurnal Organisasi dan Manajemen, 16(1)*, 59-70.
Jahmurataj, V., Ramadani, V., Bexheti, A., Rexhepi, G., Abazi-Alili, H., & Krasniqi, B. A. (2023). Unveiling the determining factors of family business longevity: Evidence from Kosovo. *Journal of Business Research, 159*, 113745.
KBRA. (2022). *Report on basic performance indicators for the registration of commercial companies in Kosovo for 2021.* Pristina: Kosovo Business Registration Agency.
Kosovo Agency of Statistics. (2020a). *Estimation Kosovo Population 2019.* Pristina: Kosovo Agency of Statistics.
Kosovo Agency of Statistics. (2020b). *Labour Force Survey Q3 2020.* Pristina: Kosovo Agency of Statistics.
Kosovo Agency of Statistics. (2022). *Kosovo Agency of Statistics*. Retrieved from https://askdata.rks-gov.net/pxweb/sq/ASKdata/
Kotler, P., Kartajaya, H., & Setiawan, I. (2021). *Marketing 5.0: Technology for humanity.* John Wiley&Sons.
Lansberg, I., Perrow, E. L., & Rogolsky, S. (1988). Family business as an emerging field. *Family business review, 1(1)*, 1-8.
Lányi, B., Hornyák, M., & Kruzslicz, F. (2021). The effect of online activity on SMEs' competitiveness. *Competitiveness Review: An International Business Journal*, 477-196.
Manzoor, U., Baig, S. A., Hashim, M., & Sami, A. (2020). Impact of social media marketing on consumer's purchase intentions: the mediating role of customer trust. *International Journal of Entrepreneurial Research, 3(2)*, 41-48.
Minculete, G., & Olar, P. (2018). Approaches to the modern concept of digital marketing. *International conference Knowledge-based organization (Vol. 24, No. 2)*, (pp. 63-69).
Pramila., & Kumar, R. (2018). Direct and online marketing: Building Direct Customer Relationships. *International Journal of Creative Research Thoughts*, 1140-1142.
Ramadani, V., & Hoy, F. (2015). Context and uniqueness of family businesses. In *Family*

Businesses in Transition Economies (pp. 9-37). Springer, Cham.
Ramadani, V., Memili, E., Palalić, R., Chang, E. P., Ramadani, V., Memili, E., et al. (2020a). Human resource management in family businesses. *Entrepreneurial Family Businesses: Innovation, Governance, and Succession*, 121-135.
Ramadani, V., Memili, E., Palalić, R., Chang, E. P., Ramadani, V., Memili, E., et al. (2020b). Internationalization of Family Businesses. *Entrepreneurial Family Businesses: Innovation, Governance, and Succession*, 153-179.
The World Bank. (2020). *An Overview of the World Bank's Work in Kosovo.* Pristina: TheWorld Bank in Kosovo.
Toska, A., Ramadani, V., Dana, L. P., Rexhepi, G., & Zeqiri, J. (2022a). Family business successors' motivation and innovation capabilities: The case of Kosovo. *Journal of Family Business Management 12(4)*, 1152-1166.
Toska, A., Zeqiri, J., Ramadani, V., & Ribeiro-Navarrete, S. (2022b). Covid-19 and consumers' online purchase intention among an older-aged group of Kosovo. *International Journal of Emerging Markets*.
Ward, J. (2011). *Keeping the Family Business Healthy: How to Plan for Continuing Growth, Profitability and Family Leadership.* New York: Palgrave Macmillan.
Zeqiri, J., Ramadani, V., Ibraimi, S., & Zuferi, R. (2020). The impact of digital marketing on brand awareness and purchase intention. *Conference proceedings, ISCBE 2020.* Tetovo: FBE, SEE University.

Kosovo, Catalonia, the Yugoslavian ghost and international law

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Abstract

This paper aims at analysing the decision of the Autonomous Community of Catalonia to hold a referendum on declaring independence from Spain, and the consequent comparisons drawn with the case of independence of Kosovo. It strives to offer a concise overview of the development of the principle of self-determination in contemporary international law in general, and the right to secession, in particular.
The paper begins with an analysis of the recognition of the principle of self-determination in international legal acts, such as the U.N Charter, the General Assembly Resolutions 1514 (XV) and 1541 (XV) of 1960, the two major International Covenants of 1966, the Declaration on Friendly Relations of 1970, the Helsinki Declaration of 1975, the Vienna Declaration and Programme of Action of 1993, the U.N General Assembly's Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 1995, etc.
Further, it refers to the case law of domestic courts, such as the constitutional courts of Canada and Spain, as well as the International Court of Justice, in order to illustrate the analysis undertaken by the courts in cases related to the principle of self-determination and the right to secession.
The focus of the analysis then shifts to the comparison of the legal situations prevalent in Kosovo and Catalonia at the time of their declarations of independence and draws the fundamental distinctions between them. The paper ends with the conclusion that from the viewpoint of international law, the cases of Kosovo and Catalonia are very different from each-other and the Serbian efforts to consider them as equal are legally unfounded.

Keywords: international law, self-determination, secession, Catalonia, Kosovo.

Introduction

The developments following the Catalan referendum have ignited Serbian claims on Kosovo, which were accompanied by an orchestrated diplomatic action to consider both cases as equal. Shortly after the independence referendum in Catalonia on 1 October 2017, the Serbian President summoned the ministers and the heads of security agencies for talks, as the European Commission spokesman stressed that comparisons between Spain and Serbia could not be drawn, and that Kosovo's independence took place in a very specific context. During his meeting with the Greek counterpart after the referendum was held, the Serbian President pretended to be "surprised" on how was it possible that Catalonia's referendum was considered as illegal by the European Union (EU), while Kosovo's independence was not. On the other hand, the Serbian Foreign Minister accused the countries that have recognized Kosovo of holding double standards, refusing Catalonia's recognition, but accepting Kosovo's.[1]

[1] https://www.reuters.com/article/us-spain-politics-catalonia-serbia/serbia-accuses-world-of-double-standards-over-catalonia-and-kosovo-idUSKCN1C818G

1. The development of self-determination in international law

As one of the renowned international law scholars has stated, *"In the hands of would-be states, self-determination is the key to opening the door and entering into that coveted club of statehood. For existing states, self-determination is the key for locking the door against the undesirable, from within and outside the realm."* [2]

The referendum held in Catalonia was argued by the Catalan leadership to be an exercise of the right to self-determination. In international law, the right to self-determination includes two aspects, the internal and external ones. The internal self-determination includes the right of the people to manage their own affairs, decide their political organisation and have the right to vote in the decisions taken that affect them within the state institutions, in other words, the right to autonomy. The external self-determination implies the right of the people to establish themselves as a separate state entity within the international community and enter into relations with other states, to withdraw itself from the political and constitutional authority of that state, with a view to achieving statehood for a new territorial unit on the international plane, in other words, the right to secession. In a federal state, secession typically takes the form of a territorial unit seeking to withdraw from the federation. It is a legal act as much as a political one.

In contemporary international law, the principle of self-determination was firstly recognised in the U.N Charter as necessary for the development of peaceful and friendly relations among nations.[3] Article 55 of the U.N. Charter further states that the U.N. shall promote goals such as higher standards of living, full employment and human rights *"[w]ith a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples"*.

Through the 50's up until the beginnings of the 60's, the general perception was that the right to self-determination was exclusively reserved for the colonial people, and this perception was reinforced by the General Assembly Resolutions 1514 (XV) and 1541 (XV).[4] In the former, the so-called 'Magna Carta of Decolonization', it was expressly stated that *"All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."* In this respect, international law followed the decision of the politics, which brought to the international arena more than one hundred new states. With the process of decolonisation gaining pace and the greater emphasis placed on human rights, common Article 1 of the two major International Covenants of 1966 represented a giant leap by recognising the self-determination as a right of all peoples, both a civil and political, as well as economic, social and a cultural right.[5]

The establishment of the self-determination as a legal principle in international law was further reinforced by the Declaration on Friendly Relations in 1970. This document is more explicit than the previous ones and extends the principle to people under "[a]lien subjugation, domination and exploitation […]" and implicitly states that a sovereign government should represent "[t]he whole people belonging to the territory without distinction as to race, creed or colour. It states clearly that *"By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every*

State has the duty to respect this right in accordance with the provisions of the Charter."[6]
By its resolution 2649 (XXV) of 30 November 1970, the General Assembly, considering resolution VIII of the International Conference on Human Rights (Teheran, 1968), emphasized the importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights. Expressing its concern that many peoples were still denied the right of self-determination and were still subject to colonial and alien domination, the General Assembly deemed it necessary to continue ensuring and guaranteeing the international respect for the right of peoples to self-determination.
The Helsinki Declaration of 1975 goes even further, by declaring in its Principle VIII, that *"By virtue of the principle of equal rights and self-determination of peoples, **all** peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development."*[7] Such a declaration would normally be considered as applying the principle of self-determination beyond the colonial context, if it wasn't for the strong commitment to the preservation of the territorial integrity and the existing boundaries, stipulated in the very same document, in Principles III and IV.
The secessionist tendencies that could appear as a result of the principle of self-determination have been countered by the Conference on Security and Cooperation in Europe (CSCE) through the affirmation of the protection of the minority rights within the existing states. During the CSCE Copenhagen Meeting on the Human Dimension in 1990, some of the member states proposed that a right to autonomy be granted to the minorities. This was not accepted and the provisions of Part IV of the Copenhagen document remain therefore fairly moderate. This can be seen by the express recognition that the participating states will at all times act, as stated in the *Helsinki Final Act*, *"[i]n conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States. The participating states confirm their commitment strictly and effectively to observe the principle of the territorial integrity of States. They will refrain from any violation of this principle and thus from any action aimed by direct or indirect means, in contravention of the purposes and principles of the Charter of the United Nations, other obligations under international law or the provisions of the [Helsinki] Final Act, at violating the territorial integrity, political independence or the unity of a State. No actions or situations in contravention of this principle will be recognized as legal by the participating States."*Also, the CSCE Paris Charter of 1990 effectively subsumes the right of national self-determination under the preservation of the territorial integrity of existing states.[8]
In 1993, the United Nations World Conference on Human Rights adopted the *Vienna Declaration and Programme of Action*, which reaffirmed Article 1 of the two above-

[6] General Assembly Resolution 2625 (XXV), "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations", October 24th, 1970, para.48 and 53.
[7] "The Final Act of the Conference on Security and Cooperation in Europe", International Legal Materials, (I.L.M), Vol. XIV, 1975, p. 1292.
[8] Martti Koskenniemi, "National self-determination today: Problems of legal theory and practice", International and Comparative Law Quarterly, Vol. 43, 1994, p. 243.

mentioned covenants of 1966.

The U.N. General Assembly's *Declaration on the Occasion of the Fiftieth Anniversary of the United Nations*, on 9 November 1995, also emphasizes the right to self-determination by providing that the U.N. member states will: *"Continue to reaffirm the right of self-determination of all peoples, taking into account the particular situation of peoples under colonial or other forms of alien domination or foreign occupation, and recognize the right of peoples to take legitimate action in accordance with the Charter of the United Nations to realize their inalienable right of self-determination. This shall not be construed as authorizing or encouraging any action that would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind."*

Although all these documents are adopted by the U.N General Assembly and the CSCE in the form of resolutions and declarations, and as 'soft law' have no binding force in international law, they demonstrate the prevailing *opinio juris* among the international community with regard to the principle of self-determination. Nevertheless, such a principle is not without its limitations. The exercise of the right to self-determination inadvertently clashes with the principle of the preservation of the territorial integrity of states, firmly established in international law long before the principle of self-determination and most importantly with the principle of *uti possidetis* (non-violability of borders), confirmed as a principle by the International Court of Justice in the *Frontier Dispute Case* (Burkina Faso v. Mali).[9] Even in the text of the Declaration on Friendly Relations this limitation is expressly stated: *"Nothing in the foregoing paragraphs shall be construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states […]"*.[10]

State practice has consistently been overwhelmingly in favour of the preservation of the territorial integrity of states. Since the creation of the U.N, the only cases of secession approved by the international community were those of Bangladesh from Pakistan in 1971 and South Sudan in 2011, where both were recognised immediately and became full members of the United Nations. Isolated cases like these are hardly indicative of a support for the right to self-determination in state practice. Moreover, even the acceptance of these two new states in the international community weren't done without some sort of accommodation from the governments of the existing states, Pakistan and North Sudan, respectively. In a completely opposite fashion, the international community continues to deny the recognition of the Republic of Northern Cyprus after more than three decades of its existence. Although international recognition is not a precondition of statehood in international law, it controls one of the constitutive elements of a state, the ability to enter into relations with other states. In international law, the right to self-determination doesn't automatically mean the right to secession. Otherwise, the federative states would cease to exist. In its Opinion No.2, the Arbitration Committee (Badinter Committee)[11] stated that *"Where there are one or more groups within a state constituting one or more ethnic, religious or*

[9] Burkina Faso v. Mali, December 22nd, 1986, I.L.R, Vol. 80, p. 445.

[10] "Declaration on Friendly Relations", *Supra, note 6*, para.53.

[11] The Arbitration Committee, headed by Robert Badinter (hence the name Badinter Committee) was set up by the Conference on Yugoslavia in 1991 to deal with arguments relating to self-determination in Yugoslavia.

language communities, they have the right to recognition of their identity under international law." Badinter Committee's opinions were reflected in the 'E.U Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union' of December 16th, 1991. The Committee was of the opinion that the Serbs of Bosnia-Herzegovina and Croatia were entitled to all the rights of minorities and ethnic groups under international law.[12] But most importantly, relevant to the present analysis, the Committee declared that the Yugoslav federation had "dissolved", which meant that its constituent parts could become independent states.

With regard to the issue of the right to self-determination, a deep analysis was undertaken by the Canadian Supreme Court in the case *"Reference by the Governor in Council concerning Certain Questions relating to the Secession of Quebec from Canada"*, 1998.[13] The question put forward to the Canadian Supreme Court was: "*Does international law give the National Assembly, legislature or government of Quebec the right to effect the secession of Quebec from Canada unilaterally? In this regard, is there a right to self-determination under international law that would give the National Assembly, legislature or government of Quebec the right to effect the secession of Quebec from Canada unilaterally?"*

After analysing in detail the current situation of the right to self-determination in international law, in its Advisory Opinion, the court stated that "*A right to secession only arises under the principle of self-determination of people at international law where "a people" is governed as part of a colonial empire; where "a people" is subject to alien subjugation, domination or exploitation; and possibly where "a people" is denied any meaningful exercise of its right to self-determination within the state of which it forms a part. In other circumstances, peoples are expected to achieve self-determination within the framework of their existing state. A state whose government represents the whole of the people or peoples resident within its territory, on a basis of equality and without discrimination, and respects the principles of self-determination in its internal arrangements, is entitled to maintain its territorial integrity under international law and to have that territorial integrity recognized by other states.*[14]

Obviously, the people of Quebec didn't fall in any of the three categories, so the Court answered negatively the question of their right to external determination. For the purposes of the present analysis, the court added that *"In all the three situations, the people in question are entitled to external self-determination because they have been denied the ability to exert internally the right to self-determination."*[15]

2. Kosovo and Catalonia cases in international law

Certainly, the people of Catalonia do not fall under any of these three categories, since they are not governed as part of a colonial empire, they are not subject to alien subjugation, domination or exploitation, and as it will be explained below, they are not denied the meaningful exercise of their right to self-determination within Spain. On the contrary, in the case of Catalonia, they enjoy all the rights of a western, liberal democracy, guaranteed by the Constitution of Spain of 1978.

On the other hand, the case of Kosovo is quite different. Contemporary international

[12] Opinion No.2, para.2 and 4. Opinions are available at: http://ebooks.cambridge.org/clr/case.jsf?bid=CBO9781316 152195&id=CBO9781316152195A006.

[13] 115 International Law Reports (ILR) 536.

[14] The Supreme Court of Canada, *"Reference Re Secession of Quebec"* August 20th, 1998, I.L.M, Vol. XXXVII, 1998, p. 1373.

[15] Ibid.

law recognizes that the right to self-determination should be exercised by people within the framework of the existing sovereign states, preserving their territorial integrity. When this is not possible, and only in extraordinary circumstances, the right to secession may arise, as it was the case in Kosovo.

Kosovo would undoubtedly fall within the third category of peoples, mentioned in the Canadian Supreme Court's judgment, *vis-à-vis* the Serbian government under Milosevic's brutal regime. In other words, the right to secession was recognized by the majority of the countries of the world for the people of Kosovo, pursuant to the principle of self-determination, because they were denied any of the basic rights to internal self-determination within the state they were forced to be part of, in 1913. Referring to the prevailing norms of international law, the Albanian people of Kosovo were denied the right to internal self-determination within Serbia. Being denied the right to internal self-determination, the Albanians of Kosovo declared their independence from Serbia on 17 February 2008.

Kosovo's legal status had changed many times during the years, according to the historical and political circumstances prevalent in Yugoslavia. An overview of the different phases that Kosovo had passed through, would help to better understand the conditions that brought about its independence.

The Serbs consider Kosovo as the 'cradle of the Serb civilisation' because of the defeat of the army led by the Serb Prince Lazar in the Field of Kosovo in 1389, but even when the Congress of Berlin in 1878 recognised the independence of Serbia from the Ottoman Empire, Kosovo was not part of Serbia, but part of the Ottoman Empire. In the same year, the 'Albanian League of Prizren' (named after the city in South-West Kosovo where it was assembled) demanded the recognition of an independent state of Albania, which would comprise Kosovo, present day Albania and the Western part of what constitutes today the Former Yugoslav Republic of Macedonia (FYROM), demands which were ignored by the Great Powers. Kosovo became part of Serbia not by the free will of its people, but as a result of conquest, and the Great Powers decided in the London Peace Treaty of 1913 to give Kosovo to Serbia, even though according to the official statistics of the time, to which the British journalist H. N. Brailsford has been referred to, 2/3 of Kosovo's population were ethnic Albanians.[16] The British Prime Minister, Sir Edward Grey, said in 1913 that the denial of the right of self-determination to the Albanian people, by deciding the annexation of their lands to neighbouring states, served a higher interest. It served to respecting the agreement on the Balkans between the Great Powers, sacrificing the aspirations of the Albanians. Furthermore, the Albanians have not been considered as equal constituent population of Yugoslavia, and this is reflected even in the name of the first Yugoslav state, the 'Kingdom of Serbs, Croats and Slovenes' created in 1918, where the Albanians were not mentioned, even though they outnumbered the Slovenes.

After World War II, the communists came to power in Yugoslavia under the leadership of Tito. Apart from the six federative republics (Bosnia & Herzegovina, Croatia, Macedonia, Montenegro, Serbia, Slovenia), Yugoslavia included two autonomous units as well: Vojvodina and Kosovo (Kosovo-Metohija, 'Kosmet' - preferred term for the Serbians and unacceptable for the Kosovar Albanians).[17] As the first autonomous

[16] H. N. Brailsford," Macedonia, Its Races and Their Future", London, 1906.

[17] Throughout this analysis the place-names have been used as they apear in English publications. Thus, 'Kosovo' is used instead of the Albanian 'Kosovë' or the Serbian 'Kosmet', 'Catalonia' instead of 'Catalunya', 'Catalonha', or 'Cataluña', and so on.

unit, Vojvodina was declared an 'Autonomous Province' on September 1st, 1945 by the People's Assembly of Serbia. Two days later, the same decision was taken with regard to Kosovo, but the difference was that it was defined as an 'Autonomous Region' (*oblast*) rather than 'Province' (*pokrajina*). The difference between these two terms has not been defined legally, but the understanding is that the legal status of a 'Province' within Yugoslavia stood higher than that of a 'Region', but below that of a 'Republic'.[18]

The Yugoslav constitution of 1946 confirmed the federative nature of the state and the inclusion of the two autonomous units as its constituent parts. Under the Serbian constitution of 1947, Kosovo had as autonomous prerogatives: the right to prepare its own budget, to set its own economic and cultural agenda, to protect the rights of its citizens, etc. As a result of the resistance and the insistence of the Kosovar Albanians, their language was granted the same status as the Serbo-Croatian language. However, this would make little difference in practice, since the majority of the officials were Serbian, and therefore, the official documents were issued only in Serbo-Croatian, and not in Albanian.

Although Yugoslavia was constituted as a federative state, the federal units had almost no influence on the decisions taken by the communist federal government which practically exercised its powers in a centralised way. As a result of the increasing demands from the republics for decentralization and more regional powers, the party and the state were gradually federalised[19] and the new Yugoslav constitution was adopted in 1963. This constitution was a double edged sword for the Kosovar Albanians. On the one hand, Kosovo's legal status was elevated to that of an 'Autonomous Province', being now equal to that of Vojvodina. On the other hand, under the new constitution, the republics were granted the rights to form autonomous provinces on their own initiative, being thus constitutive parts of the republics, and not of the federation. The implication of this decision was that Kosovo and Vojvodina lost their status at the federal level, and were subordinate parts of the Republic of Serbia.[20]

However, as the process of decentralization gained pace, several constitutional amendments were made in 1968. In reversal of the previous decision, Amendment VII made both autonomous provinces part of federal structures, as well as of Serbia, and the name 'Kosovo-Metohija' was changed to simply 'Kosovo'. The definition of the autonomous provinces by Amendment XIII, as 'socio-political communities', term equal to that used for the republics, implied that Kosovo now represented a federal legal entity, and would therefore exercise its powers in a similar way to a republic. The aspirations of the Kosovar Albanians were now directed towards the establishment of the 'Republic of Kosovo'. The argument forwarded by them was: If the 370 000 Montenegrins had their own republic, then the 1.2 million Albanians had the same right, as the third biggest population in Yugoslavia, after the Serbs and Croats.[21] The rights gained by the Albanians were significant. From now on, they could raise their national flag (something unimaginable before) and in the newly established university in the capital Prishtina, the lectures would be conducted in

[18] Noel Malcolm, "Kosovo, a short history", Papermac, 1998, p. 316.

[19] Marie-Janine Calic, "Kosovo in the twentieth century: A historical account", in Albrecht Schnabel and Ramesh Thakur, (eds.), "Kosovo and the challenge of humanitarian intervention", U.N University, 2000, p. 21.

[20] Noel Malcolm, *Supra*, note 18, p. 324.

[21] Ibid, p. 325.

both languages, Serbo-Croatian and Albanian.

As far as the rights of the Kosovar Albanians are concerned, they reached their peak under the 1974 Constitution of the Socialist Federal Republic of Yugoslavia (SFRY), which would remain in force until the dissolution of Yugoslavia in 1991. In the very first article, although the autonomous provinces were declared constituent parts of the Socialist Republic of Serbia, they enjoyed considerable freedoms.[22] They were represented directly in the federal institutions. Under the Amendment XXXVI of 1971, the collective Presidency of Yugoslavia would be comprised of two representatives from each republic and one from each autonomous province.[23] Furthermore, the 1974 constitution gave the autonomous provinces another very important right, the right to issue their own constitutions[24], until then a prerogative reserved only for the republics. Under the terms of the Yugoslav constitutional law, Kosovo's legal status came closest to that of a federative republic. State-like attributes were afforded to it, such as having its own national bank[25] and the power to engage in foreign relations within the framework and the limits posed by the Federation.[26]

At the federal level, Kosovo had its own representatives in the Parliament, Presidency and the Constitutional Court,[27] just as the socialist republics. The equality with the republics is expressed in its right to have its own constitution, parliamentary assembly and its own judiciary, including a Constitutional and a Supreme Court[28] and most importantly, its Assembly had the right to vote if any changes were to be undertaken in the Federal Constitution.[29]

At the federative unit level, the autonomy of Kosovo was confirmed in the text of the Constitution of the Socialist Republic of Serbia.[30] As a further guarantee, Article 427 of that constitution stipulated that "*Changes in the Constitution of the Republic are valid only if they receive the consent of the Autonomous Provinces*".[31]

Under the constitutional provisions, both at federal level and in the context of the Republic of Serbia, the people of Kosovo possessed 'sovereign rights' within the autonomous province. The constitution of 1974 marks the climax of the approach to self-determination, an approach that gave the greatest possible autonomy, under the existing circumstances of that time, to the republics and autonomous provinces alike. However, as opposed to the federal republics, Kosovo did not possess the right to secession under national law.[32] The right to self-determination was mentioned only in the preamble of the constitution, and belonged only to the republics, which retained the sovereign right to choose their status. The republics were defined as 'states', whereas no such definition was afforded to the autonomous provinces, which were considered to be constitutive parts of Serbia, albeit with semi-independent status.

[22] Constitution of the Federal Socialist Republic of Yugoslavia, 1974, Article 1, in Kurtesh Saliu, "Lindja, zhvillimi, pozita dhe aspektet e autonomise se krahines se Kosoves ne Jugosllavine Socialiste", Prishtinë, 1984, p. 179.

[23] Noel Malcolm, *Supra*, note 18, p. 327.

[24] *Supra*, note 22, Art. 268.

[25] Ibid, Art. 262.

[26] Ibid, Art. 281.

[27] Ibid, Art. 271.

[28] Ibid, Art. 369-370 and 375-381.

[29] Ibid, Art. 298.

[30] Ibid, Art.2, 3 and 291.

[31] This was one of the obstacles that Milosevic faced when decided to abrogate Kosovo's autonomy.

[32] Carsten Stahn, "Constitution Without a State? Kosovo Under the United Nations Constitutional Framework for Self-Government", Leiden Journal of International Law, Vol. 14, 2001, p. 532.

With its decentralising tendencies, the 1974 Constitution was considered by Serbian nationalists as being discriminatory, against the interests of Serbia. Immediately after its adoption, there were calls for its revision, especially with regard to the powers given to the autonomous provinces, which were claimed to represent 'states within a state'. But the charisma and the authoritarian rule of Tito (himself half-Croatian, half-Slovenian) were sufficient to guarantee the stability and security of Yugoslavia. To his advantage were the favourable international political environment and especially the role Yugoslavia played as a buffer zone between the Eastern and Western blocks during the Cold War.[33]

The situation changed after Tito's death in 1980, when Yugoslavia began to crumble. During the so-called 'Kosovo Spring' in 1981, in massive protests led by the students and intellectuals, Kosovar Albanians were demanding full republican status for Kosovo, equal to that of other constituent republics of Yugoslavia. The protests were crushed with force by the Serbian police and the events led to rising passions of the Albanian and Serbian nationalism.[34]

The rise of Milosevic to power marked the spiralling of Serbian nationalism and its pursuit of dominance over other nationalities and the creation of 'Greater Serbia'. Kosovo was very high up in Milosevic's agenda. In the beginning of 1989, the Serbian Assembly prepared amendments to the Serbian constitution that would restrict severely Kosovo's powers. Serbia would re-gain control over the protection of public order, courts and civil defence, educational and economic policy, the issuing of administrative orders and the decision on the official language.[35]

Under the terms of the 1974 Constitution, for such amendments to enter into force, the approval of the Kosovo Assembly was required.[36] Amid a state of psychological terror and fear instilled by the Serbian security forces, on March 23rd, 1989, Kosovo assembly was forced to convene, under the siege of Serbian tanks and armoured vehicles. With the presence of the security police inside the building (some of them interfering in the voting process), Kosovo Assembly was compelled to pass the amendments. Even though the required two-thirds majority wasn't achieved, the amendments were considered valid. [37]

After the subsequent confirmation of the amendments by the Serbian Assembly, Kosovo's autonomy ceased to exist and its status was reduced to that of a municipality. The amendments were not only in violation of the 1974 Yugoslav Constitution, but also of the Serbian Constitutional Amendment XLVII, under which the position, rights and duties of the Autonomous Provinces could not be altered by amendments of the Serbian Constitution.[38] To take the measures even further, in denial of economic rights of the Kosovar Albanian population, laws were passed by the Serbian Assembly that forbade the buying or selling of property by the Albanians without a special permission by the Serbian authorities. Acts of sale of property by the departing Serbs to Kosovar Albanians were retrospectively declared null and void, in order to discourage the acquiring of real estate by the Albanians and to offer

[33] Enver Hasani, "Kosovo and the Yugoslav self-determination", Institute for Peace Suport and Conflict Management, Vienna, 2002, p. 167.

[34] For a detailed analysis of the events, see Noel Malcolm, *Supra*, note 16, p. 334-353.

[35] Ibid, p. 343.

[36] Kurtesh Saliu, Supra, note 22.

[37] Noel Malcolm, Supra, note 18, p. 344.

[38] Carsten Stahn, Supra, note 32, p. 533.

incentives to the Serbs to return to Kosovo.
The Serbian Constitution of 1990 abrogated the legislative powers of the Kosovo Assembly. They were limited to the adoption of decisions and general enactments in accordance with the Serbian Constitution and the law. Serbia's Constitutional Court was given the power to invalidate the legal acts of Kosovo's institutions. Moreover, Kosovo Assembly lost the right to veto any future amendments to the Serbian Constitution.[39]
Discriminatory measures against Albanians were reinforced by an array of laws passed with the aim of consolidating the domination of the Serb minority. The investments were reserved for the Serb majority areas and the new houses built in Kosovo were exclusively for the Serbs, confined in separate mono-ethnic municipalities. The law 'On the Activities of Organs of the Republic in Exceptional Circumstances' provided for the suppression of the only Albanian-language newspaper 'Rilindja', the dissolution of the Kosovo Academy of Arts and Sciences and the dismissal of thousands of people employed in the public sector.[40] The Serbian parliament imposed measures intended to create a uniform education programme for all the schools in Kosovo, thus implementing the plan for the 'serbianisation' of the province.
The entirety of measures taken by the Serb authorities reduced the status of the Kosovar Albanian population to that of 'second class citizens', which provoked a strong reaction. In defiance to the Serb security forces surrounding the building, on July 2nd, 1990, the Albanian members of the Kosovo Assembly gathered at its doorsteps and declared Kosovo "an equal and independent entity within the framework of the Yugoslav Federation". As a result, the Serbian authorities dissolved both the Kosovo Assembly and government, removing thus the last prerogatives of autonomy from Kosovo.[41]
The abolition of Kosovo's autonomy made the Albanian political leadership even more determined to pursue the path of independence, although by peaceful means. The delegates of the assembly met secretly in the town of Kaçanik on September 7th, 1990, and adopted the Constitution of the 'Republic of Kosovo', containing provisions for the assembly and the presidency of the republic. As far as the applicability of the Serbian law was concerned, it would be valid only for as long as it didn't contradict with the provisions of the new constitution. Exactly a year later, a referendum held by the Kosovar Albanians confirmed the sovereignty and independence of the 'Republic of Kosovo'.[42]
After the declaration of independence, the Kosovar Albanians engaged in the creation of parallel institutions, a government, a parliament, and the leader of the Democratic League of Kosovo (LDK in Albanian) Ibrahim Rugova[43] was elected as the President of the Republic.
As far as international law is concerned, the unilaterally declared 'Republic of Kosovo' didn't assume all the attributes of statehood. Although it had a clearly defined territory with a permanent population living in it, its government failed to receive international recognition (with the exception of Albania), therefore it was

[39] Ibid, Serbian Constitution, 1990, Art. 109, p. 534.
[40] Noel Malcolm, Supra, note 18, p. 346.
[41] Ibid, p. 346.
[42] Ibid, p. 347. The figures presented by the Kosovar Albanian leadership show a participation of 87% of Kosovo's eligible voters and 99% voted for the independence of Kosovo.
[43] Ibrahim Rugova, a specialist of the literary history, was the Chairman of Writers' Association of Kosovo.

unable to engage in relations with other states. It has to be said that as a matter of fact, a delegation of Kosovo was admitted to the London Peace Conference on the former Yugoslavia in 1992. Moreover, because of the repression by the Serb authorities, Kosovo's government couldn't fully exercise its powers in all the territory. It did manage though to create a parallel education system, conducted in the Albanian language in private houses offered voluntarily by members of the public. Also, it was able to maintain a parallel health service, funded by remittances sent by the Albanians living abroad.[44] So the extent to which the government of the 'Republic of Kosovo' could exercise its powers was very limited, restricting the status of the republic to that of a 'shadow' rather than a 'real' one.

The political strategy of the Rugova government was based on the hope of a peaceful solution for the status of Kosovo (hence the dubbing of Rugova as the 'Albanian Gandhi'), the outcome of which would be the recognition of the 'Republic of Kosovo' as an independent entity. But this recognition failed to materialise, adding to the frustration of the Kosovar Albanians and increasing the support for groups that were demanding the adoption of more radical policies. The reasons of a broader support for the more radical elements were internal and external.

On the one hand, within Kosovo, the suppression of the Kosovar Albanians became unbearable. Most of the publications in the Albanian language were prohibited; the Institute of Albanian Studies in Prishtina was closed down; the place-names were regularly changed from Albanian into Serbian; all the state employees that supported the movement for independence were sacked; a program of 'serbianisation' of Kosovo was being put into practice by bringing Serb war refugees from Bosnia and Croatia (some of them were accommodated in the premises of the Museum of the Albanian League of Prizren, a declared World Heritage site by UNESCO). Moreover, Kosovo was constantly used as a tool to raise nationalist passions by the criminal paramilitary groups that committed monstrous atrocities during the Bosnian and Croatian wars. The most notorious leader of one of such groups, Arkan, was even chosen as the representative of one of the Kosovo's constituencies to the Serbian Assembly. In one of his speeches he declared the Albanian inhabitants of Kosovo as 'newcomers' from Albania in the last fifty years, and they should be regarded as 'tourists'.[45]

On the other hand, the swift recognition by the international community of the republics of Slovenia and Croatia in 1991, as a result of armed struggles for independence from Serbia, led to the consolidation of the belief that the only way to independence was armed resistance. Rugova's Gandhism was dealt the last blow with the conclusion of the Dayton Peace Agreement in Ohio in November 1995, which imposed a final solution on the former Yugoslavia. Kosovo was not part of the solution and it was mentioned only once, towards the end of the text of the Treaty, where the lifting of the sanctions on FRY was made conditional on the settling of the dispute over the status of Kosovo. Kosovar Albanians felt that they were ignored by the international community and their peaceful resistance hadn't paid off.

The policy of peaceful resistance followed by the Kosovar Albanians left them unprepared to challenge the military might of the Yugoslav army. But the situation started to change. The collapse of several economic pyramidal schemes in Albania in 1997 led to social unrest and eventually to the collapse of the state institutions. Guns

[44] All the Kosovar Albanians working abroad would pay a 3% 'income tax' towards the Rugova government.

[45] Noel Malcolm, Supra, note 18, p. 352.

and ammunitions were looted from army barracks, which found their way across the border to Kosovo. A guerrilla group called Kosovo Liberation Army (KLA – UÇK in Albanian) was taking responsibility for several armed attacks on police stations and assassinations of Serbian officials. The Serbian reaction was the sending of military and paramilitary forces in Kosovo, which engaged in mass killings, without distinguishing between armed or civilian populations. The escalation of the conflict into fully fledged war, forced the International Contact Group[46] to pressure the conflicting parties into negotiations for a peaceful solution on the status of Kosovo. Negotiations were held in February 1999 at Rambouillet (outside Paris), under the umbrella of the Contact Group, with the participation of the Serb and Albanian delegations.

The document presented for negotiations by the Contact Group, the Interim Agreement for Peace and Self-Government in Kosovo (hereinafter Rambouillet Agreement),[47] was the first attempt by the international community to implement self-government and autonomy in Kosovo. However, such a status would only be provisional, for a period of three years, after which "an international meeting would be convened to determine a mechanism for a final settlement for Kosovo, *on the basis of the will of people* [emphasis mine], opinions of relevant authorities, each party's efforts regarding the implementation of the Agreement, and the Helsinki Final Act".[48] Despite the intense international pressure, it came as no surprise that neither the Albanian, nor the Serbian delegation would agree to be bound by the terms of the Rambouillet Agreement. Viewing it from their diametrically opposite positions, both sides considered it as unsatisfactory to their demands. While after intense diplomatic pressure the Albanian delegation signed the agreement, the Serbian delegation refused to do so, amid threats by NATO that such a refusal would lead to military action against the FRY, which eventually was carried out.

After a sustained 78-day bombing campaign by the NATO alliance, the FRY agreed to the terms proposed by the G-8 countries,[49] and the Security Council passed Resolution 1244 (June 10th, 1999) which declared the end of the armed conflict and placed Kosovo under the U.N administration: the military component being KFOR, and the civilian component being UNMIK.

With regard to the people of Kosovo, UNMIK would provide a transitional administration, while establishing the substantial autonomy and self-government, pending a final settlement.[50] The intentional lack of clarity in the language of the Resolution 1244 as to the final legal status of Kosovo, made the task of UNMIK daunting. The engagement of the U.N in Kosovo went far beyond the peacekeeping operations that it had undertaken before, and the status and competencies of UNMIK were unprecedented in any other international territorial administration. In no previous occasion had the Security Council used Chapter VII measures to actually

[46] Comprised of U.S.A, U.K, France, Italy, Germany and Russia. Interestingly, these are almost the same Great Powers that decided the fate of the Balkans in the Congress of Berlin 1878, but the place of Austria-Hungary has been taken by the United States of America.

[47] Available at: https://www.usip.org/sites/default/files/file/resources/collections/peace_agreements/kosovo_ramb.pdf

[48] Ibid, Chapter 8, Art I, para.3.

[49] Agreement on Political Principles, June 3rd, 1999, signed by the FRY and the E.U and Russian envoys, Marti Ahtisaari and Victor Chernomyrdin.

[50] Resolution 1244, para.11.

define the shape of the administration and the system of governance of a territorial entity. The administration was envisaged to engage in the building of democratic institutions until they were able to take over the state authority, without knowing what the status of such state would be, in contrast to the U.N administration installed in East Timor (UNTAET), where the legal status of the territory was decided beforehand by the Security Council Resolution 1272.[51] Under its terms, UNTAET assumed overall responsibility for the administration of East Timor including the administration of justice and the provision of security, whereas in Kosovo this last task was entrusted to KFOR, which is a non-U.N entity. The people of East Timor had expressed their will in the referendum of August 30th, 1999, where they voted for independence from Indonesia and the outcome of the referendum sparked the violence by the pro-Indonesian militia.[52] So the administration knew from the beginning the outcome of their institution-building efforts, and UNTAET ended its mission in May 2002.

There is no mentioning in the Resolution 1244 of a referendum with regard to the final status of Kosovo, although such a provision existed in the Rambouillet Agreement.[53] UNMIK's mandate imposed major responsibilities upon those whose duty was to administer and democratise Kosovo, because it left the fundamental questions of ownership and governance unanswered, postponing them to an unspecified future date. As such, Resolution 1244 represented a mandate to conduct *state-building without statehood*.[54]

During the nearly nine years of administering Kosovo, UNMIK gradually transferred its powers to the freely elected government, and the logical conclusion of its actions was an independent Kosovo, which was eventually declared on 17 February 2008.

As to the legality of Kosovo's Declaration of Independence, the International Court of Justice (ICJ) has given an Advisory Opinion on 22 July 2010.[55] Relevant to the referral made above to the judgment of the Supreme Court of Canada, regarding the question of the "categorization" of the Albanian people of Kosovo as holders of the right to self-determination, the ICJ emphasized that the question posed to it is fundamentally different from that forwarded to the Canadian court, which was asked whether the international law authorized the National Assembly, the legislature, or the Quebec government to declare the secession from Canada unilaterally. According to the ICJ, the difference was that while the Canadian court was asked about international law guaranteeing the right to secession, the General Assembly had asked whether Kosovo's declaration of independence was in accordance with international law, without referring to the right to secession.

Thus, the ICJ argued that the question posed to it did not require the International Court to state if international law allowed entities within a state to secede from it. It may be that a unilateral declaration of independence does not contradict international law, but that does not necessarily mean that international law guarantees the exercise

[51] Security Council Resolution 1272, October 25th, 1999. U.N Doc. S/RES/1272 (1999).

[52] In East Timor, 78.5% of the voters rejected the proposal for "special autonomy" within Indonesia, thus suporting independence. See "Letter of the U.N Secretary General to the President of the Security Council", September 3rd, 1999, U.N Doc. S/1999/944.

[53] Rambouillet Agreement, Supra, note 34, Chapter 8, Art.1(3).

[54] Dominik Zaum, "The Empty Stage: State-building without Statehood in Kosovo", p. 3, review of the book "Empire Lite: Nation-building in Bosnia, Kosovo and Afghanistan", London, Vintage, 2003, by Michael Ignatieff.

[55] The Advisory Opinion of the ICJ can be found at: http://www.icj-cij.org/files/case-related/141/141-20100722-ADV-01-00-EN.pdf

of this right. Answering the question of the General Assembly, the ICJ declared that the declaration of independence of Kosovo did not violate international law.
In the case of Kosovo, the Albanian people enjoyed the right to secede, realizing the right to external self-determination, because even the minimal right of internal self-determination was denied to them, accompanied by daily oppression and terror, including massive poisoning of children, culminating in the mass killings of the civilian population in the 1999 conflict.
Considering all the above, can parallels be drawn to the case of Catalonia? The quick answer is "No", because Catalonia's history has nothing in common with the repression in Kosovo. As its own Organic Act 6/2006 of the 19th July, "On the Reform of the Statute of Autonomy of Catalonia" stipulates in the preamble, it is *"... a history which the women and men of Catalonia wish to continue so as to enable the construction of a democratic and advanced society, one of wellbeing and progress, in solidarity with Spain as a whole* [emphasis mine] *and incorporated into Europe... participates in the construction of the political project of the European Union, whose values and objectives it shares."* Any attempts at secession, would be contrary to these provisions, because an independent Catalonia would neither be in solidarity with Spain, nor incorporated into Europe, since it would have to apply as a new candidate for EU membership, and it would need the unanimous consent of all its member states, Spain included.
In the Spanish Constitution, Catalonia has the status of an "autonomous community" within Spain, with broad rights of self-government. But Spain is not a federation, and it is certainly not undergoing dissolution, as Yugoslavia did. There is nothing to equate the case of Kosovo with that of Catalonia.
Beginning with Article 137 and onwards, the legal provisions of the Spanish Constitution[56] guarantee the right of self-government for the management of their respective interests, for all territorial administrative units: municipalities, provinces and Autonomous Communities (Catalonia falling in the latter category, within the Kingdom of Spain, with the status of a Historic Region), thus guaranteeing them the right to be self-governed freely, and to realize their rights and freedoms. The following articles stipulate that the differences between the statutes of the different Autonomous Communities may in no case imply economic or social privileges, and that the Spanish people have the same rights and obligations in any part of Spain's territory.
Furthermore, Article 148 guarantees the Autonomous Communities competences regarding the organisation of their institutions of self-government, the functions appertaining to the State Administration regarding local Corporations, town and country planning and housing, public works of benefit to the Autonomous Community, within its own territory, railways and roads whose routes lie exclusively within the territory of the Autonomous Community, transport, ports and airports which are not engaged in commercial activities, agriculture and livestock raising, woodlands and forestry, environmental protection management, planning, construction and operation of hydraulic projects, inland water fishing, the shellfish industry and aquaculture, shooting and river fishing, local fairs, promotion of the economic development of the Autonomous Community within the objectives set by

[56] Constitution of Spain can be found at: https://www.boe.es/legislacion/documentos/ConstitucionINGLES.pdf.

national economic policy, handicrafts; museums, libraries and music conservatories of interest to the Autonomous Community, the monuments of interest, the promotion of culture, of research, the teaching of the language of the Autonomous Community, the promotion and planning of tourism within its territorial area, the promotion of sports and leisure, social assistance, health and hygiene, the supervision and protection of its buildings and facilities, coordination and other powers relating to local police forces. In general, Catalonia is self-governed freely and democratically through its own bodies, including the Legislative Assembly elected by universal suffrage in accordance with a system of proportional representation which ensures the representation of the various areas of the territory, a Governing Council with executive and administrative functions and a President elected by the Assembly from among its members and appointed by the King. The President is responsible for directing the Governing Council, which constitutes the supreme representation of the respective Community as well as the State's ordinary representation in the latter. The President and the members of the Governing Council are politically accountable to the Assembly. A High Court of Justice heads the judiciary within the territorial area of the Autonomous Community. As it can be seen, self-government in Catalonia is at the highest level, within a country based on the democratic principles and the respect for the rule of law.

Besides these constitutional guarantees, the Spanish Constitutional Court has declared the Resolution 1/XI of the Catalan Legislative Assembly of 9 November 2015 as unconstitutional and null. That resolution marked the beginning of the political process that aimed at creating an independent Catalan State in the form of a republic. In its judgment 259/2015, of 2 December 2015,[57] the Spanish Constitutional Court argued that this resolution was in conflict with the principles of legitimacy and democracy. Especially regarding the latter, the court emphasized that the principle of democracy is linked to two fundamental premises of the constitutional order: political pluralism and territorial pluralism.[58]

The court stated that political pluralism is one of the higher values protected by the Spanish Constitution, the cornerstone of the system of co-existence, and a principle on which the Parliament of Catalonia based the arguments of its resolution, and that value is not restricted to the manifold expressions of pluralism protected by the Constitution. Apart from the linguistic and cultural pluralism that the Spanish Constitution protects, it is important to note the constitutional recognition of the autonomy of the nationalities and regions. The indissoluble unity of the Spanish nation goes hand in hand with the right to autonomy of the nationalities and regions. The right to autonomy is a constitutional right, recognized together with the principle of unity. The Autonomous Communities are guaranteed the right to govern themselves freely, but that freedom should be enjoyed within the constitutional framework, and in accordance with the principle of unity. As it is proclaimed in the Statute of Autonomy of Catalonia: *"Catalonia, being a nationality, exercises self-government as an Autonomous Community, in accordance with the Constitution and the present Statute, which is its basic institutional legislation"*.[59]

[57] The judgment of the Constitutional Court of Spain on the constitutionality of the Resolution can be found at: https://www.tribunalconstitucional.es/ResolucionesTraducidas/STC%20259%20%202015%20%209N%20(English).pdf.

[58] Judgment 259/2015 of the Constitutional Court of Spain, p.23, para.5.

[59] Ibid., p.24, para.2 and 3.

Continuing its analysis, the court stated that the Constitution is not carved in stone and immune to changes, but those changes must be in accordance with the procedural framework for constitutional reform. As it is stipulated in Article 168 of the Spanish Constitution, such a constitutional reform includes the approval of the new constitutional text by two-thirds of the members of each of the houses of the Spanish parliament, followed by the approval of the Cortes Generales (joint assembly of both houses of the Spanish parliament: the Congress of Deputies and the Senate), and then submitted to be ratified by referendum. In the case of Catalonia, its parliament did not follow such a procedure when drafting the Resolution 1/XI, thus violating the constitution and the statutory provisions.

Furthermore, the Spanish constitution protects the rights of its citizens, promoting their political action on the basis that they are the holders of the right to decide their collective political future, including the right to freely express that their nationality or region should become independent from Spain, or even the right to association, to create political parties that include separation from Spain in their ideology or programme.[60]

Based on all the above, since Spain is a country based on the rule of law principles and allows the development of the aspirations of the nationalities and Autonomous Communities within it, the Spanish Constitutional Court declared Resolution 1/XI, of the Parliament of Catalonia, adopted on 9 November 2015, to be unconstitutional and null.

Apart from the Resolution, the Spanish Constitutional Court declared the law on "the referendum of self-determination" (Law of Catalonia 19/2017, of 6 September 2017) itself to be unconstitutional, in the judgment of 17 October 2017.[61] As far as the right to secession is concerned, it stated that this is reserved for the people under colonial domination, under foreign occupation and people that are oppressed and subjected to massive and flagrant violations of their rights. Considering that Catalonia is in a very different context, part of a democratic country, widely decentralized, which respects the rule of law and human rights, there is no such right of secession from Spain.[62]

3. Conclusions

As far as international law is concerned, Kosovo and Catalonia cases are completely different and considering them as equal is at best a distorted interpretation of international law, used to cover the real reasons for this stance.

As it was noted in this analysis, people are expected to exercise the right to self-determination within the framework of their country of residence. A country such as Spain, where the government is a representative of all the people or peoples who live in its territory on the basis of equality and non-discrimination, a country which respects the principle of self-determination in its domestic affairs, enjoys the right to preserve its territorial sovereignty according to international law. But when a people is denied the most basic human rights and any exercise of the right to self-governance within the country they live, facing repression and mass expulsions, as was the case of

[60] Constitution of Spain, Articles 6, 20 and 22.

[61] The judgment of the Constitutional Court of Spain on the constitutionality of the referendum can be found at: http://www.ara.cat/2017/10/17/sentencia_TC_referendum.pdf?hash=94ee118c8e94e9113dc6441683a25891a3313ac8

[62] Ibid., Part G, para.1, p. 10.

Kosovo under Milosevic's Serbia, the right to secede from such a brutal state derives from the application of the principle of self-determination.

All the efforts had been made by the international community to resolve the Kosovo humanitarian crisis, but in vain. NATO intervention in March 1999 took place only after all international diplomatic efforts had failed to stop the barbaric acts against the people of Kosovo. Nearly a million people were expelled from their homes, many of which were destroyed by the Serbian military and paramilitary forces. The UN Security Council had passed Resolution 1199, invoking Chapter VII of the UN Charter, considering the conflict in Kosovo as a threat to international peace and security and demanding the withdrawal of the forces used for the repression of the civilians. The massacres of the civilians were reported by the Organization for Security and Cooperation in Europe (OSCE), which raised very serious humanitarian concerns.

Following the NATO military intervention, UN Security Council Resolution 1244 left the status of Kosovo undecided, pending the final settlement, according to the Rambouillet Agreement. It irrevocably replaced the sovereignty of the Federal Republic of Yugoslavia over Kosovo with that of the United Nations, at an unprecedented scale. It established the United Nations Interim Administration Mission in Kosovo (UNMIK) and the military presence in Kosovo (KFOR). On 26 March 2007, the Secretary-General of the UN submitted the report of his Special Envoy to the Security Council, which stated that *"after more than one year of direct talks, bilateral negotiations and expert consultations, it had become clear that the parties were not able to reach an agreement on Kosovo's future status"*, and then he concluded: *"It is my firm view that the negotiations' potential to produce any mutually agreeable outcome on Kosovo's status is exhausted. No amount of additional talks, whatever the format, will overcome this impasse…The time has come to resolve Kosovo's status. Upon careful consideration of Kosovo's recent history, the realities of Kosovo today and taking into account the negotiations with the parties, I have come to the conclusion that the only viable option for Kosovo is independence,* [emphasis mine] *to be supervised for an initial period by the international community."*[63]

The final solution, the independence of Kosovo, came as an expression of the free will of its people.

On the other hand, as it is stated in the preamble of the Organic Act 6/2006 of the 19th July, "On the Reform of the Statute of Autonomy of Catalonia", *"...Catalonia is a community of free persons for free persons, in which each individual may live and express diverse identities, with a firm commitment to community based on respect for individual dignity … wishes to develop its political personality within the framework of a State which recognizes and respects the diversity of identities of the peoples of Spain* [emphasis mine]", while in Kosovo under the Milosevic ruthless regime people lived in constant fear of repression and denial of most basic human rights, under a state that would not accept the diversity of its people and would massacre thousands of people that were of a different identity.

This analysis has shown that cases of Catalonia and Kosovo stand in stark contrast. The former is a case where people are granted all the rights of self-determination, within a country based on the rule of law and that respects the human rights of its citizens. Efforts for independence by their political leadership are based mainly

[63] Letter of the Secretary-General addressed to the President of the Security Council, attaching the Report of the Special Envoy of the Secretary-General on Kosovo's future status, United Nations doc. S/2007/ 168, 26 March 2007.

on economic reasons, following the economic crisis, claiming disproportionate contributions compared to other parts of Spain. All these efforts have been legally challenged before the constitutional court and declared to be unconstitutional and null. There were no tanks and paramilitary forces killing the Catalan people. Whereas in Kosovo, people were denied the most basic human rights by the repressive Serbian regime of Milosevic, forcing them to armed struggle to defend their rights, which was followed by an international supervision of nearly a decade, and then by the only viable option, independence. When the declaration of independence was legally challenged before the International Court of Justice, it was declared that it did not violate international law. Moreover, Spain is neither a federation, nor undergoing dissolution, as Yugoslavia did.

You cannot stage the Hamlet drama without having the scene of the ghost.[64] This drama was played for very long on the people of Kosovo. From the viewpoint of international law, the cases of Catalonia and Kosovo are very different from each-other and the Serbian efforts to consider them as equal and to revive the Yugoslav ghost are legally unfounded and deemed to fail.

References

Knoll, Bernhard. (2002). *United Nations Imperium: Horizontal and Vertical Transfer of Effective Control and the Concept of Residual Sovereignty in 'Internationalized Territories*, Austrian Review of International and European Law.

Brailsford, H. N. (1906). *Macedonia, Its Races and Their Future*, London.

Cassese, Antonio. (1995). *Self-determination of People: A Legal Reapraisal*, Cambridge.

Hasani, Enver. (2002). *Kosovo and the Yugoslav self-determination*, Institute for Peace Support and Conflict Management, Vienna.

Ignatieff, Michael. (2003). *Empire Lite: Nation-building in Bosnia, Kosovo and Afghanistan*, Vintage.

Koskenniemi, Martti. (1994). *National self-determination today: Problems of legal theory and practice*, International and Comparative Law Quarterly, (43).

Malcolm, Noel. (1998). *Kosovo, a short history*, Papermac.

Saliu, Kurtesh. (1984). *Lindja, zhvillimi, pozita dhe aspektet e autonomisë së krahinës së Kosovës në Jugosllavinë Socialiste*, Prishtinë.

Schnabel, Albrecht and Thakur, Ramesh. (2000). *Kosovo and the challenge of humanitarian intervention*, U.N University.

Stahn, Carsten. (2001). *Constitution Without a State? Kosovo Under the United Nations Constitutional Framework for Self-Government*, Leiden Journal of International Law (14).

[64] The phrase borrowed from the Statement of the Representative of Singapore on the situation in Kosovo, March 27th, 2002, U.N Doc. S/PV, 4498. Quoted in Bernhard Knoll, "United Nations Imperium: Horizontal and Vertical Transfer of Effective Control and the Concept of Residual Sovereignty in 'Internationalized Territories", Austrian Review of International and European Law, Vol. 7, 2002, p. 30.

The role of routine road maintenance and the impact on its periodic maintenance

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Abstract

Population growth and economic growth has been accompanied by an increase in the demand for transport, as a result of the increase in the number of vehicles. But the increase in the number of vehicles will increase the volume of traffic which, on the other hand, is potentially an indicator for road damage and an increase in traffic accidents. Our research aims to determine the impact of traffic volume and routine maintenance on road damage in one of the national roads such as the Skuraj Malci Komplex-Burrel axis. In order to determine, analyze and evaluate the main indicators of road damage, the data has been collected by ARSH (Albanian Road Authority). The results of the study have led to the conclusion that the lack of good maintenance of the road and the impact of the volume of heavy vehicles are the two main causes of damage to the road layer.

Keywords: track maintenance, periodic maintenance, AADT, truck volume, road surface, road performance.

Introduction

In the damage of the asphalt layer and consequently in the reduction of the service level of the road, they affect; AADT traffic volume, (annual average daily traffic), vehicle types, maximum ton/axle weight, road surface quality, road maintenance, but also environmental features.
According to specialists, the damage to the road surface is due to the high volume of heavy vehicles, ton/axle overload, weather, environment and lack of maintenance Figure 1.

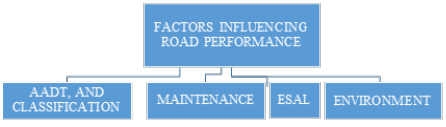

Figure 1. Influentials factors of road performance
A good understanding of road performance and the factors affecting this performance would enable engineers to plan cost-effective and long-term road maintenance that meets user needs. To evaluate the performance of the road or more precisely the asphalt layer, the assessment of the roughness of the road layer (IRI, Roughness) is

used. The main objective of this research is to evaluate the effect of AADT, trucks, and road maintenance service on IRI and the life cycle of the maintenance service. The evaluation of the maintenance performance is done through the monitoring of asphalted roads according to the IRI road roughness data. [1]

Road surface Roughness (International Roughness Index, IRI) is one of the most effective parameters that can be used as an indicator of road performance. To maintain the best IRI values, roads in good condition with a high level of the service, which is realized with their maintenance.

Its continuous maintenance is carried out through;

a) *regular or routine maintenance (MR) of the roads which is done day by day, for small repairs to minimize damages as well as,*
b) *periodic maintenance (PM) which is planned, to repair the condition where the damage has reached the critical point.*

Road maintenance planning is based on the technical data that are recorded in the road catalog, specifically;

1. *Data that change gradually as a function of road traffic (traffic volume and composition, axial load, IRI, etc.).*
2. *Variable data (variable); mainly the factors that describe the current state of the road, damages, collapses, cracks, etc. [13]*

Methodology

Asphalted roads, if maintained according to standards, will generally be damaged by the impact of heavy traffic and environmental conditions. Poor maintenance leads to accelerated damage to the asphalt, mainly due to the ingress of water into the structure of the asphalt and the substrates near it, as a result it will begin not to carry the loads that it should withstand.

The research was carried out on the road axis Skuraj Malci Komplex-Burrel with a length of 37.4 km Figure 1. The road is national with a low level of AADT. This road is a connecting road between several mining/processing businesses of iron, copper and chrome minerals and the Durres Sea Port. Although there is not a high AADT volume, this road has a significant volume of heavy vehicle traffic.

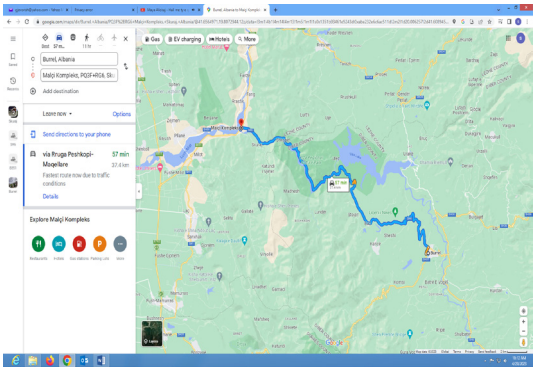

Figure 2 . ***Skuraj-Burrel road segment.***

Likewise, traffic data is a very important indicator for periodic maintenance requirements and in its economic aspects. Traffic volumes are widely believed to be a key issue in changing road surface conditions. The dynamics of AADT of vehicles in 10 years (2013-2022) on the Skuraj Malci Komplex-Burrel road is given in Table 1, and

the volume in % according to three classes, based on the average annual daily traffic AADT, is given in Table 2. [2]

years	AADT	Pass/cars	Truck	Minibus
year 2013	601	518	69	14
year 2014	611	527	70	14
year 2015	613	529	69	15
year 2016	615	535	64	16
year 2017	623	535	71	17
year 2018	614	526	72	16
year 2019	624	535	73	16
year 2020	369	308	48	14
year 2021	401	337	49	15
year 2022	634	526	91	17

Table 1 Data on traffic volume (AADT), and traffic categories for a 10-year period.

Pass/cars	Truck	Minibus
85%	12%	3%

Table 2 Table 2. Volume in %.

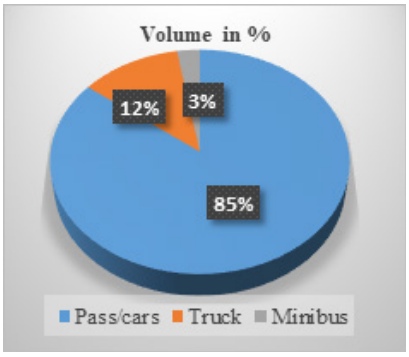

Figure 3 ***Weight in % of the three categories of AADT.***

Also, based on FHWA, we have also classified heavy vehicles according to classes, according to the number of axles.

Truck category	FHWA Truck Classifikation	Load Faktors (EALS/truck)
2-axie	Class 5	0.50
3-axie	Class 6 and 8	0.85

Table 3 [3]

As can be seen from the data in Table 2, in the volume of traffic, average trucks account for 12% of AADT, according to DPSHTRR, 2-axle trucks account for 10% and 3-axle trucks for 2%. The vehicles that use this road axis do not respect the maximum load capacity allowed ton/axle, but exceed it by 20-40% (DPSHTRR, General Directorate of Road Transport Service) [5].

Overloads on road surfaces directly affect road damage and its lifespan. The main damage is cracks and cracks in the asphalt, lateral collapse of the embankment,

wrinkling of the asphalt, longitudinal cracks, transverse cracks, in the form of furrows, wear and tear of road signaling signs.

Figure 4 N 41^{0}40′02.5″ E 19^{0}53′039.2″ N 41^{0}40′01.4″ E 19^{0}53′03.7″

Axle load is another indicator to determine the asphalt load for design and maintenance purposes and to assess the degree of overload. The harmful effect of vehicles is usually expressed in terms of equivalent standard axles, ESA.
This reflects the fact that the detrimental effect of heavier axles is enormously amplified.
A one-ton axle is 0, 00008 ESAs
A 10 ton axle is 2.44 ESAs
A 15 ton axle is 15.1 ESAs
It is clear from this how one truck can do more damage on the road than thousands of light vehicles. [8]
Analysis of the current situation is performed to evaluate the functional relationship between IRI, heavy vehicles and poor road maintenance. The determination of real road conditions according to the data of ARRSH are evaluated every year by a technical staff of road monitoring, evaluating an annual average of IRI. The measurement of the International Roughness Index (IRI) is based on a recommended theoretical comparison see Table 4. [9]

Value	Roughness Level
Below 2.0	Very Good
2.0-3.99	Good
4.0-5.99	Fair
6.0-10.0	Poor
Above 10.0	Very Poor

Table 4 Table 4 Ranges of IRI (AI-Rousan & Asi, 2010. p.8) (Based on 80 km/h).

On the basis of the performed inspections, the technical staff also makes an IRI forecast for the next 10 years, planning a good routine maintenance. This method is supported in the contemporary literature with the best practices, related to the lifespan of the asphalt layer.
Periodic maintenance is related to routine maintenance.
With good routine maintenance, the periodic maintenance time of overlays can

typically range from 5 years in an extreme case of very heavy traffic to 20 years or more in cases of low traffic. A high standard of routine maintenance would not only greatly extend the period between essential periodic interventions, but it would also make them considerably less expensive. [10,11]
On any road axis, periodic maintenance will be required at the point where the increase in maintenance costs together with the increase in VoC (Vehicle of Cost) have reached the point where the investment is justified to reduce the severity and maintenance burden of the road. The time for periodic maintenance depends on the degree of deterioration of the road, which in turn depends mainly on the standard of routine maintenance and the traffic load. [12].
If the road has been routinely maintained to a high standard, the periodic intervention will generally consist of a direct coating together with shoulder works, white lines and any other repairs outside the scope of routine maintenance. If routine maintenance has been poor, the deterioration of the road will be rapid and the necessary work will begin to take on the proportions of a wide asphalt rehabilitation.
In fact, failure to perform proper routine maintenance would require an eventual periodic intervention in a major rehabilitation, which not only costs more, but can happen sooner. In general, it is recommended that the life cycle be taken to be approximately 15 years.

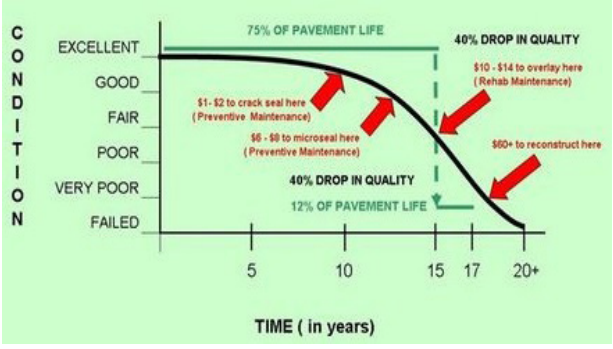

Figure 5 Pavement life Curve. [13]

But due to the conditions of Albania and especially due to the lack of funds for maintenance, the technical staff has accepted the maintenance cycle period of approximately 10-12 years. And on this basis, the technical staff has also foreseen the IRI.
Results
Based on the existing problems, we analyzed the level of damage according to IRI, due to the two main indicators mentioned above, for AADT and Routine Maintenance. Table 5 shows the predicted IRI if a good routine maintenance was carried out, and the actual IRI for a period of 11 years, due to not performing good routine maintenance.
According to the comparison of the data for IRI, we find that due to poor maintenance, we have a deterioration in road performance, i.e. an increase in IRI, which reaches its maximum value in year 9 (2020) with IRI=12.8.
The prediction was that the maximum IRI where periodic maintenance had to be intervened would be the 11th year (2022) with IRI=7.5. (Second column)
According to the prediction of IRI=7.5, the current value of IRI for poor road

maintenance, and where periodic maintenance should begin would be in the 6-7th year where the current IRI value matches the predicted IRI=7.5. So periodic maintenance should be done in the 6th year or approximately 5 years before. (See graph 2 red dashed lines)

Years	IRI (No Routine Maintenance) actual	IRI (Good Routine Maintenace) predicted
year 1	2	2
year 2	2.5	2.1
year 3	3	2.5
year 4	3.8	2.8
year 5	5.3	3.1
year 6	6.8	3.7
year 7	9	4.3
year 8	11.2	5.2
year 9	12.8	5.9
year 10	2	6.9
year 11	2.5	7.5

Table 5 Table 5. IRI for good maintenance (prediction) and actual IRI for 11 years.

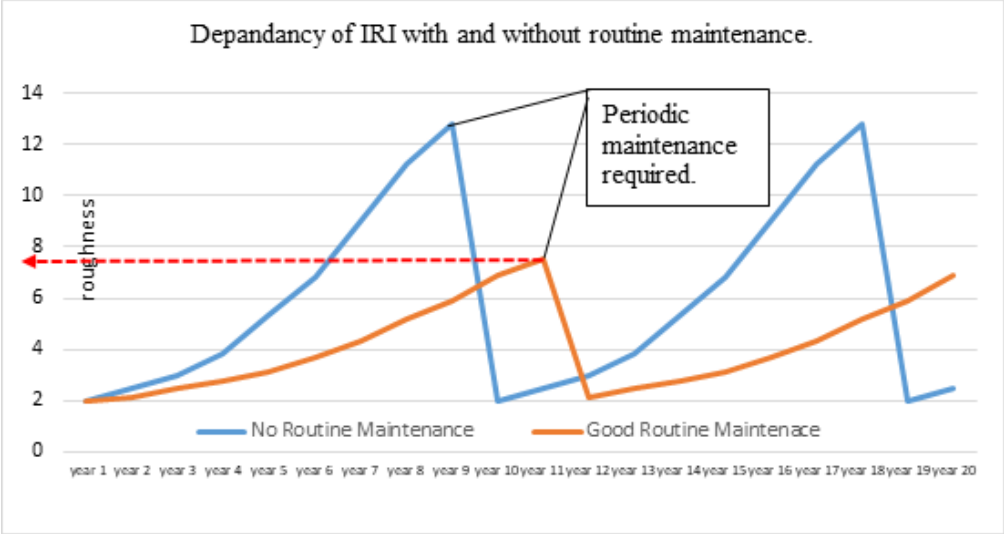

Figure 6 ***Dependency of IRI with and without routine maintenance.***

Due to the lack of funds for maintenance, and no engineering or economic analysis of the performance of the road, the state of deterioration has continued until 2022, where it has been decided to carry out periodic maintenance for the road axis taken in the research. [13]

Conclusions

High IRI values provide warning and justification to undertake Periodic Maintenance at the appropriate time. Examining the roughness IRI, (Roughness), how it changes over time, shows how quickly or slowly the asphalt is being damaged due to poor tread maintenance. From a practical point of view, we can assess the periodic maintenance needs of asphalted roads suitable for traffic based on AADT, and IRI roughness assessment.

References

Pais J C, Amorim S I R and Minhoto M J C 2013 Impact of traffic overload on road pavement performance J. Transp. Eng. 139 873–9.

Albanian Road Authority (ARA). Albania 2017. Albanian Road Maintenance Manual.

Summary of DOT&PF Truck Categories and FHWA Truck Clasification.

Albanian National Transport Plan 3. (ANTP3) TYPSA Consulting Engineers & Architects. EuropeAid/138392/DH/SER/AL 2019.

Methodical for traffic measurement. 2002. Institute of Transport Studies, Albania. (IST).

Vehicle Fleet defines the characteristics of vehicles in the fleet that operate on the road network being analysed. Volume 1. HDM-4. Section 7 - Data Requirements (MShMRr) November 2007; EUROPEAID/ 123281 /C/SERIAL.

Volume 1 HDM-4 Speed-flow type. Page D1-4.

https://www.google.com/url?sa=i&url=https%3A%2F%2Fsli m%2Fslide%2F16535156%2F&psig=AOvVaw2Q_43DYfQZCM8CjOKla3E4&ust=1681545530541000&source=images&cd=vfe&ved=0CBMQjhxqFwoTCNCqnLTzqP4CFQAAAAAdAAAAABAE[11]

https://www.google.com/url?sa=i&url=https%3A%2F%2Findusinc.com%2Fpavement-preservation%2Fwhy-preservation-works%2Fthe-true-life-cycle-cost%2F&psig=AOvVaw0jP-8p6QaicCtbSYHlKaQF&ust=1685176279688000&source=images&cd=vfe&ved=2ahUKEwjPhsb9yJL_AhWYvioKHde5CVwQr4kDegQIARBl

APPENDIX A. Pavement design and management concepts

Publication Number: FHWA-HRT-13-038 Date: November 2013.

Tax avoidance in Albania - Current situation and reforms

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Abstract

The work was carried out in the framework of the reform of the tax system and the analysis of phenomena such as the avoidance of paying taxes and taxes and the use of legal loopholes to reduce the tax liability, in Albania, as well as in the framework of other jurisdictions, which have served as a reference model for reforming Albanian legislation, such as Italian and European Union legislation. In recent years, we have witnessed a significant increase in the quantitative and qualitative level of fiscal evasion and tax avoidance. Often, the "battle" between the tax authorities and the contributor in bad faith or suspected as such takes place on the basis of the evidentiary power (burden of proof) of the elements of the transaction that must be verified by the tax administration, but, even more often, this war takes place on the basis of the correct interpretation of legal norms. Nowadays, brutal evasion is leaving more and more room for refined evasion, which contrary to what may be generally thought, is no longer the prerogative of only large companies, corporations or powerful business groups, but is transformed into an instrument of ordinary administration for small and medium-sized enterprises, even in special cases, also for natural person contributors.

Keywords: tax system, tax avoidance, evasion, doctrine of abuse of right.

1. Introduction

The economic and financial situation of Albania at the beginning of the tax system was characterized by several features, such as a deep economic and financial crisis, the lack of a legal framework for the market economy, the limited degree of recognition of the market economy, cultivated culture that Albania was the only country without taxes and duties, lack of tax legislation and fiscal culture. The macroeconomic stabilization program guided the introduction of fiscal and monetary policies necessary to achieve success.

The drafting and implementation of an efficient fiscal policy for the collection of public revenues from taxes and fees, in the specified terms, respecting the tax legislation, away from the arbitrary and subjective actions of the tax administration to the detriment of business has been one of the permanent challenges of the policy makers. , as well as the establishment of a universal tax system, according to which, every entity that realizes income from an economic activity must pay tax, in proportion to the income it provides.

In the previous chapters, we analyzed the concept of tax evasion and also analyzed how the judicial doctrine developed by the European Court of Justice, in the tax systems of EU member states, helps to address, identify and ascertain tax evasion through the general principle of prohibition of abuse. with the right. The reasons for this detailed analysis are for the clearest recognition and understanding of the phenomenon of avoidance and by realizing the first objective, it is easier for us to make an analysis of the Albanian tax legislation related to tax avoidance.

We will follow the same line of review and analysis as in the case of the Italian legislation, specifically:

a a) the fact that cases of avoidance are present in every tax legal reality and are difficult to address, makes it more complex to oppose this phenomenon in tax systems that do not contain a general anti-avoidance norm;

b b) the ways by which the tax avoidance offered by our legislation is ascertained, which are the provisions that sanction the elements of avoidance;

c c) if there is a general anti-avoidance norm in Albanian tax law;

d d) referring to other ways of addressing, such as the use of civil law notions, invalidity of contracts or interpretation, can the tax administration address the problem of avoidance;

e e) do we have in Albania a judicial doctrine developed in the tax field and any general principles elaborated by this jurisprudence;

f f) finally, by analogy with the Italian case, can Albanian law borrow the concept of abuse of rights from the jurisprudence of the ECJ and its application as a tool for addressing tax evasion.

In contrast to fiscal evasion, which we dealt with extensively in the previous chapters, in the case of avoidance we have a declaration and we do not have falsification of tax documents or declarations (as a form of tax self-assessment)[1]. Evasion refers to the concealment of tax obligations, through the submission of false documents, untrue statements or unreal information, the assessment of which leads to the incorrect calculation of the amount of the tax, tax or contribution and is punishable by a fine equal to 100 percent of the difference of the calculated amount from what it should have been in fact[2].

The classification of an offense as tax evasion must be substantiated and supported by concrete evidence.

From the interpretation of the articles of the law "On tax procedures" and the Civil Code, avoidance can be ascertained through several ways, which we will examine if they are found in Albanian legislation, bearing in mind the three elements that constitute tax avoidance, according to Italian legislation and the community one, specifically:

(A) lack of business purpose (Brown, 2012:209) valid business purpose;

(B) avoiding obligations or prohibitions;

(C) tax advantage (Benefit-reduction or refund of taxes).

1.1.Legal provisions in the Albanian legislation for tax avoidance

Studying the Albanian tax law as a whole, the tax legislation in force, we will evaluate below, if there is a general anti-avoidance rule in the Albanian tax law. We are dealing with tax avoidance when the income is declared, but the transactions are structured in such a way that the tax liability is reduced by using the legal spaces. This reduction was not in the intention of the legislator nor in the spirit of the law.

a a) Referring to Law No. 9920 dated 19.05.2008 "On Tax Procedures in the Republic of Albania", as amended, two articles are distinguished which, taking by analogy the Italian legislation and the doctrine developed in this country, is the form of the Administration's response Tax, after ascertaining the phenomenon of avoidance or during its investigation.

Article 68 Tax assessment

1. Tax assessment:

a) is the calculation of the taxpayer's tax liability by the tax administration;

b) in cases where the amount of the self-declared tax liability is not paid, it is the notification that requires the payment of the tax liability on the date specified in the relevant law.

2. If the taxpayer is required to submit a tax declaration and pay the tax liability, the declaration is taken as a tax self-assessment. Tax payment is made in the manner and term provided for in the relevant tax law.

3. If the tax liability is withheld by a withholding agent and the taxpayer is not subject to the requirement to submit a tax return for the tax withheld, the withholding tax is a tax assessment.

4. If the tax administration finds that the tax liability, given in the tax return, is incorrect or the taxpayer has not submitted a tax return or has not paid the tax liability, the tax administration makes the tax assessment.

5. The tax administration assesses the tax liability of the taxpayer, in accordance with the provisions of the relevant legislation. The assessment is based on:

a) the information contained in the tax return of the taxpayer;

b) the results of an inspection, in accordance with Chapter X of this law;

c) alternative methods of assessment, provided for in Article 72 of this law.

6. The assessment made by the tax administration enters into force 10 calendar days after the date when the notification of the tax assessment and the request to pay is deemed to have been received, as provided for in Article 69 of this law.

7. When an assessment is made in accordance with letters "b" or "c" of point 5 of this article, the burden of proof, that the amount of this assessment is incorrect, falls on the taxpayer.

8. The amount of the tax liability that is mandatory to be paid or the amount of the loan balance, with a value of up to 1,000 (one thousand) ALL, is assessed as an obligation or loan with zero value and for such amounts no tax assessment is made by tax administration.

According to Article 71, the Tax Administration has the right to use alternative ways of assessing the taxpayer's tax liability and issue an assessment, in cases where:

a) the taxpayer does not submit the tax return, in accordance with the deadline and method required in the relevant tax legislation;

b) the tax declaration contains incorrect or falsified data;

c) the taxpayer does not keep or keep accurate accounts or records of transactions;

ç) the taxpayer does not cooperate with the authorized tax control;

d) the taxpayer does not make available the required information and other necessary documents for the calculation of his tax liability;

dh) the taxpayer enters into transactions with related persons not based on the market value principle, or enters into transactions without essential economic effects;

e) the taxpayer enters into cash sales transactions that exceed the amount of ALL 150,000.

ë) the taxpayer does not regularly use the fiscal device.

f) the taxpayer with the status of "commercial natural person", who, for the purposes of tax avoidance and minimization of the tax liability, registers/keeps more than one unique identification number of the subject, and submits separate declarations for each NIPT/NUIS.

The amended Article 71, seen in the light of the analysis made by the Italian doctrine and in analogy with the amended Article 37-bis, as a recently adopted general anti-abuse rule (GAAR), can be applied efficiently and can act as real obstacle to artificial arrangements aimed at avoiding tax obligations. Fiscal evasion in Albania is clearly a much more serious threat than avoidance (ie artificial arrangements aimed at circumventing the purpose of the law). However, there is significant exposure to tax losses from avoidance arising from the combination of many ambiguities in tax legislation; obvious weaknesses in the construction of key elements in the internal tax system; and the chances given to multinational companies to exploit loopholes and inconsistencies. This issue must be addressed to stop, or at least to curb, potentially significant tax leakages. The GAAR, enacted in 2019, is a welcome development, but so far it is only couched in very broad terms.

a b) Analysis of Law No. 92/2014 dated 24.07.2014 "On Value Added Tax"

In the analysis of the provisions of this law, very important concepts are evident which are taken into consideration at the time of the recharacterization of a transaction. Article 36 "Definitions" of the Law deals with the concept of market value.

According to point 1, For the purposes of this law, the term "market value" means the full amount that the buyer, in order to benefit from the goods or services at the same trading stage in which the supply is carried out, must pay under competitive conditions equally the supplier of the goods or service, which acts as an independent in the market conditions in the territory of the Republic of Albania, in which this supply is subject to tax.

According to point 2, if comparable values cannot be provided for supplies of goods or services, then the term "market value" means the following amounts:

a) for goods, an amount not less than the purchase price of the goods or similar goods or, in the absence of the purchase price, the cost value determined at the time of supply.

b) in the case of services, an amount not less than the full cost of rendering the service by the taxable person.

Based on the Instruction of the Ministry of Finance No. 6 dated 30.01.2015 "On VAT", in article 34, point 1 thereof, it is determined:

Article 34
Meaning of market value for purposes of determining taxable value

1. Based on Article 36 of the law, the meaning of "market value" is defined.

"Market value" means the full amount that the buyer, in order to obtain the goods or services at the same stage of trading in which the supply is made, must pay under conditions of equal competition to the supplier of the goods or services, who acts as independent under market conditions in the territory of Albania, in which this supply is subject to tax. If comparable values cannot be provided for the supply of goods or services, then the term "market value" means the following amounts:

a) for goods, an amount not less than the purchase price of the goods or similar goods or, in the absence of the purchase price, the cost value determined at the time of supply.

b) in the case of services, an amount not less than the full cost of rendering the service by the taxable person.

2. The taxable value of a supply is the value that is defined in Article 37 of the law, which applies in every case with the exception of the special rules defined in Article 38, points 1, 2, 3 of the law, which include cases considered as a supply against payment. In cases where the taxable value of a transaction cannot be determined based on Article 37 of the law, then the tax authority for each case, including those mentioned below, applies the market value as defined in Article 36 of the law. The cases for which it is foreseen that the market value is applied are:

i) Article 38, point 3 for the case of service supply according to article 12, point 2 letter c) of the law performed by the taxable person for business needs.

ii) Article 38, point 4, for cases where the supply is exchanged for goods/services or partly such and partly in money, the taxable value of the supply must be the market value of the goods or services received, calculated on the date when the VAT becomes searchable.

iii) As a measure to prevent tax avoidance and evasion, if the cases provided for in Article 42 of the law are found, such as: For supplies of goods and services, in the following cases, to buyers or clients, with whom the suppliers have family relations or connections other close personal, management, ownership, membership, financial or legal, the taxable value is equal to the market value if: a) the corresponding value is less than the market value and the buyer or client does not fully enjoy the right to deduct VAT, according to articles 68, 69, 70, 71, 72, 73 and 74, of this law;

b) the corresponding value is less than the market value and the supplier does not fully enjoy the right to VAT deduction based on articles 68, 69, 70, 71, 72, 73 and 74 of this law, and when the supply is excluded on the basis of articles 51, 53 and 54 of this law;

c) the corresponding value is greater than the market value and the supplier does not fully enjoy the right of deduction based on articles 68, 69, 70, 71, 72, 73 and 74 of this law. These measures also apply to the relationship between the employer and the employee or the employee's family or other persons closely related to him.

So in Article 71, point dh) it is provided: "The tax administration has the right to use alternative ways of assessing the tax liability of the taxpayer and to issue an assessment, in cases where: dh) the taxpayer enters into transactions with related persons not on the basis of the principle of market value, or enter into transactions without essential economic effects"108.

Based also on the decisions of the European Court of Justice, a transaction will be considered tax avoidance when it meets one of the three criteria mentioned above, not necessarily all three, and results in a tax advantage.

The expression "transactions without essential economic effects" can be interpreted in function of the first criterion, that of the business purpose, or valid economic reasons, while the related transactions are in function of the implementation of the structured scheme with the aim of avoidance. In this context, we can say that this is the only provision in tax law that we can rely on to have a legal basis in addressing tax evasion. Whatever the way of addressing, the tax administration has the right to recharacterize the transaction and impose tax liability according to the new transaction (Mete, 2011).

In analogy with Italian law, which accepted civil law concepts as a way to identify and ascertain avoidance, we cannot say the same for the Albanian case, since provisions 92 and 93 of the Albanian Civil Code are constructed in such a way such that they do

not allow addressing it.
More specifically, Article 92 of the Civil Code provides:
Invalid legal actions do not create any legal consequences. Such are those that:
a) come against a mandatory provision of the law;
b) are committed to deceive the law;
c) committed by minors under the age of fourteen;
ç) are made in the agreement of the parties without the intention of bringing legal consequences (fictitious or simulated).
Whereas in article 93 it is provided:
When the legal action is made with the intention of covering another legal action, the latter is valid if it fulfills all the necessary conditions for its validity.
The fictitious or simulated legal action does not harm third parties who in good faith have acquired rights based on it.
The question that arises is whether the transaction will be considered as defrauding the law or as an action done to cover another action (Mete, 2011).
If the transaction carried out by the parties is in fraud of the law, the Civil Code provides for the absence of any legal effect. While if it was performed to cover another action, such as in the case of related transactions, then according to the definition of the Civil Code the covered action may be valid. This approach is different from the Italian one in interpretation, despite the similarity in the drafting of the Civil Code.
The need for the Albanian legislation to take not only the good laws from the European countries with a developed legal tradition, but also the interpretation of the doctrine is immediate.
As we have explained, judicial anti-avoidance doctrines have played an important role in shaping the general anti-avoidance rules as a way of addressing the avoidance problem. In a number of countries that do not have general anti-avoidance provisions, judicial anti-avoidance doctrines have been developed through court decisions. Here we can mention the main doctrines in the US which are: the doctrine of economic substance (the transaction must have economic substance to be valid), multi-step transactions (when we have multi-step transactions that are made only to artificially reduce the tax, they can be recharacterized as a single step) and the "substance over form" doctrine (the substance of the transaction will take precedence over form).
In the continental countries, of the civil law tradition, where both Italy and Albania are part, the doctrine of fraus legis or abuse of right is used, according to which if a benefit is obtained by cheating the law or by abusing the right, this benefit should not be allowed.
The issue we raised at the beginning of this Chapter was related to the fact whether Albania is able to import from European law, the concept of abuse of rights, as one of the ways by which tax avoidance transactions can be identified. In Albania, there is still no developed jurisprudence in the tax field, specifically regarding the phenomenon of avoidance.
There are two ways of introducing a general anti-avoidance principle into our legislation: The first refers to the legislator, which means that a general principle must be adopted by him, which will be the legal basis for opposing tax avoidance; the second refers to jurisprudence, the Supreme Court should make an extended interpretation in cases of avoidance and rely on the general principle elaborated by the European Court of Justice.

The prohibition of the abuse of the right, conceived as an interpretive principle (Piantavigna, 2011:98), in the Halifax case, constitutes a "necessary safety valve (safety valve) to protect the objectives of any provision of community law against the application formal, based only on the literal content". EU directives, as part of secondary European legislation, are also applicable in Albania, through transposition in the relevant legislation. Then, within the framework of the approximation of legislation and EU membership, the Albanian state should be more forward-looking and take not only the directive as part of the legislation, but also the jurisprudence of the ECJ regarding the implementation of this directive.
Without question, it would be necessary to introduce a norm in the Albanian tax system, which with greater clarity, would effectively identify and ascertain tax evasion behaviors by affirming the existence of a general principle of prohibiting the abuse of the right .

1.1.1. The basis of alternative assessment methods

The phenomenon of tax avoidance can be very complex and difficult to identify. An effective response to it requires the in-depth expertise of the Tax Administration to deal directly with the most important cases and to provide auditors with guidance and support on issues related to avoidance.
Today, audit (tax control) inspectors can only assess tax liabilities in cases where there is direct evidence of evasion from registers or other documentation such as information obtained from third parties. Courts have not been inclined to uphold assessments based on circumstantial evidence of underreporting.[3]The need for such a centralized approach is even more important after the recent introduction of GAAR.
Alternative assessment methods are not limited to, but based on:
a) direct data found in tax returns or in documents or other information provided by the taxpayer;
b) direct data, documents or information provided by third parties;
c) comparisons with a similar economic activity, carried out by other taxpayers;
ç) indirect data, based on the market prices of goods and similar services, of reference rent prices, determined by decision of the Council of Ministers;
d) Prices according to data available at customs or retail reference prices available to the General Directorate of Taxes.
When assessing the tax liability arising from transactions between related persons, the alternative method used reflects the taxable income that would have resulted from comparable transactions between unrelated persons.

1.1.2. Indirect audit methods used by the tax administration

Indirect audit methods currently used by tax administrations include[4]:
*Source and Application of Funds Method: This method relates to the analysis of the taxpayer's cash inflows and compares all known expenses with all known receipts for the period. Net increases and decreases in assets and liabilities are taken into account along with non-deductible expenses and non-taxable invoices. The excess of expenses over the sum of reported and non-taxable income constitutes unreported

[3] The 2019 Annual Report of the General Directorate of Taxes is a public document which is uploaded on the official website, www.tatime.gov.al.
[4] The 2019 Annual Report (IMF recommendations) of the General Directorate of Taxes is a public document which is uploaded on the official website, www.tatime.gov.al.

taxable income.
*Bank deposits and cash expenditure method: This method calculates income by showing what has happened to the taxpayer's funds. This is based on the theory that if a taxpayer earns money, only two things can happen: it can either be deposited, or it can be spent.
*Mark-up method: This method reconstructs the income based on the use of percentages or ratios considered typical for the business under consideration in order to carry out the actual determination of the tax liability. This consists of an analysis of sales and/or cost of sales and the application of an appropriate price increase percentage to arrive at the level of the taxpayer's gross receipts.
*Unit and Volume Method: In many cases gross billings can be determined or verified by applying the sales price to the volume of work performed by the taxpayer. The number of units or the volume of work performed by the taxpayer can be determined from the books of accounts if the documentation under review can be adjusted to the cost of goods sold or expenses.
*Net worth method: This method is based on the theory that the increase in the taxpayer's net worth during the taxable year, adjusted for non-deductible expenses and non-taxable income, must come from non-taxable income. This method requires a full reconstruction of the taxpayer's financial history, since the audit must account for all assets, liabilities, non-deductible expenses, and non-taxable sources of funds during the relevant period.
Indirect audit methods should only be used when the auditor has concluded that there is a reasonable likelihood of unreported income. This, for example, according to the article "Alternative assessment methods" includes cases when:
*The taxpayer's known business and personal expenses exceed reported income, while no nontaxable sources of funds have been identified to explain the difference.
*There are irregularities in the taxpayer's books of accounts as well as weak internal controls.
*Gross profit percentages vary significantly from year to year, or are outside the norm for that market or industry segment:
*The taxpayer's bank account has unexplained deposits;
*The taxpayer does not make regular income deposits, but uses cash;
*A review of the taxpayer's tax returns for the previous and subsequent years show a significant increase in net worth that is not supported by reported income;
*There are no account books and registers;
*The taxpayer has not regularly used an accounting method or the method used does not clearly reflect the income.

1.2.The effects of tax evasion and tax avoidance

Despite the great focus on reducing informality undertaken in recent years, tax evasion remains at a high level and is even embedded in the local culture, as seen in Chart I below. Non-payment of taxes owed is widespread in many sectors of the economy, with the biggest losses being seen in construction, trade and services. A range of anti-informality measures and campaigns appear to have failed to achieve significant and sustainable improvements in Compliance. Clearly, a different and more strategic approach is needed.
According to the law, one of the principles of tax administration is the promotion of

self-declaration and voluntary compliance. Working to achieve these two elements will have a significant impact on improving Compliance.
Some approaches proven to be effective in other countries, and aimed at increasing compliance, i.e. tax law enforcement, are:

- Reducing the VAT Compliance gap
- Taxation of wealth of unexplained origin (including the use of automatic exchange of information of financial accounts through a well-prepared voluntary transparency program)[5],
- Reducing informality in the labor market,
- Reduction of the economy based on dry money (cash economy) and reporting under value, and
- Limitation of revenue leakage through artificial arrangements to avoid tax obligations.

Albania suffers from an entrenched and pervasive culture of informality, which has a significant negative effect on tax revenues. While there are no reliable estimates for the overall value of the tax gap.
In addition to the loss in tax revenue, informality at this level undermines social cohesion and economic growth. The low level of trust in the fairness and effectiveness of the tax system leads to a continuous cycle and culture of non-compliance as well as unfair competition to businesses in the informal economy.
A contributing factor to this low "tax morale" is the complexity of the tax structure and the high cost of compliance. The frequent changes in tax policies undertaken in recent years have introduced elements of horizontal injustice into the system, e.g. the fact that salaried employees pay income tax and social contributions to a much higher extent than independent employees who have the same level of income, as well as the expansion of special tax benefits for different sectors and segments of taxpayers. Some of the political changes cause artificial tax avoidance such as fictitious self-employment, splitting of commercial companies to benefit from the lowest level of income tax and tax rate arbitrage.
Tax authorities are partly addressing tax non-compliance through "war on informality" campaigns, which began in September 2015. These campaigns, involving many departments and focusing on high-profile inspections, with immediate control and on-site monitoring , recently have better defined objectives and are coordinated through an inter-ministerial operational commission chaired by the MFE.

1.3.On a possible codification of the principle of prohibition of abuse of right

It was clarified in the previous chapters that the legal status of the prohibition of the abuse of the right is that of the general principle. In order to make the concept of abuse of rights as clear as possible and whether or not it is mandatory in the Albanian reality, we will analyze below the fact that for the prohibition of abuse as a principle, there are two relevant sources such as the Declaration of Fundamental Rights in the EU and European Convention for the Protection of Human Rights and Fundamental Freedoms. This treatment is of interest regarding a perspective of Albanian legislation in the future and possible changes that may occur both in our case (full membership in the EU) and with the trends for the development of European law.
As far as the EU is concerned, these documents have been recognized through Article

[5] Law 4/2020 "On the automatic exchange of financial account information".

6 of the Treaty on the European Union and the Treaty on the Functioning of the European Union, according to which the EU recognizes the rights, freedoms and principles sanctioned in the Declaration of Fundamental Rights of the EU, giving the same value as that of treaties (paragraph 1) and also adheres to the Convention (paragraph 2) (Piantavigna, 2011:216-217).

The Declaration of Fundamental Rights of the EU, proclaimed by the President of the Council, Parliament and Commission in Strasbourg on December 7, 2000, constitutes the repertoire of individual rights recognized by the Community legal order and is an expression of the highest level of political consensus elaborated in democratic way, for what should be considered today the catalog of fundamental rights guaranteed by European law (Piantavigna, 2011:217).

This catalog of rights, in order to be complete, required the explicit provision of the prohibition against the abuse of the right. In chapter VII, there is article 54 entitled "Prohibition of the abuse of the right" which provides: "No article of this Declaration should be interpreted in the sense that it allows the exercise of an activity or the performance of an act aimed at violating the rights and the freedoms recognized by this Declaration or bring to these rights and freedoms greater restrictions than those foreseen" (Piantavigna, 2011).

This notion of the prohibition of the abuse of the right provided by Article 54 differs from that given by the Court of Justice, which finds abuse in any case when the right is exercised with a purpose different from that for which it was granted. Article 54 makes a definition of the prohibition of abuse in the narrow sense, while the Court of Justice expands this interpretation.

Even in Article 17 of the ECHR, the prohibition of the abuse of the right is foreseen, which changes slightly with the definition of Article 54 of the Declaration. However, despite some differences, both norms perform the same function, that of providing a "codified corrective", the legal system, to illegal instrumentalizations of the respective normative tests (Piantavigna, 2011:220).

It seems that the same goal is followed by Article 4/3 of the Council Regulation, dated December 18, 1995, referring to the protection of the financial interests of the European Union, which specifically provides: "The actions/acts which are determined to have the purpose of achieving a benefit contrary to the objectives of community law applicable to concrete cases, artificially creating the conditions for achieving this benefit, result in the lack of results or the revocation of the advantage obtained".

In the light of the jurisprudence of the European Court of Justice, it does not seem premature to assert that this is the first step of a possible codification of the community concept of "abuse of the right". This norm does not create a new legal institution, but codifies a general principle which is present in Community law. It should be emphasized that the application of the prohibition of the abuse of the right should not depend on the entry into force of the written norm (Piantavigna, 2011).

We also find that the characteristic elements of the concept of "abuse", with which the ECJ has individualized cases of abuse in the narrow sense and the broad sense, were present in the community norms before the elaboration of the Emsland-Starke116, Halifax and Cadbury Schweppes tests (Piantavigna, 2011).

It remains to be seen whether the codification of the principle of prohibition of abuse of the right will be further developed and provided for in a summary norm of these tests or will remain a regulatory provision intended to be covered by expansive force

of the unwritten general principle (Piantavigna, 2011:221).
As far as the Albanian case is concerned, as mentioned, efforts are still needed to develop a consolidated judicial doctrine and jurisprudence, which will have a simpler path, in the case of determining the GAAR in 2019 , as a general written principle.

1.4.Reforms in progress

An important current initiative is the so-called "fiscalization", or the introduction (over the next two years) of real-time monitoring of invoices and receipts. It is intended that the first element in the business-to-consumer (B2C) connection of online retail sales receipt monitoring and the second step in the business-to-business (B2B) connection, establishing the mandatory e-invoicing of all businesses , will be implemented starting from 2021. The tax administration estimates that when fully implemented, the fiscalization has the possibility to increase the collection of VAT by 10 to 15%.
Fiscalization can be an opportunity to cultivate increased confidence in the tax system. While the primary objective is to increase tax revenue, the TA should take the opportunity to highlight the benefits to businesses, reducing long-term compliance costs by implementing the e-invoicing system, and achieving a fairer system. tax as a result of the improvement of Compliance.
In recent years, great efforts have been made to increase the efficiency of income administration institutions, but this reform and the other one that we will quote below, that of the automatic exchange of information, will be seen in the coming years, and why not constitute the object of separate treatment in new works, but from our point of view, if the tax administration makes good use of this information within the framework of the AEOI, the level of tax evasion will be greatly reduced and we will have a wider base of the property which is currently non-taxable.
New global standards for automatic information exchange
To combat the problem of offshore tax evasion and the avoidance of the accumulation of money abroad, the tax authority, in cooperation with the G20 countries and the OECD, created a Common Reporting Standard (CRS) on the automatic exchange of information. The CRS for AEOI requires financial institutions in a reporting jurisdiction to collect and report information to their tax authorities about account holders who are residents of other states. Such information should be transmitted "automatically" for each year. Information to be exchanged includes financial account balances at the end of the reporting year, capital gains (including interest, dividends, rights and proceeds from the sale of financial assets) reported to governments by financial institutions,
Under the standard, a wide range of information will be exchanged on offshore accounts, including account balances and ownership. This will make it possible to prevent fiscal evasion and deal with fiscal fraud, within the logic that the activity of evaders not only reduces public revenues, but also weakens confidence in the justice of the tax system, as well as increases the burden on honest taxpayers.
The information to be exchanged is not only about individuals, but also about companies and passive NFEs (non-financial entities) that have beneficial owners resident in other countries. Further, reporting must be done on a wide range of financial products, from a wide range of financial institutions, including banks, depository institutions, collective investment undertakings and insurance companies. The full

CRS standard was approved by the OECD and adopted by the G20 in September 2014. The next step to establish the international legal framework is the signing of the Multilateral Competent Authority Agreement for the Automatic Exchange of Financial Account Information (CRS MCAA),

Steps taken for Implementation of CRS in AEOI

In view of Albania's commitment to implement CRS for AEOI and in order to provide information to other countries, the necessary legislative changes have been made through Law 4/2020 "On the automatic exchange of financial account information".

Recommendations

It is recommended that in the Constitution of the Republic of Albania, other principles in the field of taxation with a universal character, such as effectiveness, impartiality, non-discrimination, etc., are provided for, in addition to that of legality.

* In order to reduce administrative costs and facilitate business, it is recommended further simplification of administrative procedures, the continuation of structural reforms through the promotion of economic policies, improving the performance of the labor market, the fair applicability of laws and good fiscal administration.
* It is recommended to encourage the drafting by the legislator of clear and coherent norms in the definition of different forms of abusive behavior in the tax field.
* In relation to fiscal administration, it is recommended to work more towards improving the infrastructure of the tax administration, continuous staff training and professional development, strengthening tax controls in the field, improving risk analysis through the continuous review of risk profiles, creating a tax culture among taxpayers through awareness campaigns, as well as strengthening cooperation between tax authorities and business. These measures become even more necessary in the current conditions when a consolidation of public finances is needed.
* Being rather a matter of interpretation, regarding tax avoidance and the doctrine of abuse of right, the doctrine and jurisprudence have not reached a unified conclusion. For this reason, they recommend that even in Albania the doctrinal debate be encouraged and the main issue of the debate in the tax "agenda" is, among other things, the principle of abuse of rights, implemented by the European Court of Justice.
* The practical implementation of the ban must be done by national courts on the basis of the example and interpretation made by the European Court of Justice. In this perspective, they can only hope for a greater "dialogue" between jurisprudence, to intervene quickly in giving a fair definition of avoidance and suitable to avoid the risks of undermining legal security and the principle of treatment of equal of taxpayers.
* Jurisprudential evolution is the only instrument capable of ensuring a correct balance of the various interests at stake, providing a guarantee in the evaluation of the fundamental interests that may be affected by the incorrect application of the principle of prohibition of abuse of it right. The fair and balanced application of the doctrine of abuse of right can be a very important factor in minimizing cases of tax evasion.
* Prohibiting the abuse of Community law must be balanced with the needs for legal certainty, the legitimate expectations of taxpayers and the principle of proportionality. It will be justified in its application as extrema ratio only if we are dealing with the

violation of the regulatory principles of the tax system, which lead to the distortion of the mechanism.

* It is recommended to solve the problems caused by an uneven application of the principle of prohibition of the abuse of the right and to formalize it through codification within a written normative text, in order to ensure the principle of the same application, especially related to the intended harmonization in the field of direct taxes.

* The member states of the European Union should unify the agreements for the elimination of double taxation borrowed from the model of the OECD Convention. Meanwhile, there is still no unification of the agreement model for the elimination of double taxation within the member states.

* It is recommended that the general anti-abuse rule (GAAR) can be effectively enforced and can act as a real deterrent to artificial arrangements aimed at avoiding tax obligations.

* Albania should strengthen the forms of cooperation and exchange of information regarding personal income tax, in the fight against tax evasion and concealment of income.

* In accordance with the jurisprudence of the European Court of Justice, as a source of law, member states are allowed to fight the phenomenon of abuse of law. This right of states must be exercised while maintaining the balance between the obligation of the principle of legal certainty, the right to choose the most favorable fiscal path and the right of states to oppose tax avoidance.

* The principle of prohibiting the abuse of the right as a general principle of Community law can be applied even by member states, which do not have a general anti-avoidance principle defined in their domestic legislation. In order to create a certainty and consistency in commercial transactions and their results, it is recommended that the drafting of more specific anti-avoidance rules in order to clarify and explain the intention of the legislator in relation to specific sets of normative provisions can be an effective instrument higher in combating and addressing forms of avoidance.

* Strengthen criminal sanctions for violations related to undeclared work and non-reporting of income. Compliance is affected by the level of sanctions applied. According to the current fiscal package, it is proposed to increase the proportionality of administrative fines - depending on the size of the business and to scale up the sanctions for repeated violations. Anti-evasion actions receive wide publicity. To report the results of these actions, including successful prosecutions arising from these activities.

* To be in the most detailed objective of the Tax Administration, the cases of unexplained wealth and large values, and to give clear tasks to the auditors to assess the tax obligations with indirect methods, by drafting clear and comprehensive work manuals.

References

Amatucci & Pistone, A. (2012). La ricerca di una fonte per il principio generale antielusivo all'ombra della Corte di Giustizia.

Antonini, L. (1966). Equivalenza di fattispecie tributarie ed elisione di imposta. Rev. dir. fin.

Basu, G. (2007). Global Perspectives on E-commerce Taxation Law. Ashgate, London.

Betti, E. (1955). General Theory of Interpretation, II. Milan.
Brown, BK (2012). A comparative look at regulation of corporate tax avoidance, Comparative perspectives on law and justice. Italy: Springer editor.
Caraccioli, I. (2009). Elusione fiscale e abuso di diritto (Considerazioni generali in tema di elusione fiscale e abuso del diritto, Penal-Tributari Profile dell "Abuse di diritto". Neotepa-Periodico ufficiale dell'ANTI (Associazione Nazionale Tributaristi).
Castles & Leibfried and Lewes & Obinger, F. (2010). The Oxford Handbook of the Welfare State. Oxford Handbooks Online.
Centore, P. (2008). L'abuso di diritto nell'Iva. Corr. Trib.
Corasaniti, G. (2006). La nullità dei contratti com strumento di contrasto delle operazione di dividend washing nella recente jurisprudenza della Suprema Corte.
D'Avirro & Giglili, A. (March 2012). The tributary crime. Milan: Ipsoa- Gruppo Wolters Kluwer Italy.
De La Feria, R. (2011). Prohibition of Abuse of Law, A New General Principle of EU Law? Studies of the Oxford Institute of European and Comparative Law.
Deotto, D. (2012). Manuale accertamento 2012, Accertamento sintetico, da redditometro, società di comodo, abuso del diritto, studi di sectoro, Evoluzione e analisi. Milan: Gruppo 24 ore.
Elezi, I. (2015). Special criminal law. Tirana.
Gaigné, Riouz, C. (2000). Globalization, tax competition and fiscal equalization.
Galdieri, E. (2009). General anti-avoidance rules & doctrines, EUCOTAX Wintercourse. Rome: Facoltà di Giurisprudenza, Cattedra di Diritto Tributario.
Garbarino, C. (2009). The development of a judicial anti-abuse principle in Italy. British Tax Review, BTR
The Constitution of the Republic of Albania, approved by law no. 8417, dated 21.10.1998, amended.
Stabilization and Association Agreement, June 2006.
Agreements ratified by the Assembly "For the avoidance of double taxation and the prevention of fiscal evasion", which are in force.
Law no. 9754, dated 14.6.2007, "On the criminal liability of the legal entity".
Law no. 7512, dated 10.8.1991, "On the sanctioning and protection of free initiative, independent private activities and privatization".
Law no. 7638 dated 19.11.1992, "On commercial companies".
Law no. 7850, dated 29.7.1994, "On the Civil Code of the Republic of Albania" as amended.
Law no. 7895, dated 27.7.1995, "On the Criminal Code of the Republic of Albania". changed
Law no. 8485, dated 12.5.1999, "Code of Administrative Procedures" as amended.
Law no. 8438, dated 28.12.1998, "On income tax", amended.
Law no. 92/2014, "On value added tax in RSH". changed
Law no. 131/2015, "On the National Business Center". changed
Law no. 9901, dated 14.4.2008, "On merchants and commercial companies"
Law no. 9723, dated 3.5.2007, "On the National Registration Center" as amended.

Influence of Thin Shear Walls on Seismic Response of Reinforced Concrete Structures in High Seismic Hazard Regions

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Abstract

This study presents a comprehensive investigation into the impact of thin shear walls on the seismic response of reinforced concrete structures in high seismic hazard regions. Through finite element analysis, two different types of structures are modeled and analyzed: one with columns only and the other with thin shear walls and columns. The study focuses on investigating the effect of different shear wall thicknesses in the structure with columns and shear walls. The seismic response of the structures is compared under identical loading conditions to evaluate the effectiveness of thin shear walls in enhancing the seismic performance of reinforced concrete structures. The findings demonstrate that the structure with thin shear walls and columns exhibits significantly reduced lateral displacement and inter-story drift compared to the structure with columns and beams, highlighting the importance of proper design and detailing of thin shear walls for improved seismic performance. This research offers valuable insights for engineers and designers operating in high seismic hazard regions, emphasizing the necessity of integrating thin shear walls into the seismic design of reinforced concrete structures. Furthermore, it contributes to ongoing efforts aimed at enhancing the seismic performance of such structures in regions prone to high seismic hazards. The results of this study can guide the design of new structures and the retrofitting of existing ones, leading to improved seismic performance and reduced risk of damage or collapse during earthquakes.

Keywords: Influence, Thin Shear Walls, Concrete Structures, High Seismic Hazard Regions.

I. Introduction

Seismic hazards pose significant risks to structures located in high-risk regions, making it imperative to develop robust strategies for enhancing their seismic performance.

The primary objective of this paper is to provide a detailed and thorough analysis of the effectiveness of thin shear walls in enhancing the seismic performance of reinforced concrete structures. To achieve this objective, a comprehensive numerical study was conducted using finite element analysis. Two distinct structural configurations were carefully examined: one composed solely of columns, and another incorporating both thin shear walls and columns. By subjecting these structures to identical loading conditions, their seismic response was rigorously compared to assess the precise impact of thin shear walls on the overall structural behavior.

The methodology employed in this study was based on advanced finite element analysis techniques, ensuring accurate modeling and simulation of the structural response. Extensive efforts were undertaken to calibrate and validate the numerical models, ensuring the reliability and accuracy of the analysis. Through this rigorous approach, critical performance indicators, including lateral displacement and inter-story drift, were evaluated to ascertain the effectiveness of thin shear walls in

improving the seismic response of the structures.
The findings of this research significantly contribute to the understanding of the pivotal role played by thin shear walls in enhancing the seismic performance of reinforced concrete structures. Preliminary analysis suggests that the incorporation of thin shear walls and columns results in a substantial reduction in lateral displacement and inter-story drift when compared to structures comprising only columns. These findings emphasize the crucial importance of meticulous design and detailing of thin shear walls to enhance the overall resilience of structures in high seismic hazard regions.
The outcomes of this study carry significant implications for engineers, designers, and stakeholders involved in the seismic design and construction of reinforced concrete structures. By contributing to the existing body of knowledge, this research aids ongoing efforts to optimize structural performance in high seismic hazard regions, ultimately reducing the vulnerability of structures to seismic events. Furthermore, the findings serve as a solid foundation for the development of practical design guidelines and recommendations pertaining to the implementation of thin shear walls in seismic design practices.
In addressing the influence of thin shear walls on the seismic response of reinforced concrete structures, this research aims to foster a deeper understanding of the subject matter and contribute to the advancement of resilient and sustainable construction practices in high seismic hazard regions. By providing valuable insights and evidence-based recommendations, this study plays a role in improving the seismic performance of structures and minimizing the potential risks associated with seismic hazards.

II. Literature review

The use of shear walls for seismic strengthening of structures has been extensively studied and has demonstrated significant benefits in improving structural performance during seismic events. Numerous research studies have focused on investigating the effectiveness of shear walls in mitigating the adverse effects of earthquakes and enhancing the resilience of structures in high seismic hazard regions.
Several studies have shown that incorporating shear walls into the structural system significantly enhances the lateral load resistance capacity of reinforced concrete buildings. These walls act as vertical diaphragms that distribute the seismic forces and provide additional stiffness and strength, thereby reducing the overall structural response. The presence of shear walls effectively reduces inter-story drift and lateral displacement, which are critical factors in minimizing structural damage and ensuring occupant safety.
Moreover, research has shown that the location, orientation, and detailing of shear walls have a direct impact on their effectiveness in seismic strengthening. Optimal placement of shear walls along the periphery or within the building layout can effectively resist lateral forces and prevent the development of undesirable modes of structural failure. The orientation of shear walls perpendicular to the principal direction of seismic forces is commonly recommended to maximize their efficiency.
Despite the extensive research on shear walls, there are still some gaps and limitations in the existing literature. Firstly, while many studies have focused on the performance of conventional shear walls, there is a need for more research on the effectiveness

of thin shear walls specifically in high seismic hazard regions. Thin shear walls have gained attention due to their potential for reducing material consumption and facilitating architectural flexibility. However, their performance under severe seismic loading conditions and their design considerations require further investigation.
Additionally, the influence of various parameters, such as aspect ratio, boundary conditions, and material properties, on the seismic response of shear walls is an area that requires more attention. Understanding the effects of these factors on the overall performance of shear walls can lead to more optimized and efficient design practices.
In summary, the existing literature highlights the significant advantages of shear walls in seismic strengthening of structures. However, there are gaps and limitations that need to be addressed, such as the specific performance of thin shear walls in high seismic hazard regions, the effects of different parameters on shear wall behavior, and the retrofitting of existing structures. This study aims to bridge these gaps by investigating the influence of thin shear walls on the seismic response of reinforced concrete structures, thereby contributing to the current knowledge and addressing the practical challenges in seismic design and retrofitting practices.

III. Methodology

In order to study the seismic behavior of reinforced concrete buildings in the high seismicity region of Durres, Albania, a specific building has been chosen for comparative calculations. This eight-story residential facility, located near the city center, is representative of the architectural and structural characteristics commonly found in Durres.
The selection of this particular building model is deemed relevant and essential for achieving the research objectives, which focus on understanding the seismic response of reinforced concrete structures in Durres, with a specific emphasis on buildings that were damaged during the 2019 earthquake.
The chosen building model closely resembles the typical structures observed in Durres and reflects the prevailing construction practices in the region. It has been specifically designed as a residential facility, highlighting its relevance in the context of studying the seismic behavior of residential buildings.
Understanding the behavior of this representative building type holds significant implications for the development of strategies and guidelines aimed at improving the seismic performance of reinforced concrete buildings in coastal areas with high seismic risk.
The selected building for analysis has planimetric dimensions measuring 19.6m x 12m. It is important to note that the staircase and elevator cage are not centrally positioned within the floor plan, a common irregularity observed in buildings constructed in this area.
The building model comprises a total of eight stories. The ground floor has a height of 5.50m, while the remaining floors above ground level are each 3.15m high. The network of columns within the building exhibits a relatively regular arrangement, with axial distances of 6m by 6m.

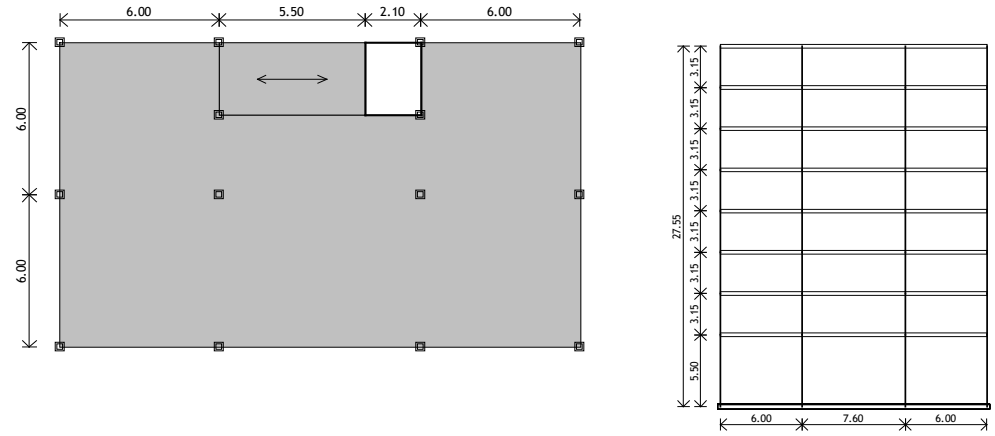

Figure 1:Plan and elevation of building model

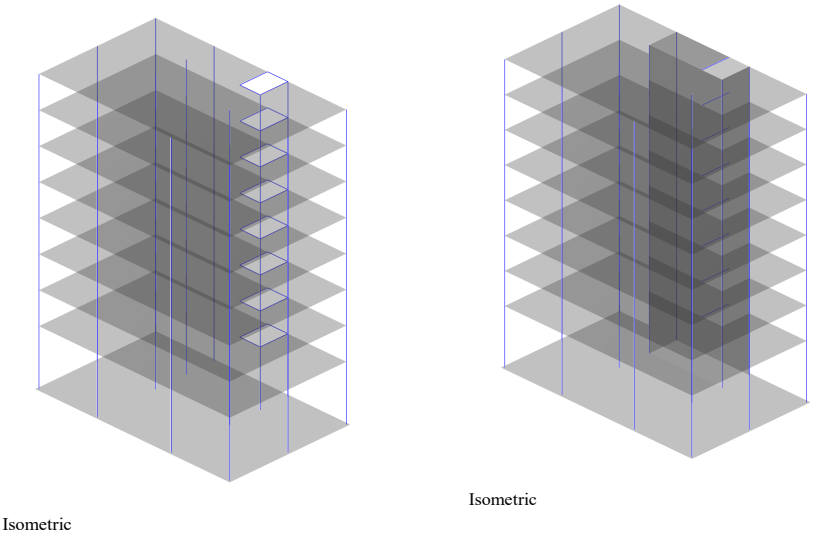

Figure 2: 3D models

The seismic analysis follows the guidelines outlined in Eurocode, employing a multi-mode analysis approach that considers the influence of all calculated modes on the structural response. This method incorporates the seismic parameters specific to the Durres earthquake, allowing for a comprehensive analysis of the building's behavior under seismic forces.

To assess the seismic performance of the building, several key evaluation criteria are considered in this study, including drifts, periods, and displacements.

By evaluating these criteria, a comprehensive understanding of the seismic behavior and performance of the building can be achieved.

Four comparative models have been selected for the identical building structure to

examine the influence of shear walls on the seismic response. In all scenarios, the slabs maintain a uniform thickness of 20 cm, while the columns have planimetric dimensions of 40x60 cm. However, the thickness of the shear walls varies among the models.

Model 1 represents a structure without any shear walls, consisting only of columns and flat slabs.

The remaining three models incorporate shear walls within the staircase area. The shear walls in these models have different thicknesses: 10 cm for Model 2, 20 cm for Model 3, and 30 cm for Model 4.

All models are subjected to the same set of loads, which include the following assumptions:

The reinforced concrete is designed with a volumetric weight of 25 kN/m3.

The load applied by floor layers and walls is considered as 2.5 kN/m2.

The "Live Load Category A" is assumed with a load intensity of qk = 2 kN/m2.

By comparing the seismic responses of these models, the study aims to assess the effect of varying shear wall thicknesses on the overall structural behavior and performance. In this study, the behavior factor (q) is assumed to be 3.45, the soil category is classified as C, and the peak ground acceleration (a_g) is taken as 0.259g. These parameters influence the seismic analysis and contribute to a comprehensive understanding of the building's seismic behavior and performance.

IV. Case study

a) System 1: Column system

System 1 utilizes a structural system that combines columns and flat slabs, where columns play a critical role as the primary load-bearing elements. These columns serve the crucial function of providing vertical support and efficiently transferring loads from the flat slabs to the foundation. Strategically positioned throughout the structure, the columns are responsible for meticulous load distribution, ensuring the integrity of the entire system by offering support for vertical loads and structural stability.

Natural frequency of structure		
No	T [s]	f [Hz]
1	2.4016	0.4164
2	2.0648	0.4843
3	1.8681	0.5353

Table 1: Natural frequency of system 1

Interstorey drifts - SRSS							
Level	Z[m]	Height[m]	dr(0°) [mm]	dr(90°) [mm]	dr.max[mm]	dr.maxII[mm]	dlim[mm]
8	27.55	3.15	20.66	23.08	23.08	30.34	31.50
7	24.4	3.15	28.37	28.87	28.87	40.52	31.50
6	21.25	3.15	35.47	34.27	35.47	50.66	31.50
5	18.1	3.15	41.27	38.67	41.27	58.95	31.50
4	14.95	3.15	46.2	42.23	46.2	65.99	31.50

3	11.8	3.15	50.54	44.74	50.54	72.18	31.50
2	8.65	3.15	53.65	44.85	53.65	76.63	31.50
1	5.5	5.5	73.07	54.22	73.07	104.36	55.00
0	0						
Conditions for limiting interstorey drifts are NOT fulfilled.							

Table 2: Interstorey drifts of system 1

Interstorey drift sensitivity coefficient, direction Ex (0°): The maximum interstorey drift sensitivity coefficient is θ = 0.338 for (2, Z = 8.65 m), which exceeds the allowable limit of 0.3.
Interstorey drift sensitivity coefficient, direction Ey (90°): The maximum interstorey drift sensitivity coefficient is θ = 0.239 for (2, Z = 8.65 m). To account for the influence of second-order theory, an influence multiplier of 1.31 will be utilized.

b) **System 2**: Column and shear wall system t=10cm
The column and shear wall system has a wall thickness of 10cm, providing robust lateral stability and load-bearing capacity. This configuration effectively resists lateral forces, ensuring structural integrity and safety.

Natural frequency of structure		
No	T [s]	f [Hz]
1	1.3108	0.7629
2	0.8919	1.1211
3	0.4809	2.0795

Table 3: Natural frequency of system 2

Interstorey drifts - SRSS						
Level	Z[m]	Height[m]	dr(0°)[mm]	dr(90°)[mm]	dr.max[mm]	dlim[mm]
8	27.55	3.15	12.48	23.64	23.64	31.50
7	24.4	3.15	12.63	24.56	24.56	31.50
6	21.25	3.15	13.35	24.99	24.99	31.50
5	18.1	3.15	13.92	25.17	25.17	31.50
4	14.95	3.15	14.28	24.99	24.99	31.50
3	11.8	3.15	14.43	24.34	24.34	31.50
2	8.65	3.15	14.75	23.59	23.59	31.50
1	5.5	5.5	22.71	34.81	34.81	55.00
0	0					
Conditions for limiting interstorey drifts are fulfilled.						

Table 4: Interstorey drifts of system 2

c) **System 3**: Column and shear wall system t=20cm
The column and shear wall system features a wall thickness of 20cm, offering enhanced lateral stability and load-bearing capacity. This design effectively withstands lateral forces, ensuring the structural integrity and safety of the building.

Natural frequency of structure		
No	T [s]	f [Hz]
1	1.2884	0.7761
2	0.8068	1.2395
3	0.3892	2.5691

Table 5: Natural frequency of system 3

Interstorey drifts - SRSS						
Level	Z[m]	Height[m]	dr(0°)[mm]	dr(90°)[mm]	dr.max[mm]	dlim[mm]
8	27.55	3.15	13.52	23.33	23.33	31.50
7	24.4	3.15	13.33	23.99	23.99	31.50
6	21.25	3.15	13.7	24.24	24.24	31.50
5	18.1	3.15	13.97	24.33	24.33	31.50
4	14.95	3.15	14.08	24.18	24.18	31.50
3	11.8	3.15	14.02	23.66	23.66	31.50
2	8.65	3.15	14.17	23.16	23.16	31.50
1	5.5	5.5	22.49	35.75	35.75	55.00
0	0					
Conditions for limiting interstorey drifts are fulfilled.						

Table 6: Interstorey drifts of system 3

d) **System 4**: Column and shear wall system t=30cm
The column and shear wall system incorporates a substantial wall thickness of 30cm, providing lateral stability and robust load-bearing capacity.
This strategic configuration, with columns positioned at the ends of the walls, ensures optimal resistance against lateral forces, thereby guaranteeing the structural integrity and paramount safety of the building.

Natural frequency of structure		
No	T [s]	f [Hz]
1	1.2959	0.7717
2	0.7838	1.2759
3	0.3373	2.9649

Table 7: Natural frequency of system 4

Interstorey drifts - SRSS						
Level	Z[m]	Height[m]	dr(0°)[mm]	dr(90°)[mm]	dr.max[mm]	dlim[mm]
8	27.55	3.15	13.85	23.49	23.49	31.50
7	24.4	3.15	13.57	24.04	24.04	31.50
6	21.25	3.15	13.8	24.21	24.21	31.50

5	18.1	3.15	13.94	24.26	24.26	31.50
4	14.95	3.15	13.97	24.12	24.12	31.50
3	11.8	3.15	13.86	23.69	23.69	31.50
2	8.65	3.15	13.93	23.32	23.32	31.50
1	5.5	5.5	22.49	36.85	36.85	55.00
0	0					
Conditions for limiting interstorey drifts are fulfilled.						

Table 8: Interstorey drifts of system 3

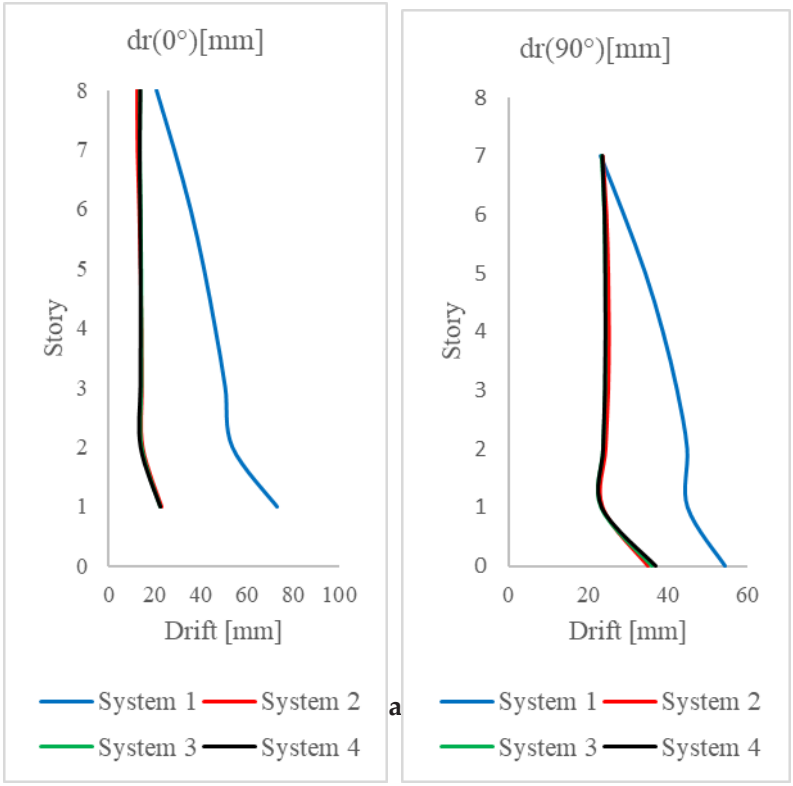

Figure 3: Interstorey drifts

Upon thorough analysis of the four systems, it is evident that system 1 fails to meet the requirements specified in EN 1998. The observed drift values exceed the prescribed limits, and the system's natural oscillation period significantly surpasses the recommended threshold in EN 1998.

In contrast, the combined systems featuring both shear walls and columns are presented in three different configurations, each with varying shear wall thicknesses of 10cm, 20cm, and 30cm. Notably, the presence of shear walls plays a crucial role in effectively reducing drifts and minimizing the natural oscillation period of the systems.

By closely comparing the drift values, it becomes apparent that the three systems employing shear walls exhibit similar magnitudes, and the self-oscillation periods

are also in close proximity. This leads to the conclusion that shear walls demonstrate remarkable efficiency in structural schemes located in high-seismicity areas.
Their influential contribution lies in the presence of shear walls, where the thickness of the shear walls does not exert a dominant influence, particularly when accompanied by columns at their ends. This underscores the effectiveness of slender shear walls, as they not only contribute to the structural enhancement of buildings in high-seismicity regions but also offer simultaneous cost savings in construction.

VI. Conclusion

In conclusion, the analysis of the four systems highlights the limited effectiveness of structural systems without shear walls, which fail to meet the requirements of Eurocode EN 1998 due to excessive drifts and longer natural oscillation periods. However, the incorporation of thin shear walls with varying thicknesses (10cm, 20cm, and 30cm) proves to be a crucial solution in reducing drifts and improving the system's natural oscillation period.
The comparative analysis demonstrates that systems with shear walls exhibit similar drift values and comparable self-oscillation periods. This emphasizes the exceptional effectiveness of thin shear walls in high-seismicity areas, where they significantly enhance structural performance. It is noteworthy that even when accompanied by columns at their ends, the influence of thin shear walls remains prominent.
This study underlines the efficiency of incorporating thin shear walls into structural designs. Not only do they contribute to improved stability and reduced seismic vulnerability, but they also offer the added benefit of cost savings in construction. The findings emphasize the importance of considering thin shear walls as an integral component of structural schemes for optimal performance in high-seismicity regions.

References

Anil K Chopra, (2014). Dynamics of Structures: Theory and Applications to Earthquake Engineering (4th ed.). Pearson Education Limited, England, ISBN 978-0-13-285803-8.
Bungale S Taranath, PH.D, P.E., S.E. (2010) by Taylor and Francis Group, LLC, ISBN 978-1-4398-0480-3.
Seismic Assessment of Asymmetric Single-storey R/C Buildings by Two New Methodologies: Enforced Displacement-Based and Forced-Based Pushover Procedures, https://www.academia.edu/47993746/Seismic_Assessment_of_Asymmetric_Single_storey_R_C_Buildings_by_Two_New_Methodologies_Enforced_Displacement_Based_and_Forced_Based_Pushover_Procedures.
A.Dilzis, M.s.Mohammed, M.A. Mustafa & A.R. Ozuygur "Journal of Earthquake Engineering, vol. 26, no. 2, 2020. https://www.tandfonline.com/toc/ueqe20/26/2.

Freedom of Expression and Media Pluralism in Albania: Convergence with EU Standards

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Abstract

This article examines the right to freedom of expression and media pluralism in Albania, taking into consideration the standards set by European Union regulations, by analyzing the legal framework of Albania, as an EU-candidate country, in convergence with European Media Freedom Act. As a result of the latest legislative reform, the media regulatory frame has undergone important amendments too, aiming to provide more transparency for the public and share more reliable information. The Media Freedom of Expression is founded on 4 dimensions: fundamental protection, market plurality, political independence and social inclusiveness. Problematic areas are identified through a comparative assessment of the gaps and discrepancies between Albania's legislation and EU regulations. The article finds that the amendments have failed to regulate coherent issues like political interference, and corruption in media, and the state has failed to guarantee freedom of expression and protection of journalists, where in some cases, it has abruptly closed down different media platforms for unjustified reasons. The findings are supported by cases brought before the European Court of Human Rights in a comparative assessment of the gaps and discrepancies between Albanian legislation and EU requirements. The article concludes with recommendations on balancing the freedom of expression of journalists and media platforms with the rule of law requirements, in convergence with EU standards.

Keywords: freedom of expression, media pluralism, European Media Freedom Act, Albania.

Introduction

The foundation of media freedom of expression special status is based on the simple concept that media has the task of imparting information and ideas, and the public has the right to receive them. The right to freedom of expression includes any medium, through written and oral communications, public protests, broadcasting, media platforms, and even commercial advertising. It is not an absolute right, but it is a right that comes with certain responsibilities, and it can be restricted on different grounds, like filtering access to sites, or taking down harmful content.

The freedom of expression regulations encompass content of speech, publications, displays, in any format or manner of expression, taking into account censoring media coverage, approving material before it is published, criminal or civil liability to publication of information, access to information restrictions, classification of entertainment content, advertising content. Whatever restriction is placed on freedom of expression should be justified on legal and legitimate grounds.

In the first part of this paper, is discussed on the concept of the freedom of expression, the regulatory framework in Albania, and international provisions. The free media in Albania finds it difficult to flourish because it lacks a legal background to protect it, and it is often the victim of illegitimate claims and bans.

The body of this paper analyzes the media independence, freedom and digital media challenges in the context of Albania's framework and background. The findings are illustrated with a couple of cases that have reflected on the major issues related to free media, as well as government involvement in restricting, censoring and shutting down media outlets. Another issue found is the abuse towards journalists, who remain unprotected by the law and the legal authorities.
In the context of Albania, a thorough assessment of these critical factors is required, particularly in terms of convergence with EU standards and norms. This study comes to a conclusion with recommendations to align Albania's framework with EU standards. Freedom of expression and media pluralism are critical cornerstones of a democratic society, allowing the open flow of information, varied points of view, and active public conversation.

1. **The regulatory environment and institutional framework in convergence with European Union Standards.**

The right to freedom of expression encompasses freedom of thought and the right to access to information, without interference from authorities. The exercise of this freedom can only be subject to formalities, conditions, restrictions and limitations that are lawful and necessary in a democratic society.
Freedom of expression is among the main foundations of society and a key to society's evolution and the progress of each individual. This right covers not only information or ideas that are acceptable to the public and considered non-offensive, but also information or ideas that offend, shock or disturb; such are pluralism, tolerance and open-mindedness, which these democratic societies cannot be.
Freedom of expression is important for respecting all other human beings. Without it, the state's human rights wrongdoings would go uninvestigated, leading to the accountability of public authorities. Moreover, freedom of expression also facilitates the exchange of cultural, political and social information. It promotes knowledge, understanding and tolerance in culturally diverse societies such as those in Europe.
For media journalists, freedom of expression is important because of its role in uncovering the truth, informing the public, holding policy responsibilities, and holding public authorities to account and rights that are associated with scepticism towards their influence. By informing the public, journalists become an important part of decision-making in relation to democracy.
It is considered to be the duty of the media to provide information and ideas on political issues, as well as in other areas that are of public interest. Not only does the press have a duty to provide such information and ideas, but the public also has the right to receive them[1].
The ECHR holds media freedom of expression at a special status, given the importance of public interest over other matters and issues. In multiple cases, the Court has recognized media interference or allegations shared as information to be too important to be limited by another person's rights, as the public interest demands information. In the case of *Thorgeir Thorgerison v. Iceland*, the journalist made allegations in the press, calling police officers "beasts in uniforms" referring to a case where the police had used brutal force to defend itself. The journalist was prosecuted on this account because the allegations hurt the whole police unit, and he had not mentioned specific

names. However, the Court decided that the media freedom had been violated, because the journalist had raised his country's issues with police brutality, which is in the public interest. In terms of allegations and rumours spread by the media, the Court has expressed that even though the facts to back up the information shared with the public are not provided or may be based on hearsay, the media can not be restricted on what it shares, because it is in the public interest to discuss all points of view or raise concern over society's issues[2].

Freedom of expression is important and vital to the full development of the individual and society, a necessary condition to guarantee the principle of accountability and transparency. Therefore, freedom of expression creates a foundation of the full enjoyment of other human rights[3]. Sanctioned in the International Covenant of Civil and Political Rights, freedom of speech and expression guarantees that everyone has the right to have and share opinions without interference. The right to freedom of expression includes freedom to seek, receive and share information and ideas, regardless of boundaries, orally, written or in print form, as well as any form of art, through any media of the individual's choice[4]. The exercise of this right should be carried with a special responsibility to respect other's rights and reputation, and the national security and public order, health or morals.

Freedom of expression is guaranteed in the Albanian Constitution through various provisions, which aim to protect this right from abusive restrictions, it guarantees free exercise of the right, sanctions the obligation of the state to not interfere as well as the positive obligation to put safeguards in place[5]. Freedom of expression is not an absolute right and it can be restricted under lawful and legitimate conditions. The Constitution guarantees the freedom of expression, free press, media and television and prohibits the precursory censure of communication tools[6]. It also guarantees access to information for anyone who requests information on state institutions and on individuals who exercise public functions[7]. Law no. 97/2013 on Audiovisual Media in the Republic of Albania regulates the function of media and the overseeing authority Audiovisual Media Authority for the audiovisual media and the Electronic Communication Postal Authority for the electronic media. The law has faced critical opinions because it lacks clear provisions on the terminology used, the competence of the overseeing authorities, lack of appeal, and the control of the government over the media authorities resulting in media control by the government or groups in power.

The state has a positive obligation to ensure media freedom of expression and protect the journalists while fulfilling the requirement of not interfering with the exercise of the right. Freedom of expression is a precondition to a functioning democratic state, therefore the state should ensure that individuals can effectively communicate between themselves[8].

The Council of EU has evaluated and disagreed on draft laws that some governments have tried to amend in the concept of Strategic Lawsuits Against Public Participation[9], which aims to silence people who speak out on issues of public interest. Free media and freedom of expression are crucial to a functioning democracy and free societies, therefore governments should focus on stronger protection for journalists, social activists and human rights defenders. On the same note, Anti-Defamation Package in Albania, has faced major backlash. The so-called Anti-Defamation Package was a

[9] Strategic Lawsuits Against Public Participation (SLAPPS), EU Legislation in Process, European Parliamentary Research Service, April 2022.

product of the government aiming to regulate free media, but it posed an increased risk of abuse and unlawful restriction of media. Under this draft law, the AMA would have the competence to ban and shut down online media portals if it judged that the portal has published fake news or defamation. However, this competence gives AMA the foundation to act as a court, which not only would be anti-constitutional but would also deprive the media owners of the right to a fair trial, to be judged by a court of law and the right to appeal the decision to a court of law.

In 2021, the Venice Commission shared their opinion[10] on the Anti-Defamation Package. The opinion focused on key points of this package and risks of rights violations:

1. The significance of striking a fair balance between maintaining the right to free expression and preserving reputation was emphasized in the ruling. It underlined the importance of proportionate and required defamation rules in a democratic society, given that CC/AMA may impose, in a very quick administrative procedure, heavy fines that are immediately enforceable, and order the removal of Internet content, also with immediate effect. The "economic capacity" of the media outlet is not a criterion in determining the amount of a violation, which may result in excessive fines crippling the activities of smaller media portals or individual bloggers.
2. The Venice Commission raised the issue of criminalization of defamation, arguing that criminal penalties for defamation can limit free expression. Better alternatives such as civil remedies and the use of non-criminal channels to combat defamation can have positive effects.
3. Defamation as a Public Interest violation: The opinion addressed the idea of defamation as a public interest violation. It emphasized that public figures and politicians should be prepared to face more criticism and scrutiny because of the nature of their positions. Public figures have willingly taken a higher risk to their private life and reputation, because their responsibility is higher. The fact can not restrict freedom of expression, because protecting public figures or politicians, would mean restricting or closing down free speech and free media, which in turn would violate the access to information and educating the society on issues of public interest.
4. The Venice Commission emphasized the necessity of guaranteeing the independence and impartiality of regulatory organizations in charge of supervising media and defamation matters. It advocated for the establishment of defined criteria for the nomination and firing of members of these committees in order to protect their independence.
5. Remedies and Right to Reply: The opinion stressed the importance of providing appropriate remedies for victims of defamation, such as the right to appeal or the opportunity for correction.
6. The Venice Commission expressed worry about the draft legislation's broad definitions of defamation and the potential for overly punitive penalties. It advocated for reducing the scope of defamation offenses and ensuring that sanctions are fair in order to avoid disproportionate chilling effects on free expression. It held the same opinion on using the term "electronic publication", which is a broad term that can encompass many tools. In a technological environment where anybody with no technical or professional skills may create an electronic publication, even individual bloggers can have "editorially shaped" sites "containing information from the

[10] European Commission for Democracy through Law (Venice Commission), Opinion No. 980/2020, June 2020.

media" with the goal of "entertaining, informing, and/or educating." With such a broad definition, the law's scope of application extends beyond professional media outlets, and nothing prevents this law from applying not only to online publications of the printed press, but also to anyone interested in imparting information, ideas, or points of view to entertain, inform, or educate the general public through online publications.

The European Media Freedom Act[11] has highlighted the importance of independent media and especially independent digital media outlets. Independent media, particularly news media, give individuals and companies access to a diverse range of viewpoints and are trustworthy sources of information. They assist individuals and businesses create opinions and making educated decisions by moulding public opinion. They are critical to the integrity of the European information space and to the running of our democratic societies and economies. Media services may increasingly be accessed across borders and via numerous ways thanks to digital technology, and competition in the digital media industry is becoming more worldwide.

2. **Media ownership and independence issues.**

Media independence is not established in Albania, although the legal framework is constantly changing to adopt better practices, as well as regulations from the European Media Act. However, the media landscape in Albania is indexed as problematic[12], bringing the focus to partisan regulations, abuses against journalists and political dependence. The study found that private-sector media is owned by politicians or has links to politics, while other online media outlets have an unstable business model, and only a few have transparent funding. Funding is a steady problem for the media, making it dependent on whoever is supporting the media platform. Some media outlets depend on advertisement revenues, while others depend on funding from corporate actors, and government-sponsored advertisements.

The control of substantial elements of the media environment by entrenched commercial interests, remains the core source of many of the dangers to independent journalism in Albania. These media owners, many of whom have cross-ownership in critical state-regulated businesses depending on public contracts, utilize their media assets systematically to support their own private or political objectives rather than the public interest.

In recent years, there has been an increase in the concentration of media under the control of such commercial groupings. These ownership practices have long damaged public faith in media integrity, resulting in chronic self-censorship among journalists and poor-quality investigative reporting. According to Media Ownership Monitor, Albania's media market is extremely consolidated. According to statistics from two available media research companies, the top four owners in Albania's television market reach an audience of 48.93% to 58.60%. The printed press has a medium concentration, with the top four proprietors (Irfan Hysenbelliu, Koço Kokdhima, Henri Çili, and the Dabulla Brothers) having a combined readership of 43.29%. The concentration of the audience is higher, attaining 63.69% of the audience, by four

[11] Regulation Of The European Parliament And Of The Council, establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU, Brussels 2022.

[12] Reporters Without Borders, Albania 2023 index, accessed on https://rsf.org/en/country/albania on 16 June 2023.

owners of major media platforms (Hoxha Family, Arben Bylykbashi, Public Radio, and the Ndroqi Family). This presents a significant threat to the country's media plurality. The concentration is much higher in the media industry, where the top eight owners reach 72.1% to 80.1% of the viewership.

Control of the media by political and corporate interests is not only harmful in that it exacerbates the issue of who has control over what can be said, but it also makes journalists' jobs difficult, as they frequently have to choose between reporting in favor of large corporations and political affiliations or reporting on events that run counter to their interests. The Media Institute Albania, a key civil society player in advancing media and journalistic freedom, stated[13] that it appears impossible to find owners who do not use their private interests to exert influence on the media, but they constantly tweak editorial policies and news content to serve their economic and political interests.

Politicized nominations to the Audio-visual Media Authority (AMA) continue to raise severe concerns about the body's independence in the realm of media regulation. The state broadcaster Radio Televizioni Shqiptar (RTSH) also lacks funding. As a result, media owners' direct influence on editorial independence is significant, and some sensitive problems or themes are deemed off-limits to journalists.

The lack of openness and access to information remains one of the most important concerns for daily journalistic work. When reporters seek information or comments from public authorities and officials, they are frequently disregarded. Journalists continue to confront obstacles at all levels of government in asking questions and adequately scrutinizing people in power. According to journalists, while the new Media and Information Agency (MIA) has resulted in an increase in public comment from ministers and public officials on some issues, the authority has overseen a tightening of control over information in an already difficult environment.

Since the Covid-19 pandemic when the government chose online platforms to share information and controlled the information shared, journalists often find themselves under political pressure. The government can also control the media by appointing individuals with political links in charge of public media, and the journalists that will disclose or seek out this information, are often subject to political attacks, discrediting acts, or restrictions to access information. Journalists investigating crime and corruption are the ones especially threatened, leading to self-censorship. Journalists frequently feel hesitant to communicate balanced and truthful information, which greatly limits Albania's capacity to transmit news, such as information holding the government and huge corporations accountable for their activities. It also demonstrates a lack of openness and corruption in the political class, which favours the oligarchs who utilize the media to further their own interests. Freedom of speech in Albania is under threat as a result of the increase in self-censorship, in which many journalists have abandoned professional ethics and are obliged to work for the personal interests of TV station executives and owners rather than reporting objectively. While self-censorship helps most journalists to preserve their employment and avoid persecution in the short term, it significantly limits a journalist's capacity to report honestly and therefore permits civil society to get critical information about prominent organizations in society in the long run.

However, one of the most serious risks to journalists' safety is organized crime. Top

[13] Zguri Rapo, Relations Between Media and Politics in Albania, (Tirane, 2017), pg 33.

Channel headquarters was the subject of an extraordinary attack with automatic weapons in March 2023, which killed one of its security guards. Although the police have lately taken steps to investigate assaults on journalists, the impunity for these crimes, along with political efforts to discredit journalists, has produced an environment that is likely to promote similar attacks.

Meanwhile, the Prime Minister's Office continues to employ its own communication machinery to disseminate pre-packaged textual and audio-visual information to the media. Edi Rama Television (ERTV), the Prime Minister's own communication channel, continues to air dialogues containing soft-ball questions to the PM and other officials. This communication approach avoids media and protects officials from difficult inquiries. The Prime Minister established his very own podcast "*Flasim*" (Let's Talk), just before the municipality elections, where he interviews different Albanian personalities. The same tactic is used by Tirana's mayor, whose carefully controlled information dominates television screens, dictates news coverage, and avoids journalistic examination. In 2018 the prime minister verbally attacked journalists as a result of being questioned by journalists on his connection to drug trafficking in his minister's interior. Albanian journalists have experienced growing online harassment or hate speech since the insult by the prime minister.

European Media Freedom Act aims to bring attention to the protection of journalists as the main actors in the production of trustworthy media content. Journalists should be protected in their capability to collect, check facts, and share information. The state should not allow abusive acts towards journalists in order to control them or censor them, so they can exercise their function as the public watchdog[14]. In this matter, Albania should take more serious and effective measures to guarantee the protection of journalists and not allow the individuals in power to abuse journalists and media outlets.

3. **Digital media landscape and challenges in compliance with Legislative EU Acts on Digital space.**

With the evolving technology, media platforms have created online digital platforms to share their content because their audience consumes more information online than through other tools. There is also a growing criticism against social media companies regarding the information that is shared, which is often deemed unprofessional, or as click-bait, and the failure to regulate or moderate the user's content. Social media companies often face human rights dilemmas, combating harmful content risks while protecting freedom of speech. Interfering with the content that is shared by social media companies or removing content that is deemed harmful can lead to censorship. To ensure accountability and professionalism, social media management and content by different media companies should be regulated by law.

In Albania, amongst the audiovisual media platforms, many journalists or individuals have chosen to create a social media platform that shares information on political, financial, judicial and other issues of public interest. These platforms are founded on a website, Instagram, Facebook or TikTok platforms. The risk is that often the content that is shared lacks facts and is based on allegations or opinions without a base. It also lacks professionalism and it often creates a platform of hate and allegations, rather

[14] Paragraph 16, European Media Freedom Act, Brussels 2022.

than a platform of truthful information. The government has failed to regulate online content platforms, and in some cases, the government has restricted or blocked social media platforms on an unlawful and illegitimate basis, because it has considered these platforms as a non-important, ineffective tool compared to audiovisual media platforms and a tool that can easily be controlled. The cases of online media JOQ Albania, or Lapsi.al, being restricted or banned on government order reflect the violation of rights that online media faces.

In the case of JOQ Albania, Audiovisual Media Authority decided to restrict and remove the platform from the web, based on claims of fake news by the government following news on the tragic earthquake of November 2019 in Albania. The administrators of the media were prosecuted on this base. However, the solution to close down the platform was seen as a censorship move, aiming to control the information shared with the public.

In the case of Lapsi.al, the prosecution decided to sequestrate its computers based on the allegation that unlawful content was stored in their computers. The decision came as a result of Lapsi.al sharing information and data on the Wage Scandal in Albania, when the private data of thousands of citizens was shared online through Whatsapp. Lapsi.al took the case to the European Court of Human Rights. The ECHR decided that the prosecution's actions were abusive and it had violated multiple human rights, including the freedom of speech. According to legal provisions in Albania, sequestration of online data or computer systems must follow the principle of proportionality and it's to be conducted only when it's necessary and the rights violated are justified by a greater public interest or the rule of law principle. Thus, a computer system, database, or data storage device, can only be sequestrated based on the need, or the data can be retrieved by the legal authorities when safeguards can be put in place, in order to restrict access to the part of the computer system that is sequestrated. Furthermore, even though freedom of speech is not an absolute right, it can not be restricted or violated unless there is proportionate, necessary and non-discriminatory to guarantee the protection and exercise of other absolute human rights. The decision of ECHR on the interim measure, April 2021, order the prosecution to refrain from seizing data storage devises and electronic data that belonged to the subject, and that had no value or link to the investigation.

Way to guarantee freedom of expression, the government should not respond with simple solutions that may limit speech that is not preferred or silence individuals that have took upon themselves to create impartial media platforms aiming to share a truthful side of view, that is closer to the audience and public issues. The challenges of regulating online media should be adopted in a human rights approach. The right to freedom of expression protects not only favourable opinions and information but also unpopular opinions that may shock or offend. The judiciary or other institutions like AMA, should not be allowed to request quick takedowns of the platforms without a proper procedure. Illegitimate and unlawful shutdowns of big social media platforms violate the public's right to access information and it can affect other rights in the bigger picture, undermining the development of the society. The rules should be transparent, requiring moderation of the content shared, ensuring different viewpoints, and also managing and limiting hate speech, without restricting the freedom of speech.

Social media companies have independently set their own standards and guide

rules to regulate the way they retrieve and share content. However, the government should address the matter and the lack of accountability of social media companies, to guarantee freedom of expression while managing the risks of biased content, political influence or other forms of content manipulation that can be dangerous for the public. A better way to regulate online media is through involving experts and civil society in the design of the law, to not shut down critical voices just because it is independent. The concept of a free flow of ideas and an open Internet depends on the restraints the governments put in place that often choose to dictate the content that should be shared. Mitigating the false information spread and political propaganda that violates democratic foundations of society, should not legitimize the over-restriction of online platforms. Social media platforms should aim to be professional while putting safeguards in place against hate speech, bullying, sexism, homophobia and pornography content.

Social media platforms play an important role in combating disinformation and propaganda because it offers a better ground for the public to access reliable and unbiased information in real-time. Guaranteeing independent online media functions helps develop democracy in the country. Even though technology poses a greater risk and challenge to put effective safeguards in place, while social media is often used to spread disinformation, promote violence or interfere in elections, it can not justify a total ban on online media, but it can open the path to better laws that guarantee a wide range of truthful information and the evolvement of democracy.

In 2022 the Council and European Parlament adopted two legislative acts to regulate digital platforms, the Digital Service Act and the Digital Markets Act. Both acts aim to govern digital space and services, including social media platforms, to ensure users safer access to products, while protecting their fundamental rights, and to also ensure fair competition in the digital sector. The beneficiaries of these rules include citizens, providers of digital services, and business users of digital services, involving social media companies as well. These legislative acts establish a clear framework of responsibilities, accountabilities and transparency for social media companies, involving online marketplaces, content-sharing platforms, advertisement content and social networks. The transnational nature of social media guarantees that states will have to adhere to these regulations even if they are not a member of the European Union or their content will be restricted in EU countries.

Conclusion

To conclude, a review of Albania's legal framework governing freedom of expression and media plurality, in convergence with EU standards, indicates many places for development. While Albania has taken attempts to enhance media freedom and plurality in the paper, numerous legal loopholes and inconsistencies make guaranteeing freedom of expression and protection of free media very difficult. The Venice Commission's view on the proposed anti-defamation package emphasizes the importance of carefully balancing the right to free expression with the protection of one's reputation. Addressing these concerns is critical to ensuring a robust and vibrant media landscape that maintains democratic norms and promotes information freedom.

Recommendations that can be worked upon, considering the regulatory framework

and international bodies' opinions, are:

- Increase Regulatory Organizations' Independence: Take steps to increase the independence and impartiality of regulatory organizations monitoring media operations and defamation cases, including transparent criteria for appointing and dismissing members.
- Increase Transparency in Media Ownership: Enact regulations to increase transparency in media ownership, prohibiting undue concentration and fostering varied ownership models that foster pluralism and independence.
- Improve Journalist Protection: Strengthen systems for protecting journalists, such as effective investigation and punishment of attacks or harassment against them, ensuring their safety and allowing them to work without fear of intimidation.
- Ensure Access to Information: Enhance systems for public access to information held by public authorities, such as developing clear procedures, increasing openness, and reducing unnecessary barriers to information access.
- Promote Media Literacy and Critical Thinking: Invest in media literacy programs to give citizens the tools they need to critically evaluate media material, recognize disinformation, and engage in informed civic dialogue.
- Engage in Civil Society conversation: Encourage an open and inclusive conversation with civil society organizations, journalist associations, and media professionals to address issues, receive input, and work on formulating policies that encourage media pluralism and freedom of expression.

Albania can make substantial progress in aligning its legal framework with EU norms, protecting freedom of expression, and developing a vibrant and diversified media ecosystem that promotes democratic principles by implementing these proposals. Such initiatives will help the country's overall democratic growth as well as boost its partnerships with international partners.

The demand of the Albanians in the league of nations, as well as the attitude of the Albanian state towards the Kosovo Albanians in Yugoslavia, in the years (1928- 1931)

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Abstract

One of the hottest problems within the Balkan regional diplomacy during the years (1928-1931) was the issue of Kosovo Albanians living inside the Serbo-Croatian- Slovenian kingdom. Naturally, this issue concerned the diplomatic relations between Tirana and official Belgrade. In 1928, great changes had taken place in Albania from the political and regime point of view. Albania had just been proclaimed kingdom with king Zog I, who considered himself "the King of the Albanians", a title that revolted official Belgrade a lot, as this thing could cause "irredentist sentiment" among Albanians living in Yugoslavia. Yugoslavia would not hesitate to recognize the Albanian kingdom. It seemed that relations between the two countries had begun to improve from an economic and trade point of view, where there was no lack of agreements between them, and the issue of Kosovo Albanians was left in the background by the Albanian government. At the next meeting of the League of Nations in 1928 and onwards, the stay of the Albanian emigration in Yugoslavia, Greece etc, would not be missing. One of the most ardent activists who raised his voice for the rights of Albanians living in Yugoslavia, was Hasan Prishtina. He was part of the Committee "National Defence of Kosovo", an organization which aimed to protect the rights of Albanians, wherever they were, but also acted against the Zogist regime. Hasan Prishtina presented to the Great Powers of that nation a series of petitions and memorandum on how the Albanians were mistreated by the Yugoslav side. Regarding the attitude of the Albanian state towards the rights of the Albanians in Yugoslavia, it was initially hesitated because king Zog was pursuing regional politics.

Keywords: Diplomacy, irredentism , memorandum, petition, regime.

Introduction

One of the most acute problems that has worried the relations between Albania and Yugoslavia, has been the issue of Albanians living in the Serb – Croatian- Slovenian kingdom. Between the two neighboring countries, there have been ongoing conflicts over the issue of Kosovo, which was considered by Yugoslavia as part of it. Albanian-Yugoslav relations in the period of the Albanian Monarchy have been complicated. When Zog I was proclaimed "King of Albanians" in Belgrade, but also in other countries, it was suspected that he would pursue an irredentist policy. But, king Zog was cautious about the matter, as he did not want to strain relations with the Yugoslav government, which had the task of organizing his political opponents who had emigrated to Yugoslavia and were still working for overthrow of the regime.[1] Another reason why king Zog was interested in having the support of the Yugoslav government, was the threat in the face of growing Italian pressure. Initially, king Zog would send a diplomatic representative to Yugoslavia to normalize relations with Belgrade. "In 1929 Mr. Xhafer Villa was appointed minister plenipotentiary in Belgrade.[2]. Zogu

2 " Gazeta e Re", nr. 194, 23 Qershor, 1929, fl.2.

sought cooperation with Yugoslavia, to remove the Italian threat from Albanian. In the first half of the 1930s, it seemed that Albanian- Yugoslav relations had improve.[3] One of the most pressing issues of concern to the governments of the two neighboring countries was Kosovo, which was under the economic and political jurisdiction of Yugoslavia. Zogu knew very well that the issue of Kosovo would further strain relations between Albanian and Yugoslavia. This was a very delicate matter, but at first he did not stopped on this point. Unlike in previous years, the Albanian government didn't raise the issue of Albanians in Yugoslavia not even in the League of Nations. The Albanian government initially made efforts to accede to the Balkan Pact. Albanian diplomacy was afraid to raise the issue of Kosovo as a consideration, as Belgrade could react harshly, organizing part of the Albanian political emigration living in Yugoslavia against the Zog regime, some of whom were also sworn enemies of King Zog, such as H. Prishtina, Rexhep Mitrovica etc. Consequently, this could lead to the end of the Zogist regime. During the first half of the 1930s, Albanian – Yugoslav relations improved, as Zogu became closer to the Balkan countries, especially Yugoslavia, by signing several trade agreements with him. After the proclamation of the Albanian Monarchy, the economic situation of Yugoslavia deteriorated greatly, as a royal dictatorship was established in Yugoslavia, which exercised violence against all those who came out openly and against the dictatorial royal regime. The issue of Albanians living in yugoslav territory was discussed at length in the League of Nations. In defense of the rights of Albanians in Yugoslavia, the Committee "National Defense of Kosovo" was engaged which throughout its activity, paid special attention to the Albanian cause, whose program meant the unification of all Albanian territories separated from Albanian territorial trunk.[4]. Program of the Committee "National Defense of Kosovo". During the meeting of the Council of the League of Nations, on June 4, 1928. The issue of Albanians living in Greece, as well as those living in Yugoslavia, was discussed. Representatives of the Albanian army in the League of Nations presented concrete facts to the Great Powers about the genome that Yugoslavia was pursuing against the Albanians.[5] Materials of the League of Nations that speak about the treatment done by this organization problems in which, Albanian has also assisted within Yugoslavia, there were movements in the ranks of Albanians, who openly opposed Belgrade's policy, such as Hasan Prishtina etc. The latter, among others, was a compiler of a series of petitions and memorandum.[6] He submitted a petition to the League of Nations on how Albanians in Yugoslavia were being treated.[7] Hasan Prishtina's letter spoke about the mistreatment of Kosovo Albanians by the Serbian government.[8] These petitions wrote about facts about how Albanians were treated worse than other national minorities in Yugoslavia.[9] Here we talked about killing and crimes as well as injuries committed by the Yugoslav gendarmerie against the innocent population of Kosovo.[10] Information from Albanian legacy in Belgrade in connection with the committed crimes from Yugoslavia gendarmerie).

3 AQSH, Fondi 846, d. 1, nr. 708- 761 *Programi i Komitetit " Mbrojtja Kombëtare e Kosovës".*

4 AQSH, fondi 846, d. 1, nr. 708- 761 Programi i Komitetit Mbrojtja Kombëtare të Kosovës.

5 AMPJ , viti 1934, dosja 57 Materiale të Lidhjes së Kombeve.

6 Emine Arif Bakalli *" Çështje të historisë moderne dhe bashkëkohore shqiptare"* Instituti i Studimeve Albanologjike të Kosovës Prishtinë, 2011, fl .38.

7 AMPJ d. 559, 1928, fl. 8*, (Peticion i Hasan Prishtinës dërguar sekretarit të Lidhjes së Kombeve)*

8 Gazeta " Shqipëria e Re" Nr. 414, 30 Mars, 1930, fl.2.

9 Emine Arif Bakalli, *vepër e cituar*, fl.38.

10 AMPJ, d.415, viti 1930, fl.5-11.

Hasan Prishtina following his earlier efforts in this petition, presented facts for the denial of the most basic rights af Albanians, contrary to the convention on minorities that Yugoslavia had signed for the expropriation of land in the name of agrarian reform and division for the Serbian, Montenegrin and Russian emigrants, for forcing them to leave their lands and homes and emigrate to Albania. Turkey and other countries for the lack of schools in the Albanian language, for the freedom of the press, for the impossibility of to be defended before Serbian courts etc.[11] He requested that the League of Nations send to Kosovo an impartial commission to examine the situation of the Albanians and to ensure to them all the rights recognized to minorities. Prominent activist Hasan Prishtina declared: "I will remain an enemy of Yugoslavia until this state gives the rights of the minority to the Albanians in Kosovo and Macedonia". The Albanian government also made efforts, raising its voice against Yugoslavia, to defend the Albanian element wherever he was. King Zog initially withdrawn, as he did not support Hasan Prishtina and his comrades had prepared, but the Albanian king saw H. Prishtina as a personal enemy, who had made several attempts to overthrow him, but H. Prishtina continued his activity, presenting concrete facts to the League of Nations, for the denial that Yugoslavia made to Kosovo. H. Prishtina was one of the most patriotic Albanian figures and one of the most prominent activists of the "Committee for the Defense of Kosovo", who denounced the Yugoslav government in League of Nations for the injustices being done to Albanians. The "Kosovo Committee" had set up cells in the Albanian- Yugoslav border areas. Researchers Zh. Avramoski writes*: "The Kosovo Committee since 1934 had set up a branch (its branch) also inside Yugoslavia under the leadership of Ferhat Draga"*.[12] Ferhat Draga maintained good relationship with Zog as well as he also needed help from Albania in order to develop a wide irredidentist movement towards Yugoslavia. The Albanian state later made several attempts at the League of Nations to defend the rights of Albanians living outside its border. About half a million Albanians living in Yugoslavia were suffering from Yugoslav barbarism.[13] On 15 May 1928 English press " Manchester Guardian" reported: *"that the League of Nations should look at how an urgent job using the means necessarily to secure the rights of minorities whose fate had been divided against their will.*[14] The greatest annoyance of the Albanians in Yugoslavia occurred when Yugoslavia had violated the convention signed with the minorities, on the issue of land expropriation. Yugoslavia during this time undertook an agrarian reform, based on which the lands inhabited by Albanians would be divided between the Serbian, Montenegrin, ect settlers." Agrarian reform in Yugoslavia ruthlessly expropriated Albanians.[15] Hasan Prishtina asked the League of Nations: *"to send an impartial commission to Kosovo to review the situation of Albanians and to provide them with all the recognized rights for minorities"*.[16] The Belgrade government reacted quite harshly to the League of Nations regarding the petition filed by Hasan Prishtina. It sent a reminder to the League Council, by which it denied all the accusations made by Hasan Prishtina. Belgrade showed up with the fact that there were many Albanian students in Yugoslavia, but

11 Paskal Milo*, vepër e cituar,* fl. 858).

12 Halim Purelleku *, " Aktiviteti i Komitetit " Mbrojtja e Kosovës në mbretërinë shqiptare", publikuar nga Qendra e Studimeve Albanalogjike, dhe Instituti i Historisë, Monarkia Shqiptare 1928- 1939 (*Tiranë: Toena , 2011), fl.173.

13 AMPJ*,* viti 1928, dosja 155, fl.8 Shtëpia botuese " Manchester Guardian" nga E. Durham, 15 maj 1928.

14 AMPJ, 1928, dosja 155, fl.8.

15 Vullneti, nr. 34, 16 Shkurt 1930,fl.1.

16 Paskal Milo*, Vepër e cituar,* fl.858.

without mentioning what language they were learning. In fact no Albanian school has been provided to Albanians living within its borders.[17] Publication of an article in the English press "Manchester Guardian", 15 May 1928 wrote one of the prestigious English newspapers "Manchester Guardian". *"About 500 Albanian muslims family have gone to other terrorist, for the reasons of religious fanaticism, but also to find wider territories"*[18] and that colonization was a measure that had spread throughout Serbian and other areas populated by Albanians and that had been applied to old and large land holdings.[19] Reminder of the Yugoslav government on the situation of the Albanian population in Yugoslavia, sent to the League of Nations, March 2, 1929. [20] Moreover, the climate that existed in the League of Nations was not very positive for Albanians. The bodies of the League of Nations often delayed taking decisions on these petitions.[21] Memorandum of the three priests in the League of the Nations, regarding the situation of the Albanians in Yugoslavia. Foreign Minister Marinkovic urged the League of Nations not to accept these complaints at all, *"because such shameful writing cannot offend the dignity of the state"*.[22] Meanwhile, the Tirana government received the necessary information on the true state of affairs created in Kosovo. The Albanian Legation in Belgrade , as well as the Albanian Cons in Skopje , provided various information, as well as reports, on the persecution of Albanians living in Yugoslavia had no school, no freedom to read an Albanian book or newspaper, no freedom to practice their religion, the cult was often burned and the clergy were threatened and killed, as had happened in 1929 with Father Shtjefen Gjeçov, that paid two or three times more taxes than the Serbs living near them, that under the various laws of colonization of the agrarian reform, hundreds Albanian families were deprived of their lands and flats and in their place, Slavic settlers came".[23] *"A large number of reports came from the Albanian Legation in Belgrade, regarding the annexation of Albanians in Yugoslavia and Turkey, the installation of Montenegrins in the lands of Kosovo, as well as the barbarity of Serbs against Albanians living in Yugoslavia.*[24] " The government's harshest reaction the Yugoslav government launched an operation using the most barbaric means to force Kosovar Albanians to leave their lands, especially those living alongside Albanian-Yugoslav border and settle in their Montenegrin and Slavic lands. According to the convention that the Yugoslavs had signed on the issue of minorities, Kosovo Albanians would leave their lands and emigrate to other countries such as Albania, Turkey etc. The Albanian Legation in Turkey informed the Minister of Foreign affairs in Albania, Iliaz Vrioni, that some Albanian families had come, which had been installed in the vilayet of Mersin.[25] During 1928 we have a departure of Albanian families from the areas of Kosovo in the direction of Turkey. The information is obtained from the Albanian Legation of Belgrade which informed the Albanian Ministry of Foreign Af-

17 AMPJ, viti 1928, dosja 155, fl .8.

18 Vullneti, nr.34, 16 Shkurt, 1930, fl. 1- 2.

19 AMPJ, viti 1929, dosja 559, fl.11-20.

20 Paskal Milo,*vepër e cituar*, fl. 873.

21 AQSH , Fondi 251, d. 194, 1930, nr. 40/ 11, Vienë, 15 Maj 1930), fl.1.

22 AQSH , Fondi 251, d. 194/1, viti 1931 nr. 578, Gjenevë, 3 Maj 1931 *Memorandum i tre priftërinjëve në Lidhjen e Kombeve referuar situatës së shqiptarëve ne Jugosllavi*, fl.1

23 AMPJ , viti 1933, d. 211, fl. 42- 45, *Raport i ministrit shqiptar në Beograd Rauf Ficos me ministrin e punëve të jashtme Xhafer Vilës,* 10 tetor, 1933.

24 AMPJ, d. 413, viti 1929, fl. 5 – 12 *Raport i Legatës Shqiptare në Beograd, referuar barbarizmit serb.*

25 AMPJ, viti 1928, dosja 155, fl.6 *Telegram i Legatës Shqiptare ne Turqi dërguar ministrit Iliaz Vrionit të disa familjeve të shpërngulura në Turqi.* Nr. 579/111, Stamboll, 22 gushtt 1928.

fairs that in the Turkish Consulate in Skopje, there were 100 Albanian families from Kosovo who had applied for visas to.[26] The Consulate, asking for visas to go to Egypt. But the British Consulate asked for instructions in London, which received the answer that Albanian families could not go to Egypt, but they could go to an English colony. Following this response, Kosovo Albanian families approached the Turkish consulate, informing them of the British consulate's response and again asking for visas to be granted to Turkey, as they did not want to go to the English colony proposed by the consulate of Skopje. The Belgrade government used all means from propaganda to brutal force to expel Albanians.Many Kosovo Albanian families, under pressure from brutality and local authorities, were forced to sell their property to Serbs for little money, many of whom emigrated to Turkey.[27] In the face of this situation, the Albanian government pursued an almost passive policy, which was sufficient only with continuous intervention in the Ministry of Foreign Affairs in Belgrade, to stop the injustices done to Albanians, not to incite their emigration on Turkey and to allow the learning of Albanian language in Serbs schools for Albanian children. Even the government in the name of " the national interest" and " of the financial situation of the state", took the decision not to allow the mass emigration of Kosovo Albanians to Albania and called on them not to leave even in Turkey, but with sacrifices to stay in their place.[28] The Albanian government intervened through its Legation in Belgrade, also through the Albanian Minister in Ankara who was informed about this issue. Very soon, the powerful Albanian Minister in Belgrade, Hiqmet Bey, after being informed about the events that are happening in Kosovo, was left to imply that it was also in Turkey's interest for Kosovars to stay in their countries.[29] With the mediation of Rauf Fico, who was the Albanian charge of affairs in Belgrade, Turkish government instructs Belgrade Legation not to pursue passports of Albanians wishing to settle in Turkey.[30] But, despite the tight visa policy and the propaganda not to leave, thousands of Albanians from Kosovo came to Albania until the first half of the 1930s.[31] Many other Albanians went to Turkey. But, the Albanian Consulate in Turkey informed the Albanian Foreign Minister through a telegram : "… *how always and today arrived in the city more than 200 emigrant families from Kosovo, who these days will leave for the countries of empty and distant of Anatolia"*.[32] " *These wretches, as you know…, are victims of ignorance who cannot apply from which side their interest weighs, but being wrong by the agents of Turkey and forced and banned by the Yugoslav authorities for their emigration to Albania, most are preferring to come to Turkey, where sadly they will lose their lives for our Homeland"*.[33] The Albanian Minister of Foreign Affairs sent a letter to the Albanian Consulate in Istanbul emphasizing that the Yugoslavian Legation was do-

26 AMPJ, viti 1928, dosja 155, fl.9 *Telegram i Legatës shqiptare në Beograd dërguar ministrit të punëve të jashtme shqiptare. lidhur me shpërnguljen e familjeve të Kosovës në Turqi.* Nr. 1023/x. 20 gusht 1928).

27 AMPJ , viti 1928, dosja 155, fl.10. Telegram nga Legata Shqiptare në Jugosllavi dërguar ministrit të punëve të jashtme shqiptare, mbi shpërnguljen e familjeve shqiptare të Kosovës në Turqi, Nr 1023/x 20 Gusht 1928.

28 AMPJ, viti 1929, d. 413, fl. 21- 55 *Telegram shkëmbyer midis ministrit të Punëve të Jashtme Shqiptare dhe Legatës shqiptare në Beograd.* Janar – Shtator 1929.

29 AMPJ, viti 1928, dosja 155, fl. *10 Telegram i Legatës Shqiptare në Beograd adresuar MPJ shqiptare mbi shpërnguljen e shqiptarëve të Kosovës në Turqi* No. 1023/×. 20 Gusht 1928.

30 AMPJ, viti 1928, d. 155, fl.10.

31 Paskal Milo*, "vepër e cituar*, fl 859.

32 AMPJ , viti 1928, dosja 155, fl.27 *Telegram i Konsullatës shqiptare në Turqi Albanian* dërguar ministrit të Punëve të Jashtme Iliaz Vrioni , referuar emigrimit të familjeve kosovare në Turqi. Nr.299, Stamboll, 21 Dhjetor.

33 AMPJ, viti 1928, dosja 155, fl. 25 Nr.299, Stamboll, 21 Dhjetor.

ing demarche in Turkey, in contrast with the leaving Albanians of Kosovo in its direction. He urged the powerful minister in Turkey to make the demarches amicably and discreetly with the Turkish foreign minister, saying that the emigration of these makes a bad impact on the people. Many Albanians, as long as they stay in Turkey, come here with more suffering and expenses, putting the Albanian government in a difficult position, the Albanian Foreign Minister concluded the telegram, Vrioni. But, a few days later, after the report of the Istanbul Consulate came, the Albanian Minister of Internal Affairs, K. Kota announced: *"The interest of the nation is that they do not emigrate to Turkey or the Kingdom of Albania, but it is necessary for them to stay in their countries, and to achieve this goal, a massive propaganda must be made through the Albanian Legation in Belgrade*".[34] The Albanian press of that time said Yugoslavia had been shown to be unjust against the Kosovo Albanians, and were being mistreated by the Yugoslav side, while the Albanian government was not reacting enough, the Albanian press reacted quite harshly. It had provided accurate information based on written documents, that Yugoslavia was pursuing an aggressive policy towards Kosovo Albanians nothing would bring peace to the region. The Yugoslav newspaper" Politika" wrote: "Allegedly, Northern Albania does not obey the civilization of the King of the Albanians…![35] Albanians understood the Belgrade game, and that he was the main architect of turmoil in Balkans. In fact, the Italian-Albanian alliance had provoked a rivalry not only in the Albanian- Yugoslav relations, but also in the Italian-Yugoslav ones. The Yugoslav press was quite skeptical of the Italian-Albanian alliance. Since 1927, the Yugoslavs have been unable to hide their Italian- phobia and Albanian- phobia. The Albanian state was in fact in favor of a rapprochement with the Yugoslav government, as good neighborness would also ensure peace in the Balkans. Yugoslavia was ruled by 1 million Albanians, who did not enjoy any of the rights guaranteed to them in every country, the treaty of minorities and above all these were systematically persecuted. Yugoslavs continued to pursue the tactic of extermination of Albanians. The Yugoslav press did not stop publishing a stream of accounts against Albania, that it was not capable of governing its own people, showing it to the international community as incapable of self- government. The policy pursued by the Yugoslav side, especially on the issue of Kosovo, would lead to the cooling of Yugoslav Albanian relations. Serbian slanders against the Albanian state were numerous. Belgrade went so far as to declare openly not only through the press, but also through the meetings of its representatives with the international community, that the Albanian government was not capable of directing the Albanians living within its territory and no longer interested in lived Yugoslavia. [36] Yugoslavia tried to attract the attention of the internet community, to tell them a thousand slanders and untruths about Albanians. Slavic insults were innumerable and unscrupulous in addressing Albanian and the Albanians. The newspaper "Arbenia" in one of its articles wrote about "Serbian's attitude towards the Albanian people, calling them people with tails".[37] The Albanian government refrained from these Slavic slanders, maintaining calm and balance in the tones of its diplomatic relations with Yugoslavia. The Albanian press "Demokracia" in December 1929 reacted by declaring: *"We*

34 AMPJ, year 1928, dosja 155, fl.31 *Telegram i Ministrit* të Marrëdhënieve Ndërkombëtare K. Kota me Legatën Shqiptare në Beograd.16. 1. 1929.

35 "Demokracia", 14 Dhjetor 1929, fl. 2.

36 "Demokracia" 14 Dhjetor 1929, fl. 2-3.

37 "Arbënia" nr.231, 10 Prill 1936.fl. 1.

Albanians, as a free and independent state, do not naturally want to become, in any case, the toy of others and especially, not to be in relations cordial with our neighbors".[38] Yugoslav attitudes towards Albanians were still turbulent. The culmination came when the Yugoslav press reported*: "…that allegedly the Macedonia committee were on the Albanian ground"*[39] *and that they would operate on Albanian territory to attack Yugoslavia"*.[40]. To cover the denationalization policy towards Kosovo Albanians, Yugoslavia tried to confront the demands of the Albanian state, to come to the defense of the Albanian element in Yugoslavia. During this period, diplomatic relations between Albanian and Yugoslavia were not so friendly, however economic and trade relations were generally better. Belgrade's "Politika" notebook had a note about a conference held by the Yugoslav minister accredited to King Zog, Mr. Nastasijovic. He delivered a speech in Skopje on the internal state of the Albanian economy. He spoke at length about the trade treaties that Albanian had concluded with other countries. He emphasized the trade treaty, signed between Albanian and Yugoslavia since 1926. He stated that many items could be sent to Albania, such as cement, which was being used extensively in Albania. But Albania developed more trade relations with Italy. Albania has always been the favorite of Italy, which sought to achieve its goals in Albania and beyond. According to a trade statistic published by the newspaper "Dielli", the organ of the company "Vatra" reported: "Italia " in three months, april, may, june, exported 12,614,900 lire loot and imported it to Albania".[41] Italy had bought leather, olives, eggs and sold to Albania cotton pieces and yarn in bulk .Yugoslavia felt the risk of Italian's dominance in Albania. Although the trade agreement between Italy and Albania was coming to an end, the Italian circles were convinced that Albania would ratify the trade treaty with it again. Yugoslavia mobilized its forces to came close to Albania, and did not hesitate to sign a trade treaty with it. Yugoslavia thought that economic presence would bring political influence to Albania. According to the Yugoslav side, a rapprochement between Albania and Yugoslavia would lead to the unification of the Balkans. According to the newspaper "Dielli" , which was the organ of the "Vatra" society in the diaspora, it announced that many Balkan countries had blamed Albania and changed it with responsibility, as the causeof of turmoil in the Balkans.[42] The Albanian state was for peace in the Balkans. This is also confirmed by the historical circumstances, that Albania never wanted to expand at the expense of Neighboring peoples, on the contrary it was its neighbors who wanted to divide Albanian lands. According to the newspaper "Dielli" it is written that the most fertile lands have been occupied by Albania. It stresses that the world should not forget that today there are one million Albanians under Serbia and Gree "It's not surprising in the next war that Albania predicts that journalists can regain these lands[43]. One of Boston's most prestigious newspapers, "The Christian Science Monitor", wrote: *"The Balkan states are in harmony and in good relations. Then it says that the only dangerous vent for peace is Albania. Because of the ambitions and intrigues of Italy"*. It is clear that Italy was seen as the most interested power in the Balkans, which sought

38 Demokracia" , 14 Dhjetor 1929,fl. 2.

39 "Zëri Korcës" 7 Gusht 1929, fl.1

40 AMPJ, d. 335, viti 1930, fl. 5-11 *Korrespondencë e MPJ me MPB dhe Legatën Shqiptare në Beograd mbi aktivitetin e trupave të Maqedonisë në territorin shqiptar.*

41 " Dielli" 18 Shtator 1928, fl. 2- 4.

42 Po aty.

43 "Dielli" , 16 Nëntor 1928, fl.1.

to control this region, though its intervention in Albania. The newspaper "Dielli" commented: "The cause of every turmoil in the Balkans has been and is Serbia… it is the cause of the World War, and again it is pushing the bridges to start another war… The peace in the Balkans can come when Serbia gives up its intrigues and greedy mania today. As long as Serbia does not leave its neighbors at work, peace in the Balkans is very difficult.[44] Yugoslavia was not giving up the intrigues together with its agents, regarding the injustices being done to the Albania living in their lands, but also in Albania. Belgrade agents said that Albania was a servant of Italy. Belgrade's position is contradictory, as Belgrade itself wanted an occupied Albania, but under its orbit and not the Italian one. According to the newspaper "Dielli" Yugoslav wanted the opposite for Albania. Apart from Kosovo, it wanted to occupy another part of Albania. According to the editorial notes of the newspaper "Dielli", Serbs have been a disturbing element in the Balkans. Their goal has been to govern the Balkans, and to create a Greater Serbia.

Conclusions

This paper deals in detail with the issues that have most concerned the relations between the two neighbouring countries, Albania-Yugoslavia, such as the issue of borders, the issue of Albanian political emigration, the issue of Kosovo Albanians, church problems, economic and trade issues , the issue of Albanian concessions and Italian intervention, etc. It should be noted that with the establishment of Albanian-Yugoslav relations for the first time since 1922, it seemed that a warm climate would be created not only between them, but also in the Balkans. Albania was interested in maintaining good relations with Yugoslavia, to ensure a good regional coexistence, but Yugoslavia was not interested in such a policy, because it was only concerned with securing economic influence in Albania, and then to ensure a strong influence from a political and military point of view. This policy pursued by Yugoslavia, which was not at all friendly to its neighbour Albania, has its origins in the time of the secession of Serbia from the Ottoman Empire. With the declaration of its independence in the Congress of Berlin, the newly created Serbian state would pursue a divisive policy within the Balkan region and especially towards Albania, regarding the issue of borders. Even after the declaration of independence of Albania, the MSKS would not give up the idea of attacking the Northern borders of Albania, which served as dividing borders between them. The London Conference of Ambassadors of 1921, decided that Italy should emerge as the guardian of Albania. This Conference stopped the claims of the Yugoslavs to expand towards Albania. With the creation of Yugoslavia 1929, the Albanian state would face its neighbour, not only on the issue of borders, but relations between them would be further between them would be further strained, regarding the issue of Albanians living within the Yugoslav Kingdom. In addition to other people the Kosovo Albanians were part of the Yugoslav Kingdom, where an assimilation policy was launched against them, for which the Albanian state would face many difficulties in securing their rights. The aggravation of Albanian- Yugoslav relations reached its peak when Ahmet Zogu made changes in Albania, calling the Constituent Assembly , which would change the regime from Republic to Monarchy, while Ahmet Zogu would proclaim himself " King of the Albanians". Ahmet Zogu

44 Po aty

took this action to maintain and strengthen his personal power, as well as to ensure a hereditary power in Albanian. September 1, 1928 Constituent Assembly undertook two solutions, where the first declared Albania a Kingdom, while the second resolution proclaimed Zog I King, Zog received the title "King of Albanians", just as other kings in the Balkans enjoyed this title. In Greece the king "King of Hellenes" in Bulgaria the king enjoyed the title, "Tsar of the Bulgarians". The question that arises is: what was the attitude of the neighbouring kingdom of Albania, Yugoslavia, towards the new changes that were happening in Albania, and this was even confirmed by the powerful Yugoslav minister in Albania, Kasidolaçi, who stressed that Yugoslavia had no job to interfere in the affairs of Albania but, this gendarme was contradictory, because the Yugoslav press reacted quite harshly regarding the new changes that are happening inside Albania and especially to Zogu's proclamation as "King of the Albanians" Ahmet Zogu was afraid of the Yugoslav reaction, he was even very interested to know the opinion of the Yugoslav government on this issue. The greatest irritation from Yugoslavia came because of the title that Zog would hold as King of the Albanians. At first, it was proposed that Zogu hold the title "King of Albanian", but then this version was changed and Zogu would hold the title "King of the Albanians". At first glanced, it seems that the two titles did not change, it was even the same thing, but seen in the context of Balkans politics, mainly Yugoslav politics, was different. Yugoslavia doubted that Zogu could use this proclamation to include all Albanians not only inside Albania but also abroad. Yugoslavia thought that Ahmet Zogu could use this to incite an irredentist movement against all those Albanians living in Yugoslavia, but in fact Zogu irredentist feelings, except to use this to undermine his credibility not only in Albania, but even abroad, especially in Yugoslavia, where Albanians lived, many of whom were part of Zog's political emigration and opponents, such as Hasan Prishtina, who participated in the League of Nations since 1928, when he unveiled a series of petitions and memoranda related to the demands made to the Great Powers to protect the rights of Albanians living in Yugoslavia, who were raped and mistreated by the latter. Hasan Prishtina is known as one of the patriots, activists, the greatest politician who raised his voice and showed the world that Albanians in Yugoslavia are not a minority and that they should be respected and treated the same as other people by the MSKS- no. Regarding the demands and rights of Albanians living in Kosovo, it would be discussed as an issue in the Balkan conferences that would be held during the years (1933- 1935) in the Balkan capitals. The Albanian state would also send its representatives, such as Mehmet Konica, who would follow the same path as his predecessor Hasan Prishtina.

References

Archival Sources

AQSH, Fondi 846, d. 1, nr. 708- 761 *Programi i Komitetit "Mbrojtja Kombëtare e Kosovës".*

AMPJ, viti 1928, dosja 155, fl.8 Botimi i gazetës angleze "Manchester Guardian", 15 maj 1928 Iliaz Vrioni, lidhur me emigrimin e disa familjeve kosovare në Turqi. Nr.299, Stamboll, 21 dhjetor.

AMPJ, viti 1928, dosja 155, fl.8 Publikim i shtypit anglez "Manchester Guardian" nga E. Durham. Shtypja e pakicave shqiptare nga Serbia. 15 maj 1928.

AMPJ, viti 1928, dosja 155, fl.31 Telegram i 3 Ministrit të Punëve të Brendshme K. Kota drejt Legatës Shqiptare në Beograd. 16. 1. 1929.

AMPJ, viti 1928, dosja 155, fl.31 Telegrami i 3 Ministrit të Punëve të Brendshme K. Kota drejtuar

Legatës Shqiptare në Beograd. 16. 1. 1929.
AMPJ, viti 1929, v. 413, fl. 21- 5.
AMPJ në Konsullatën Shqiptare në Stamboll. Nr.29 / 1, Tiranë, 5 janar1929.
AMPJ, viti 1928, dosja 155, fl.27 Telegrami i Konsullatës Shqiptare në Turqi dërguar Ministrit të Punëve të Jashtme Iliaz Vrioni, lidhur me emigrimin e disa familjeve kosovare në Turqi. Nr.299, Stamboll, 21 dhjetor.
AMPJ d. 559, 1928, fl. 8, Peticioni i Hasan Prishtinës dërguar sekretarit të Lidhjes së Kombeve
AMPJ, d. 335, viti 1930, fl. 5-11 Korrespondencë e MPJ me MPB dhe Legata Shqiptare në Beograd mbi aktivitetin e trupave të Maqedonisë në territorin shqiptar.
AMPJ, v. 415, viti 1930, fl. 5-11 Informacion nga Legata shqiptare në Beograd në lidhje me krimet e kryera nga serbët.
AMPJ, viti 1934, dosja 57 Materialet e Lidhjes së Kombeve që flasin për trajtimin e bërë nga kjo organizatë, lidhur me problemet në të cilat kanë kaluar shqiptarët e Kosovës.

Authors

Emine Arif Bakalli *"Çështje të Historisë Moderne dhe Bashkëkohore të Shqipërisë"*, Instituti i Studimeve Albanologjike të Kosovës. (Prishtinë, 2011), 38.
Halim Purelleku, *"Aktiviteti i Komitetit të Kosovës në Mbretërinë e Shqipërisë"*, Publikim i Qendrës së Studimeve Albanologjike, Instituti i Historisë, "*Monarkia Shqiptare 1928-1939"*, (Tiranë: Botimi i Toena, 2011), 173.
Paskal Milo, *"Politika e jashtme e Shqipërisë 1912-1939*, (Tiranë: Publikimi: Toena, 2013), 858, 859.

Newspaper and magazines

"Arbënia" nr.231, 10 Prill 1936.
"Demokracia", 14 dhjetor 1929, fl.2.
"Gazeta e Re", Nr. 414, 30 Mars 1930, fl.2.
"Dielli" 18 shtator 1928, fl.2- 4.
"Dielli", 16 nëntor 1928, fl.1.
"Zëri i Korçës" 7 gusht 1929, fl. 1.
"Vullneti", nr. 34, 16 Shkurt 1930.

Education as mediator and process of formation of integral aspects of man

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Abstract

For the science of pedagogy, the act of education is important, the way of communication in the modeling of man, in his training. The act of education is treated exclusively as an action and activity of adults on children and young people, where education takes on an authoritative character, dominating the interests and demands of adults. However, in the conditions of social development, the relationship of the educator (action of adults) on children, young people (student) should not be seen as a one-way act, where adults guide, lead, guide, inform, advise, etc. while the other side (children, young people, students) only fulfill their requests and orders. Here the young person is the object of education. This influence must be two-way, namely symmetrical. Symmetrical influences come and become greater with the growth and biopsychosocial maturity of the personality, until they reach a mutual relationship of influences between adults (the one who educates-the educator) and young people (the one who is educated -the educator). Thus, adults or, in general, man appears in the role of transmitting and leading the process of education and formation of the new generation, which means that social interaction is a primary factor in the process of education and human formation, respectively that "real education always develops only on a person-to-person basis.
Seen in its breadth, and taking into account the fact that education and the process of education is carried out in society, that it is dedicated to man with all his manifestations in social, individual and personal life, it is obvious that this process should be examined in the trival relationship: contemporary society-education-man.

Keywords: education, social interaction, leadership process, education process, social function.

Introduction

What characterizes education as a process of forming the integral aspects of man? If by integral aspects we mean consciousness, worldview, will, human character, tendencies, creative possibilities, intellectual potentials, norms of behavior, properties, socializing skills, ect., that is, different features and aspects, thus keeping the answer simple the question. Education is a creative and conscious act, while man is an integral part of this process, it is a social process and function that aims at the perfection of man, it has a universal and timeless character (there is no time limit for educational influences) has humanistic, has a psychosocial dimension, it contributes to the socialization of man and to his affirmation both on an individual and collective level, education does not represent a completed and closed phenomenon and process for man regardless of age, it is not omnipotent because heterogeneous social and cultural influences obviously disrupt the unique system of intentionally designed influences. Seen from these relations, I think that when defining the notion of education, we must take into account its dimensional multiplicity, that the definition, and consequently its purpose, constitute important elements, which represent its essential aspects such as: elements of the past (historical-social and cultural dimension and aspect of education); elements of the present, which currently and really exist and are laid out

as tasks, goals, concepts, and which represent mutual and reciprocal interweaving between society and education (social-sociological dimension and aspect); elements that present functional interpersonal relations (psychological and social dimension and aspect).
The addition of these aspects and dimensions of education are of interest not only for the science of pedagogy, but also for sociology, psychology, philosophy, etc. between education and society there is mutual dependence, but also contradiction, which promotes development.
There is no human society without organized educational activity. Education, the process of education, have aspired to the transformation of social life and the formation of personality and its emancipation. And in this direction, its fundamental principle has been manifested-education has taken on the attribute of the leading process.
In being a mutual influence, a mutual relationship has been created between education and social life which characterizes our time and prospectively the future time.
Understood in this way, this raport posesthe problem of the reasonableness of education, its aim and competence, and this aim consists of treating education as an organized investment of society in the formation and preparation of man for the time in which he lives and the time in which he will to become a protagonist of social life in an equal relationship with other people.
The analysis, which takes into account these relationships, sees education and society as components that convey human life, as mutual factors, which act on each other, while the interaction of the two acts as a force in human development.
If we see education from the broader social aspect, then with many reasons we conclude that it cannot be reduced only to organized and planned and constructive influences on the part of society, which enable the successful functioning of the personality in the social circle but also influences, uncontrolled polyvalents which encourage the formation not only of properties, norms, traits, feelings, positive but also negative ideals of the personality.
We must bear in mind that education, the process of education, did not only express the social reality, but for reasons of communication skills, objectively contains the design aspects of the formation of the human personality, that is, the vision of the future man. Education, in this context, has the role of the driving force for human formation and development.

Education as a process of forming human aspects and features

After examining some problems related to the definition of education and its relationship with society, as a conclusion we can say that our goal is to build a society in which people can develop freely. This means that education can be defined dynamically, taking into account its complex relationships: a.with social life, b.with working activity, c.with the process of human formation. Education, according to this, is a complex factor and activity (functional, multidimensional, universal formative, social) which aspires to the overall development of a capable and free, creative and competent personality who will understand, explain and change nature and reality social in progressive direction. Consequently, education as a concrete social process and activity, and intentionally organized, planned and led, represents a set of intentional and essential requirements oriented by the promotion of comprehensive

perspectives and integral aspects (social-moral, ideo-aesthetic, spiritual-emotional, intellectual-working, habits, etc.) of the personality (children, students, employees), as a biopsychosocial organization in a certain time, place and age. The difference, which is evident in this approach between education as a phenomenon and education as a process, has to do with the general and special relationship. And here lies the difference and specificity from the definitions made, where education is treated in its broad and narrow sense, or in an even broader sense (Mayall, B., 1994).

The process of education in society has come closer to everyday life and concrete actuality, that is, to concrete time and space. This defines the social function that education performs in the development and formation of man. And here the question arises: how and to what extent does education enable the formation of the future man? The realization (self-realization) of man remains as a perspective and immanence aimed at by the education that society wants. Thus, man, even though it seems like a subjective goal, it is imposed as a social obligation, interest of society and implicitly it is a duty of education. This aspect of looking at the problem of education is the object of examination of pedagogy and not only this, since the education of man, his formation, depends on the concepts on education, namely on the function that education performs. Precisely for this reason there are different approaches and concepts on education, such as: liberal, democratic, conservative, bureaucratic, behaviorist concepts, etc.

The problem is the society-individual relationship, where human formation is the goal of contemporary society. And for this, we must see the problems of education in their entirety, focusing on the excellence of education. We must not forget that changed social conditions also determine the modernization of education tasks. For this reason, education not only projects the formation of man and his education to live in new conditions, but must prepare man to live for a time beyond, where and when he will become the protagonist of social life, the bearer of life activities. This makes education not only a leading process but also a creative process, especially in terms of human vision. In this context, the opinion that the ideal aspect of education is unrealizable has no basis.

There are many reasons for the problem of the education of the human personality to be laid out within the social historical context, defining the developmental perspectives and the possibilities of its progress at different socio-cultural levels. This is achieved through the realization of the purpose of education, which has stages of realization where the tasks are operationalized and concretized. Therefore, the purpose of education and its tasks must be distinguished.

Education as a leading, creative and communicative process, the reasonable aim is imposed to treat it as a process of "deep cultivation" of man and not as his "cosmetics". For this purpose, we must also respect other factors, which convey the education and integral formation of the human personality, such as self-education, self-development, self-realization, etc., which present systems of different levels which mutually help each other.

Unlike self-education and self-development, education as an organized process of human formation is distinguished by several features, which are: the ability to transfer requirements and experience from generation to generation according to the principle of symmetry; consistent realization of the norms, purpose and tasks of education, according to a certain level; the direction or orientation of the education process

for the overall development of the human being; learning patterns of behavior, identification; planning and programming of educational impacts; norming of tasks according to educational level; the natural aim to integrate the person into the desired socio-cultural system; checking and evaluating the approval of education norms and tasks; the possibility of compensating educational work and correcting behavior, worldview and creative possibilities.

Since education is a permanent process, the question arises: how is it finalized? Bearing in mind that every work, every production, every process, every human work has finalization and finalization stages. Education, namely educational work, represents a conscious, intentional and planned human activity, and this is where the issue of finalization is raised.

Education, namely the process of education, has its beginnings, which are characterized by provocation and perfection. It has a beginning and a finalization at the same time, but this finalization, unlike other activities, is more specific, more difficult to assess, and more relative. For this reason, it is easier to talk about finalizing stages or levels of educational work than about finalizing the process or educational activity that is exercised on the personality as a final product. This is also because the educational activity is an integral part of our awareness and behavior.

Man, in his development, is both subject and object of the educational process. He is educated and educates at different levels. The objective position and function of man leads us to talk about finalizing stages, which can be different, for example, the stages of personality development (childhood, youth, maturity, old age) represent finalizing stages of the educational process; different ages also present stages of finalization; the different levels of the education system also present stages of finalization; for example, preschool education, school education (primary, secondary, high). So we talk about finalizing stages, but not about finalization as a perfect product on which action, educational influence rests. The existence of these stages represents the rounding of educational tasks for one level, with the possibility of being integrated into the next level. So, here it is clear that the education process begins with the birth of the child, but there is no definite limit as to when it ends. So, we talk about family pedagogy and adult education at the same time (Clark. M., 1983). From this we come to the conclusion that there is no limiting dimension of education, the process of education is imposed as an unfinished, permanent creative act that is realized according to concentric circles, that starts and ends at one level, to start at the next higher level (Montandon, C., 1997).

The problems of education in contemporary society are multidimensional, more complex, with the aim of distancing from traditional forms. Education represents a complex of relationships in the individual-society line. Man in society expresses himself as a complete individual. Society stimulates his development, his socio-cultural formation as a conscious being. Society, therefore, through education as an organized process, invests in the future design of the desired person, presenting, in any case, the ideals, the difference and certain tasks, which aim at his overall development. It is implied that in all these relations the aspects of self-development and self-education are respected, which how and how much they will be realized and how they will be understood depends on the potential possibilities of the individual's expression in society. The wide interest that is devoted to the education-society relationship, their conditioning that manifests itself in both positive and negative aspects, does not

mean that it has been neglected, but on the contrary, this relationship is always current as an essential element and a necessary condition, where education acquires its own meaning, function and democratic and progressive character. The denial of this relationship would lead us to the narrowing of the mutual space, where the role of man as a subjective factor for the transformation of society would be minimized on the one hand, and the affirmation of society as a factor of education, as a competent factor that opens up the development perspectives of man from the other side. If we do not examine education as a process determined by factors of different levels of influence, we will not be able to conceive the educational vision, intergenerational communication, influences and guiding values, the permanent relationship of the individual with society, the evaluative aspects cannot be concretized of education, to make the theoretical and practical concretization of the purpose of education. Without these, the process of education would remain outside the social space, thus questioning the realization of the functions manifested in this aspect, namely: education as a social function, the social function of education, the educational function of society (Sagotovskaya, SG., 1971).

Here is shown the importance of society and its competence in the orientation of education, its social verification, the determination of the scope of education in the formation of man, who becomes the bearer of social development.

In this wide space of relationships, of interwoven connections between education and society and especially in our current social circumstances, the communication ability between education and society becomes more intense, richer, narrower.

Seen in this context and relationship, education, even though it is not omnipotent, is imposed as a constructive activity, as a factor that enables the development of society, namely as an "objective necessity for the further development of society" (Nikolla Rot, 1975). This is also for the reason that education at any time, that is, even today, currently more, first of all, has the ambition to humanize social relations, to contribute to the emancipation of man, to open his perspective, to outline his future, to set educational-progressive goals and tasks, to conceive such an educational-educational system, where man will be in the foreground, where he will become a factor in the progress of society. It is precisely for this reason that education and society are objectively found in a coexisting relationship, the attributes of which are verified in several elements such as: the communicative element and the perspective element, the normative and evaluative element, the stimulating and cognitive element, the creative and historical element, etc.

These and other elements make us understand that society has an interest, while pedagogy is authorized and competent for laying out the concept of education, its purpose and tasks. Thus, the mutual communications between education and social life impose the need and the reason that the realization of the function of education (the definition, concept, work and educational process, we lay down and approach it as an obligation of the social structure on the one hand and secondly, as authorized sector, with special responsibility of competent institutions and activities, for the construction of the education process, pedagogical entities) and thirdly, to approach it from a scientific, structural aspect.

Evaluating the objective conditioning of society's education, I think that education in relation to other activities, such as health, culture, economy, etc., is more direct and more communicative with relations and social life. It is both a consequence and

a condition of those relationships, first of all, because it is an activity where a person is put at the service and function of building society, while education promotes his creative potential. Precisely for this reason, society's interest in realizing the purpose and tasks of education is laid out as an integral function. Here the mutual responsibility for the democratic and competent formation of man is manifested. Education in the democratic spirit is our duty and it is imposed as a projection of the democratizing society. Man cannot be isolated from democratic processes. Education plays a formative -creative role by preparing a person for his role that he has and should have.
Education, as we mentioned above, is an important factor for the progress of relations and social life, the emancipation of man and the formation of his plural physiognomy. That's why we treat it as a leading, creative and communicative process. With the organized, planned and systematic realization of the education process, the creation of a new quality of the society-individual relationship, namely to affirm the human being as a creative personality, a complete personality which will carry the further development of society. To what extent man's creativity and his independence will be manifested in the creation of new social relations, this depends on social dynamics, on the concept of education and on the opportunities that society has for the successful functioning of man in all its segments.
In the circumstances of our reality, that is, in the practice of our social relations in the relationship between education and social life, we also face a phenomenon, the crisis of society or the crisis of social relations.
As a social crisis phenomenon, however, it is also reflected in the sphere of education, namely it creates a crisis in the process of education, in the process of human formation (Montandon, C. 1998.). But the question that is asked is: to what extent does the social crisis encourage and provoke the crisis of education? The educational process is not immune to the general social crisis. It is reflected in many aspects and segments of education, first of all, it is manifested in the realization of the purpose and tasks of education, in the impoverishment of the content and educational work, it brings about the crisis of morality as a whole, in the narrowing of the educational activity, in the evaluation and awareness of people, in the quality of work and educational creativity as a whole. So, the wide dimension of the social crisis is also manifested in the concept of education and limits the possibilities for its creative expression, and at the same time, as it expands in society, it intensifies the crisis in the field of education. So, the crisis in education is a consequence of the crisis in social relations. This crisis also appears due to the lack of creative skills for eliminating and overcoming the crisis situation. Therefore, the question arises: what is the possibility of education (work and the educational process) in preventing the crisis or in eliminating the state of crisis in social relations?
This question requires a more complex, comprehensive analysis and a more objective approach. This is because education has the ability to influence the elimination of some elements of the crisis that are of political and moral nature, the crisis of consciousness, beliefs, attitudes, etc.
The issue of the reflection of the social crisis on education should be looked at from another perspective. The crisis should not be approved as something insurmountable, inevitable, which would finally serve as an alibi to justify the social position in which we find ourselves, that this position is unresolved. In spite of this, we must examine the crisis as a phenomenon accompanying society, that is, education as well.

Let's look at it as a provocateur for commitment and overcoming the situation with clear orientations and vision for the education of the personality and the formation of his democratic and social awareness, which would face the difficulties in a creative and competent way.

Conclusion

The concept of education and its relationship with social life means a wide and complex scope of problems related to the formation, development and education of the free personality in our society. When I say that such communication implies a wide scope, I mean that man exists in a relationship with society, which with their strength is reflected in their formation. We must create such a concept of education and an education process that aims at the formation and development of a free, capable, complete human being, who will live in more progressive social relations and conditions, which pose concepts, problems, tasks, values, other norms, more complicated scientific-technical, technological and developmental processes.
The aim for the complete and free education of man is the immanence of society and this implies the commitment and interest of the entire social structure for the consequent realization of the concept, the content of education. This means that the leading role of education in its socio-historical meaning should be viewed from a broader social and social perspective and interest, in which a person becomes a subject aware of existence, development and self-realization. Building awareness on the dependence of education and social life that objectively aims at the transformation and emancipation of this relationship, with the aim of creating a new quality that enables man to become a conscious subject, bearer of individual and social perspective, imposes the necessity of determining the main objectives of education -its definition, goal determination, general principles of education and conditions for its evolution. These objectives implicitly promote and provoke the need for evaluation and permanent re -evaluation of the role and function of education, for the examination and analysis of the relationships that are created between it and social life and for the social and scientific verification of the education process.

References

Baumrind, D. (1966). Effects of authoritative parental control on child behavior. Child development.
Dr. Nikolla Potkonjak, Lënda e pedagogjisë, botim i dytë, Zagreb, 1969.
Marije Bartushkova, Pedagogjia e moshës shkollore, Prishtinë, 1976.
Dr. Nikolla Rot. Psikologjia e personalitetit, Prishtinë, 1975.
Shefik Osmani, Fjalor i Pedagogjisë, Tiranë, 1983.
Baumrind, D. (1967). Child care practices that precede three patterns of preschool behavior.
Clark, M. (1983). Family life and school achievement.
Maccoby, E.E. (1980). Social development: Psychological growth and the parent-child relationship. New York.
Mead, M. (1970). Culture and commitment: a style of the generation gap. New York: Doubleday.
Lautrey, J. (1980). Social class, family environment, intelligence.
Harris, J.R. (1995). Where is the child's environment? A theory of the development of group socialization.

Harris, J.R. (1998). The nurture assumption: Why children turn out the way they do. New York: Free Press.
Harwood, R.L., Miller, J.G. (1995). Culture and attachment. Perceptions of the child in context. New York: Guilford Press.
Munroe, R.L.& Munroe, R.H. (1975). Intercultural human development.
Kohn, M. (1977). Class and conformity. A study in values (2-nd edition). Chicago, IL: University of Chicago Press.
Greenfield, P.M. (1994). Indepence and interdependenceas developmental scripts: implications for theory, research, and practice.
Mayall, B. (1994). Children's childhoods: Observed and experienced . London.
Montandon, C. (1998). Sociology of childhood.
Montandon, C. (1997). Education from the point of view of the child.
Bourdieu, P. (1966). Class conditions and class position. Basics of sociology: textbook / Ed.ed. M.V. Prokopova -M.: Shtëpia botuese RDL, 2001.
Sagotovskaya S.G. Educating the individual in a family environment -Tomsk, 1971.
Family sociology /ed. Antonova A.I.-M., 2005.
Kovalev S. V. psychology of family relationships - M., 1987.
Farooq U. (2013). Family functions as a social institution. Notes for study lectures. Taken from study lecture notes.
Blackwell, A. (2017). "Families in XXI century", selfgrowth.com.
Jashari, H. (2016). Family and kinship. Tetove: Cabej & UEJL.
Grebennikov IV The basics of family life –M. Iluminizmi 1991.
http://uchebnikionline.ru/pedagogika/pe_zaychenko_ib/teoriya_vihovannya.htm

Seismic Damage Classification of Buildings Affected by the 2019 Durres Earthquake in Albania Based on Visual Inspection

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Abstract

The 2019 Durres earthquake in Albania, with a magnitude of 6.4, caused significant damage to buildings in the affected region, highlighting the need for a comprehensive assessment of the level and type of damage sustained. This study aimed to classify the seismic damage to buildings based on visual inspection, using a representative sample of buildings that included a variety of types, ages, and construction materials.

To ensure comprehensive and consistent documentation of damage observed, a standardized inspection checklist was developed and used during the visual inspection. The damage was classified according to a standard system, considering the type and severity of the damage and its potential impact on the structural integrity of the building.

The collected data was analyzed to identify patterns and trends in the type and severity of damage observed in the sample buildings. The analysis considered factors such as building age, construction materials, and proximity to seismic faults or liquefaction-prone areas.

The study findings provide a comprehensive assessment of the seismic damage sustained by buildings in the Durres region, highlighting areas that require immediate attention for mitigation measures. The recommendations provided based on the severity of damage observed will aid in the repair and retrofitting of buildings to mitigate the impact of future earthquakes.

This study emphasizes the importance of conducting a thorough visual inspection-based seismic damage classification study in earthquake-prone regions to identify areas that require immediate attention for mitigation measures. The findings from this study can be used as a guide for other earthquake-prone regions to develop effective mitigation strategies to improve building resilience and reduce the potential impact of future earthquakes.

Keywords: Durres earthquake, seismic damage, visual inspection, building classification, mitigation measures.

I. Introduction

The 2019 Durres earthquake in Albania, with a magnitude of 6.4, left a profound impact on the region, particularly on the buildings and infrastructure. The seismic event resulted in significant damage, highlighting the urgent need for a comprehensive assessment to determine the severity and types of damage sustained. This introduction aims to provide a concise overview of the earthquake, emphasize the importance of conducting a thorough assessment, and outline the objective of the study.

The 2019 Durres earthquake struck on 26 November, causing widespread devastation and human suffering. With its epicenter located near the city of Durres, the earthquake unleashed a powerful force that reverberated throughout the region, resulting in the collapse and severe damage of numerous buildings. The event served as a wake-up

call, underscoring the vulnerability of the built environment to seismic activity in earthquake-prone areas.

Conducting a comprehensive assessment of the seismic damage is crucial for several reasons. First and foremost, it enables a thorough understanding of the extent of the damage inflicted on the buildings. By analyzing the severity and types of damage sustained, decision-makers and stakeholders can prioritize their efforts in terms of recovery, reconstruction, and resource allocation. Such an assessment forms the foundation for informed decision-making, guiding interventions and policies that aid in the long-term resilience and recovery of the affected areas.

In this context, the objective of the present study is to classify the seismic damage to buildings affected by the 2019 Durres earthquake through visual inspection. By employing a representative sample that includes buildings of various types, ages, and construction materials, the study seeks to develop a comprehensive understanding of the damage patterns and severity observed. The utilization of visual inspection as the primary assessment tool allows for a practical and accessible approach to evaluate the structural integrity and safety of buildings in the aftermath of the earthquake.

Furthermore, the study aims to provide valuable recommendations for mitigation measures. By identifying the observed damage and its potential implications, the research findings will serve as a basis for implementing strategies that enhance building resilience and reduce the vulnerability to future seismic events. The study outcomes will offer insights to engineers, policymakers, and stakeholders involved in post-earthquake recovery and reconstruction efforts, assisting them in making informed decisions and allocating resources effectively.

In conclusion, the 2019 Durres earthquake in Albania had a significant impact on buildings within the affected region, necessitating a comprehensive assessment of the seismic damage. Through visual inspection, this study seeks to classify the observed damage, providing valuable insights for mitigation measures and contributing to the long-term resilience of the affected communities.

II. Methodology

In order to conduct a comprehensive assessment of the seismic damage sustained by buildings affected by the 2019 Durres earthquake in Albania, specific methodologies were employed. The following details explain the various aspects of the methodology:

Selection Criteria for Representative Sample:

To ensure a representative sample of buildings, a careful selection process was followed, taking into account the diversity of building types, ages, and construction materials. Different types of buildings, including residential, commercial, and industrial structures, were included in the sample. This approach aimed to capture a wide range of structural characteristics and vulnerabilities present in the affected region.

The selection also considered building ages to understand the influence of time on structural integrity and the performance of different construction techniques over the years. Furthermore, buildings constructed using various materials, such as reinforced concrete, masonry, and others, were included to examine the effects of material properties on the observed damage patterns.

Standardized Inspection Checklist:

A standardized inspection checklist was developed to ensure consistent and systematic documentation of observed damage during the visual inspection process. This checklist provided clear guidelines for inspectors to assess different components of the buildings, including foundations, walls, columns, beams, and roofs. It outlined specific criteria for evaluating the extent and severity of damage in each component, ensuring uniformity in the assessment process across all inspected buildings.

The checklist facilitated the collection of detailed information about the observed damage, including its location, type, and severity. This standardized documentation process allowed for accurate comparison and analysis of the damage data.

Classification System for Damage Assessment:

To assess the type and severity of the observed damage and its potential impact on structural integrity, a classification system was adopted. This system categorized the damage based on predetermined criteria, considering factors such as cracks in walls and foundations, displacement of structural elements, loss of bearing capacity, and overall structural integrity.

The classification system assigned different levels of severity to the observed damage, enabling a systematic classification of buildings into distinct categories based on the degree of damage they incurred. This classification system provided valuable insights into the extent and implications of the damage, allowing for a comprehensive understanding of the structural conditions of the affected buildings.

Additional Factors in the Analysis:

In addition to the primary criteria of building types, ages, and construction materials, several other factors were considered in the analysis. Building age was taken into account to assess the influence of time-related deterioration and the effectiveness of building codes over different periods. The analysis also considered the specific construction materials used in the buildings to evaluate their performance during the earthquake.

Furthermore, the proximity of buildings to seismic faults or areas prone to liquefaction was considered as an additional factor. This factor provided insights into how geological conditions influenced the observed damage patterns.

III. Data Collection and Analysis

The data collection process for this study involved conducting thorough visual inspections of a carefully selected sample of buildings that were affected by the 2019 Durres earthquake in Albania. Trained inspectors visited each building within the sample and meticulously examined various structural elements, such as foundations, walls, columns, beams, and roofs. The visual inspection aimed to identify and document visible damage resulting from the earthquake.

During the visual inspection, inspectors followed a systematic approach to ensure comprehensive coverage of all relevant areas. They carefully observed and recorded the extent and characteristics of the observed damage, including cracks, displacements, and loss of integrity. This process involved the use of standardized inspection forms and checklists specifically developed for this study to ensure consistent documentation of the damage observations.

The collected data was then compiled and presented in a clear and organized manner. Each building within the sample was assigned a unique identifier, and

the corresponding data was linked to the specific building. This organized dataset facilitated efficient analysis and interpretation of the findings.

To analyze the collected data, various statistical techniques and analytical tools were employed. The data was examined to identify patterns and trends in the type and severity of the observed damage. This analysis aimed to uncover relationships between the observed damage and factors such as building age, construction materials, and proximity to seismic faults or liquefaction-prone areas.

By examining these relationships, the study sought to understand how different factors influenced the type and severity of the damage sustained by the buildings. For instance, the analysis may reveal that older buildings experienced more severe damage due to outdated construction practices or lack of retrofitting. It may also highlight specific construction materials that exhibited better resilience against seismic forces, leading to less severe damage.

Furthermore, the findings were discussed in relation to building age, construction materials, and proximity to seismic faults or liquefaction-prone areas. This discussion allowed for a deeper understanding of the vulnerabilities and strengths associated with different building characteristics. It provided insights into the performance of buildings during the 2019 Durres earthquake and how these factors influenced the observed damage patterns.

By discussing the findings in relation to building age, construction materials, and proximity to seismic hazards, the study aimed to contribute to the knowledge base of seismic vulnerability in the affected region. The insights gained from the data analysis can inform future mitigation strategies, building codes, and construction practices. This knowledge can aid in enhancing the resilience of buildings in earthquake-prone areas and reducing the potential impact of future seismic events.

In Albania, buildings are categorized into different types based on their structural schemes, providing valuable insights into the construction techniques and materials utilized in the building industry. The following are prominent types of buildings in Albania based on their structural schemes:

a) Buildings with Reinforced Concrete Structures:

These buildings predominantly feature reinforced concrete as the primary structural material, and they are more commonly found in urban areas. Reinforced concrete offers substantial strength and durability, making it suitable for a wide range of structures, including residential, commercial, and industrial buildings. The structural components, such as columns, beams, and slabs, are reinforced with steel bars to enhance their load-bearing capacity and resistance to seismic forces.

b) Buildings with Bearing Masonry Structures:

Bearing masonry structures are characterized by their construction primarily using masonry materials like bricks or stones. The masonry walls serve as the primary load-bearing elements, providing essential support and stability to the overall structure. These walls are typically constructed using bricks or stones and are interconnected with mortar. Such buildings can be found in both urban and rural regions of Albania, and their construction methods often reflect local building traditions and the availability of materials in the respective areas.

c) It is crucial to acknowledge that these classifications are general and based on the commonly observed structural schemes in Albania. There may exist variations and hybrid constructions that combine different structural systems.

Understanding the distinct types of buildings based on their structural schemes is paramount for assessing their vulnerability to seismic events, determining appropriate retrofitting or strengthening measures, and ensuring the overall safety and resilience of the built environment.

IV. Damage Classification

The rapid assessment occurs within the first few days following a major earthquake, aiming to quickly classify buildings into three categories: “safe for use”, “unsafe for use”, and “dangerous for use”. The designation of “unsafe for use” is applied to damaged buildings with uncertain structural integrity. This assessment also identifies structures requiring urgent demolition, identifies local hazards for removal, and recommends safety measures to prevent casualties.
The rapid assessment should be conducted as quickly as possible to restrict access to hazardous buildings or areas. It also enables the identification of safe buildings for immediate use.
Based on the visual inspection conducted, the damage to buildings can be classified into different categories based on the severity and type of damage observed. The classification helps in understanding the extent of structural compromise and aids in prioritizing repair and mitigation efforts. The following classifications are considered:
a) Structural Collapse:
During the visual inspection, buildings that fall under the classification of structural collapse were identified. These buildings have experienced complete or near-total collapse, rendering them uninhabitable and posing a severe safety risk. The visual inspection revealed that these structures have suffered catastrophic failure, with significant damage to load-bearing elements such as columns, beams, and walls. The collapse may have occurred due to the inability of the structure to withstand the seismic forces generated by the earthquake. These buildings require immediate attention and intervention, such as demolition or major reconstruction, to ensure public safety and prevent further damage.

Figure 1: Total collapsed buildings

b) Major Structural Damage:
Buildings classified as having major structural damage exhibit significant impairment to their structural integrity. These structures have sustained substantial damage to their load-bearing elements, posing a substantial risk to occupants and the surrounding areas. The visual inspection revealed severe cracks, fractures, or deformations in columns, beams, walls, or other critical structural components. The

extent of the damage indicates that the buildings were unable to withstand the intense shaking and ground motion caused by the earthquake.
Immediate measures, such as structural reinforcement, retrofitting, or partial demolition, are necessary to restore the stability and ensure the safety of these buildings. These interventions aim to strengthen the compromised elements and prevent further deterioration. The severity and extent of the damage will determine the specific course of action required for each building.
Due to the significant structural damage observed, these buildings are deemed unsafe for use until the necessary repairs or improvements are implemented. Ensuring the safety of occupants and the public is of paramount importance, and strict measures should be taken to restrict access to these structures until they are deemed structurally sound.

Figure 2: Buildings with major structural damage.

c) Moderate Structural Damage:
Buildings classified as having moderate structural damage exhibit noticeable impairments to their structural elements, although the severity is less pronounced compared to buildings with major structural damage. The visual inspection revealed the presence of cracks, partial collapses, or distortions that affect the overall stability of the structures. While these damages indicate compromised structural integrity, they also suggest the possibility of repair and rehabilitation.
Occupancy of buildings with moderate structural damage may be restricted until necessary repairs are carried out to ensure the safety of occupants and the surrounding areas. The identified damages should be promptly addressed through appropriate measures, such as structural reinforcement, strengthening of weakened elements, or selective repair. These interventions aim to restore the structural stability of the buildings and mitigate the risk of further deterioration or collapse.
The repair process may involve strengthening load-bearing elements, repairing or replacing damaged components, and ensuring compliance with relevant building codes and regulations. Once the necessary repairs are completed, a thorough reevaluation of the building's structural integrity should be conducted to ensure its safe occupancy.
While buildings with moderate structural damage may require intervention, the potential for repair and rehabilitation presents an opportunity to restore their functionality and safety.

Figure 3: Buildings with moderate structural damage

d) Non-structural Damage:
The classification of non-structural damage encompasses damages to non-bearing elements of the building, including partition walls, non-structural components, and finishes. While these damages do not directly compromise the structural integrity of the building, they can pose risks to occupants and require attention to ensure the safety and functionality of the structure.
During the visual inspection, non-structural damages were identified, such as cracks in non-bearing walls, detachment of ceiling tiles, damage to windows and doors, or displacement of non-structural components like light fixtures, cabinets, or furniture. Although non-structural elements do not play a direct role in supporting the building's structural stability, they are essential for the overall functionality and occupant safety. Non-structural damages can lead to potential hazards, such as falling objects, obstruction of escape routes, or compromised fire safety systems. Therefore, addressing these damages is crucial to maintain a safe and functional environment within the building.

Figure 4: Figure 3: Buildings with non-structural damage

V. Discussion and Recommendations

The damage classification based on visual inspection is important for several reasons: Safety Assessment: Visual inspection allowed for the assessment of the structural

integrity of buildings, identifying those at risk of collapse or posing a severe safety hazard. By categorizing the damage into different classifications, it became possible to prioritize immediate actions for buildings with structural collapse or major structural damage that required urgent attention and evacuation.

Repair and Rehabilitation Planning: The classification provided a clear understanding of the extent and severity of damage to each building. This information is crucial for developing appropriate repair and rehabilitation strategies. Buildings with major or moderate structural damage could be targeted for structural reinforcement, retrofitting, or selective repair to restore their stability and functionality. Non-structural damages could be addressed through specific measures to ensure the safety and usability of these elements.

Resource Allocation: By categorizing the damage, it became easier to allocate resources effectively. Buildings with structural collapse or major structural damage would require significant resources for immediate stabilization, demolition, or reconstruction. Buildings with moderate structural damage could be prioritized for repair and strengthening efforts. Non-structural damages could be addressed within the framework of appropriate maintenance and repair programs.

Risk Assessment and Mitigation: The classification allowed for an assessment of the vulnerability and risk factors associated with different building characteristics. Factors such as building age, construction materials, and proximity to seismic faults or liquefaction-prone areas were considered. This information is vital for understanding the vulnerabilities and developing targeted mitigation strategies for future earthquakes. It helps in making informed decisions about building codes, land-use planning, and emergency preparedness.

Data Analysis and Trend Identification: The collected data from the visual inspections were analyzed to identify patterns and trends in the type and severity of damage. This analysis provided valuable insights into the performance of different building types, construction materials, and age groups during the earthquake. It contributes to the knowledge base for improving building design, construction practices, and retrofitting techniques.

Overall, the damage classification based on visual inspection was important for assessing safety, planning repairs, allocating resources, mitigating risks, and generating knowledge that can enhance building resilience in earthquake-prone regions. It serves as a foundation for immediate response actions and long-term strategies to reduce the impact of future earthquakes on buildings and protect the lives of occupants.

VI. Conclusions

In conclusion, the classification of damage based on visual inspection plays a crucial role in various aspects related to earthquake-affected buildings. It serves as a foundation for multiple important purposes.

1. Safety Assessment: Visual inspection enables the evaluation of structural integrity, identifying buildings at risk of collapse or posing severe safety hazards. By categorizing the damage, immediate actions can be prioritized for buildings with structural collapse or major damage, ensuring prompt attention and evacuation if necessary.

2. Repair and Rehabilitation Planning: The classification provides a clear understanding of the extent and severity of damage to each building. This information is vital for developing appropriate strategies for repair and rehabilitation. Buildings with significant or moderate structural damage can be targeted for structural reinforcement, retrofitting, or selective repair to restore their stability and functionality. Non-structural damages can be addressed through specific measures to ensure their safety and usability.
3. Resource Allocation: Categorizing the damage facilitates effective resource allocation. Buildings with structural collapse or major damage require substantial resources for stabilization, demolition, or reconstruction. Buildings with moderate structural damage can be prioritized for repair and strengthening efforts. Non-structural damages can be addressed within appropriate maintenance and repair programs.
4. Risk Assessment and Mitigation: The classification allows for the assessment of vulnerability and risk factors associated with different building characteristics. Factors such as building age, construction materials, and proximity to seismic faults or liquefaction-prone areas are considered. This information is crucial for understanding vulnerabilities and developing targeted mitigation strategies for future earthquakes. It aids in making informed decisions about building codes, land-use planning, and emergency preparedness.
5. Data Analysis and Trend Identification: Analyzing the collected data from visual inspections helps identify patterns and trends in the type and severity of damage. This analysis provides valuable insights into the performance of different building types, construction materials, and age groups during earthquakes. It contributes to the knowledge base for improving building design, construction practices, and retrofitting techniques.
Overall, the damage classification based on visual inspection is of paramount importance for assessing safety, planning repairs, allocating resources, mitigating risks, and generating knowledge to enhance building resilience in earthquake-prone regions. It serves as a foundation for immediate response actions and long-term strategies to reduce the impact of future earthquakes on buildings and safeguard the lives of occupants.

References

Duni, Ll. & Theodoulidis, N. (2020, January). Short note on the November 26, 2019, Durres (Albania) M6.4 Earthquake: Strong Ground Motion with emphasis in Durres City. Retrieved from: https://www.ssis.org.al/wp-content/uploads/2020/01/Short-Note_EMSC_Duni-Theodoulidis-1.pdf.

Lekkas, E., Mavroulis, S., Filis, Ch., Carydi, P. (2019, November). Newsletter of Environmental, Disaster and Crises Management Strategies, Issue no: 15, ISSN 2653-9454

Baggio, C., Bernardini, A., Colozza, R., Corazza, L., Della Bella, M., Di Pasquale, G., Dolce, M., Goretti, A., Martinelli, A., Orsini, G., Papa, F., Zuccaro, G. (2007). Field Manual for post-earthquake damage and safety assessment and short term countermeasures (AeDES), ISSN 1018-5593.

Yeo, G-L., Cornell CA. (2004, August) "Building Tagging Criteria Based on Aftershock PSHA", Proceedings of 13th WCEE, Paper No.3283, Vancouver, Canada.

Challenges of electricity supply in Kosovo and the region, renewable resources (their application), energy strategies in Kosovo (implemented/ unimplemented so far)

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Abstract

The challenges of energy with electricity are increasing both in Kosovo and also in the Region (based on many factors which we will elaborate in the scientific paper). The region in general but also the international factor concerned about the future of energy through different alternatives for achieving the required percentage of covering expenses and simultaneously preserving the environment.
The management of electrical energy efficiency, the use of renewable energy sources (abbreviation: BER) together with the improvement of the efficient use of energy by end users (EE) can contribute to the reduction of primary energy consumption, the reduction of emissions gases with the greenhouse effect and therefore in the prevention of dangerous climate changes. The untapped potential of biomass, solar, hydro, wind and geothermal energy resources is still high. However, during the last few years, due to considerable public incentives, in the form of regulated tariffs for the sale of electricity (feed in tariffs), in many European countries the development of the sector has marked continuous growth. The EU has adopted many strategies to combat climate change.
Moving towards a low-carbon economy requires a public sector that is able to identify and support economic opportunities.
In particular, the local public sector can play a strategic role as the manager of the territory and the ultimate implementer of public policies. Therefore, in the field of sustainable energy, it is necessary to strengthen the capacities of the local public sector through the delegation of functions to its employees. This is the main objective of the work - the strengthening of skills and competencies in the field of planning and management of BER, then the application of new and applicable standards in the countries of the Balkans and the EU. (Further on, the same will be dealt with in the work in detail until reaching the related findings which will serve for the real state of energy in general).

Keywords: Challenges of electricity, Kosovo region, renewable resources, energy strategies, Kosovo.

Project objective

The main objective of energy policies in Kosovo and the region is to implement a transition to a sustainable energy system, moving towards an energy system favorable for the environment, which represents complete security in renewable energy sources.
The paper deals with the:
Challenges;
Innovations;
Energy strategy, and the management of electricity efficiency in the energy field, referring to the state of the contemporary trend of modern technology in the European Union.
What is the current situation in Kosovo and the region, according to the challenges with electricity (which strategies are used, how are they respected, according to

which directives are they harmonized, how are IT innovations applicable, intervening through the strategy in efficient measures and RES- renewable energy sources).1. What is the action plan for EE (Energy Efficiency) at the European level,2. What are the main areas of energy saving potential,3. What are the RES applicable in Kosovo. While the construction of Kosova se Re is still considered a challenge and debatable by many analysts that it should or should not be built as such, since the raw material will be used lignite and environmental pollution has marked drastic damage to its environment from the existing A and B power plants.
A large part of electrical energy currently (about 20%) is not billed.
The next challenge - the penetration of technologies of renewable energy sources is done with great difficulty in Kosovo.

Methods

- primary and secondary data research,
- research of reliable data according to Eurostat from the Internet,
- scientific material.

The methodology of the study is adapted to the purpose of the work and the same means that the methods are dependent on the theories, but the theories are intertwined with the hypotheses, and the hypotheses with the searching questions, (through the analyzes treated in the work).
The hypothesis raised in the paper and which requires verification is:
To make an assessment of the current energy situation, taking into account energy and its resources, and energy consumption in general. What is the impact on the current cost of electricity without the application of strategies, namely with their application, the application of efficiency, energy management, and the changes that follow after the application of measures from the Efficiency of Electric Energy, which as such are the measures that will affect in improving the quality of energy services?
Introduction
Scientific content of the paper – description of the problem and treatment of the paper with a focus on:
Application of Innovations in IT;
Confronting the challenges of designing long-term strategies,- Energy efficiency;
BRE Renewable Resources;
SWOT analysis;
Renewable Resources;
Environmental Protection;
Future challenges in case of non-application of EU standards (lack of will or material side;
lack of investments from the Government);

Analysis

Individual investments in EE (energy efficiency) would be the fiscal measures that the Government would bring regarding the taxation of the import of materials and services that are directly related to Energy Efficiency. Energy management, Energy audit, The use of software for monitoring the overall energy consumption by

recording the data on the servers
The legal framework in the energy sector is in accordance with EU directives, Cooperation within the framework of the Energy Community Treaty (TKE).
• Active participation in the activities of the Coordinating Group for Energy Efficiency, the High Level Permanent Group (PHGL) and the Ministerial Council
• Implementation of the decision Ministerial Council for Energy Efficiency regarding the transposition of the directives:
• 2012/27/EC (European council) on EE (energy efficiency) now transposed through the law on EE;
• 2010/31 on the energy performance of buildings, transposed through the energy code law in buildings;
• 2010/30/EC on the labeling of electrical household appliances;
• Creation of the database for Energy Efficiency (software);

Results and discussion

Challenges and barriers for Energy Efficiency in KosovoThe household sector - this sector also accounts for the large commercial losses, the abuse of electricity and the high rate of non-payment of bills for the consumed energy. The biggest challenges for the implementation of EE and energy saving measures are:
• Reduction of commercial losses (Control of consumption and billing);
• Gradual increase of tariffs for all categories of consumers according to TKE - Energy Community treaty;
• Delay in implementing the labeling of electrical household appliances;
• Lack of EE training programs for architects and specialists of contracting companies.
Strength
Investments for the revival of the energy sector - attracting domestic and international investors.

Weakness

Lack of knowledge for the application of measures of innovation and efficiency - awareness of the human factor in Kosovo and insufficient funds from the Government Institutions for investments in renewable sources of alternative energies. Change of Governments and employment on a party basis resulting in unprofessionalism

Opportunities

The use of alternative sources of renewable energy.
Threats
Currently, 97% of the energy is obtained from TC of Kosovo A and B, that is, 3% is from HC, therefore environmental pollution is considered as one of the challenges for our country, not forgetting the disruptions of global warming and the construction of a TC of new with lignite fuel.

Conclusion

Energy saving is considered a challenge in the process of energy production and transformation, Innovations and the interweaving of strategies that must be applied in accordance with relevant objectives and goals, improving the energy efficiency of thermal power plants,

Innovations and Electricity Efficiency are important tools for achieving reductions in greenhouse gas emissions, so consumers would reduce their energy bills and overall demand would be reduced. Renewable resources and the application of innovations are important for Kosovo in terms of the diversification of energy resources and the almost complete dependence on lignite-burning generating capacities.

The challenge surrounding the construction of the "Kosova e Re" thermal plant and the construction of hydropower plants (in accordance with the possibilities offered by Kosovo) will be a good solution for Kosovo for a stable and sustainable energy supply (reflecting positively on the EU as well). It is clear that increasing the share of energy from renewable sources and the application of innovations is important for Kosovo.

Apply statistical methods according to EUROSTAT;

Apply demand management measures on the side of energy consumption;

Orientation for the use of ecological transport vehicles and innovations in application;

Improving energy performance through the application of innovations in existing buildings and determining energy standards for new buildings;

Modernization of public street lighting (useful projects for the country);

Renovation of public buildings by applying energy efficiency measures through innovations and the latest technology;

Application of standards according to the European Union;

Cost estimation from EE measures in the Household sector as the most sensitive sector;

The development of the energy consumption database for public institutions, the household sector, industry, services, transport would enable the identification of energy consumption and the creation of a monitoring process in order to plan and implement energy efficiency measures with cost effective. It is recommended to save energy in the process of energy production and transformation, including the energy distribution network, reducing transmission and distribution losses, improving the energy efficiency of thermal power plants, increasing the energy component produced by high-efficiency cogeneration (key factors that determine the performance of stable and continuous energy supply despite the mentioned challenges).

Before making strategic decisions of economic development, the evaluation of the national potentials in the security of supply for a sustainable development should be done.

References

1.Energy Strategy of the Republic of Kosovo for the Period 2009-2018-2027 www.rks-gov.net/mzhe.

2. Objectives from TKE (energy community treaty) S.E.E (South East Europe), Directives, conclusions and recommendations from EE TF.

3. Hrvoje Pozhar Institute.
4.The world bank www.worldbank.com.
5. Energy Management www.sbfalbania.org.
6.Xhevat Berisha (Energy sources), Pristina 2007.
7.GIZ Energy Efficiency (for sustainable municipal development) www.giz.de.
8.Energy consumption in Kosovo (project "establishment of the database for statistics and energy balance of the country and design of information for publication"),www.rks-gov.net/mzhe.
9. Energy (economic stability of Kosovo).
10.Law on Energy Efficiency - mzhe 26.07.2011.
11.Law on Energy – 13.12 2011/ mzhe.
12.Law on Electricity – 13.12.2011/ mzhe.
13.Law no. 03L-133 on Natural Gas 08.02.2010/ mzhe.
14.Law no. 03-L-116 on Central heating 08.02.2010/mzhe.
15.Law on pressure equipment - 18.12.2006/ mzhe.
16.Energy management www.sbfalbania.org.
17.Objectives from TKE SEJL, Directives, conclusions and recommendations from EE TF.

Urban spatial structure Urbanization as a global process: The case of Albania

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Abstract

Each region or country has a hierarchy of cities which is built on the basis of the number of their population and the functions they perform. The teresia of cities, regardless of the positioning in this hierarchy, functions as a system only when there are communication possibilities through transport or telecommunication networks. The existence of the hierarchy and the urban system is evidenced by the creation of urban forms that emerge outside the borders of the cities or that are created by the union of one or several settlements or urban areas that constantly communicate with each other. Such forms are agglomerations, conurbations or megalopolises that have a large number of population and considerable territorial extent. The process of urbanization is related to the levels of development. Developed countries have gone through this process and developing countries should do the same. Even in Albania this situation is different, for example: in the city of Tirana in relation to other cities. Developed cities belonging to Albania, and specifically the city of Tirana, have achieved urbanization and continue to urbanize. The studies show the relationship between urbanization and development, which were the basis of economic indicators, especially growth, as a measure for development. In conclusion, we can say that the relationship between urbanization and development is complicated, that development promotes urbanization and urbanization promotes development. What is intended to be proven in this paper is how different factors affect urbanization and vice versa, how urbanization affects the economy of a country.

Keywords: Albania, Urbanization, Economic growth, Population, Migration, Urban, rural.

Introduction

Urbanization is the process of urban population growth, the physical and spatial expansion of cities and the urban way of life (Bernstein.H., Underdevelopment and development). Urbanization is seen as a way to improve civilization, bringing it more progress and development

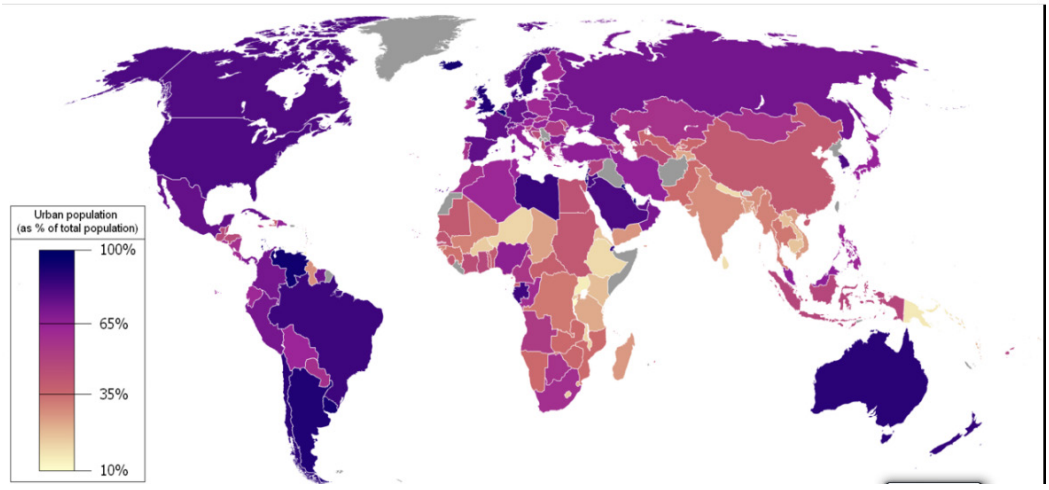
Urban researchers show that urbanization in developing countries occurs mainly due to rural migration and movement is often explained by various theories. Of these three theories, the modernization theory is the one that has been referred to as the cause of urbanization (Kasarda and Crenshaw, 1991). This theory showsthat we have a positive relationship between urbanization and development. Various researchers have confirmed this statement, but no previous study has used socio-economic data to study this relationship with the city of Tirana, as a city that is promising in economic development. Urbanization is associated with problems such as: inadequate infrastructure, poor waste management, inadequate housing, and these problems are extremely difficult to eradicate and control. Developed countries continue to fight these problems. The rate of urbanization in Tirana and other developing countries is quite different from what happened in currently developed countries, when they were developing (Dutt and Parai, 1994). Demographically, migration is a result of urban attraction, which was the main cause of urbanization in Albania. Urbaniza-

tion rates were also gradual in developed countries. In Tirana and other developing countries, on the other hand, both migration and natural growth were the main cause of urbanization. The rate of urbanization is also fast. Thus, the factors that have contributed to the urbanization of developed countries have been different. Moreover, the efforts to find the problems and their causes have been few. It is very difficult to define what is known as urban. As can be deduced from the summary of the literature, there is no special definition for the term "urban"; it has been defined differently, in different countries and by different disciplines. In order to effectively study urbanization and find solutions to its problems, there is a need to derive a standard measure of urbanization.

Urbanization as a world process

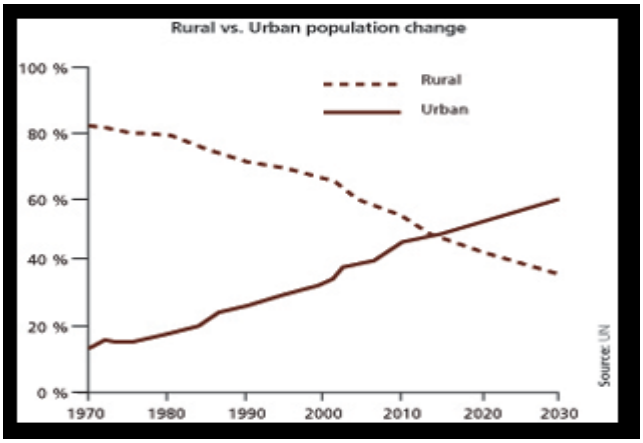
With the growth of industry, free labor, common trade, and global influences, urbanization is drawing the entire population toward it, including that of the countryside. But how does urbanization affect people becoming part of a new civilization? Today this is difficult to determine. Urbanization has brought industrial development and economic prosperity, but not social culture, which is the essence of a civilization. So, urbanization serves civilization in both directions: it helps, but also disturbs true civilization (Kombet e Bashkuara, 2002). The measure of urbanization is usually taken as the share of the population living in cities to the total population. In some countries, the status of cities is determined by legal acts and criteria such as: the size of the settlement, the percentage of the agricultural population, the population density, etc. Rapid population growth, changes in the economic structure, migrations, etc. affect the intensity of urbanization. Industrialization was the main factor that accelerated the process of urbanization. The process of urbanization in the world expanded quickly. In 1800, 3.2 percent of the population lived in cities, in 1850, about 6 percent, in 1900, about 12 percent, in 1950, it increased 10 times (29.8 percent), while in 1995, 45 percent of the world's population lived in cities. Developed countries have reached a high level of urbanization (over 70 percent) and now have a small increase in urban population. (National Research Council 2003).

The world map shows the percentage of the population living in an urban environment



In developing countries, population growth is very high (8-14 percent per year), doubling the population within a decade. 2/3 of the urban population in developing countries live in cities, in 2015 it will be 3/4 and in 2025 4/5 of the urban population will live in developing countries.

Changes between urban and rural population 1970 - 2030 (UN)



In Western countries, civilization feels consolidated with its urban development; whereas in developing countries, the features of urbanization are attracting the mass more than the civilization within it. The movement of the population in the capital is often anarchic, uncontrolled and impossible to be controlled by the state or to be regulated by the norms of civilization. In quite developed and poor countries, the movement of the rural population has caused the formation of suburbs with wild constructions, in which the participation of the urban population reaches 20 to 84 percent. The process of urbanization in different parts of the world is in different stages. In developed countries this process is almost finished, while in developing countries it is under development, and in some countries, it is in the initial phase. (Urbanization and Growth: Setting the Context Patricia Clarke Annez and Robert M. Buckley) The urbanization process does not only include the growth and development of cities, but also changes in rural areas under the influence of the city, such as structural changes in the population, lifestyle, etc. (Kasarda & Crenshaw, 1991). Cities may have defined their urban plan, infrastructure development or expansion of living space, but it is very difficult to predict what will happen with civilization, with activities that can satisfy the population more, with the places they want to go within the city, the way they will live life in these new conditions of accelerated urban change in the world.

The concept of urban agglomeration

Urban agglomerations are a phenomenon that is inextricably linked to the process of urbanization. This is the process of combining neighboring towns and settlements into a complex and integral system. Within this system, stable and intensive connections are formed: production, transport, scientific and cultural. Urban agglomerations are one of the natural stages of urbanization processes. (2004, 2007),

There are two main types of collections:
-monocentric (formed on the basis of a central central city);
-polycentric (a group of several equivalent urban settlements).
The urban agglomeration is characterized by the following distinctive characteristics:
- The connection of the central city with other towns and settlements adjacent to it (without significant territorial gaps).
- The part of built-up areas in the collection must necessarily exceed the percentage of agricultural land.
-Each agglomeration is characterized by daily trips - work, education, culture and tourism. (1969, cituar në Williamson 1987, p.. 6),
According to the UN, there are at least 450 urban agglomerations on our planet, each of which is home to at least one million people. The largest conglomerate known worldwide is the Tokyo urban agglomeration, which is home to about 35 million people. The main countries in terms of the total number of urban agglomerations are: China, USA, India, Brazil and Russia.

Phases of urbanization Positive and negative sides

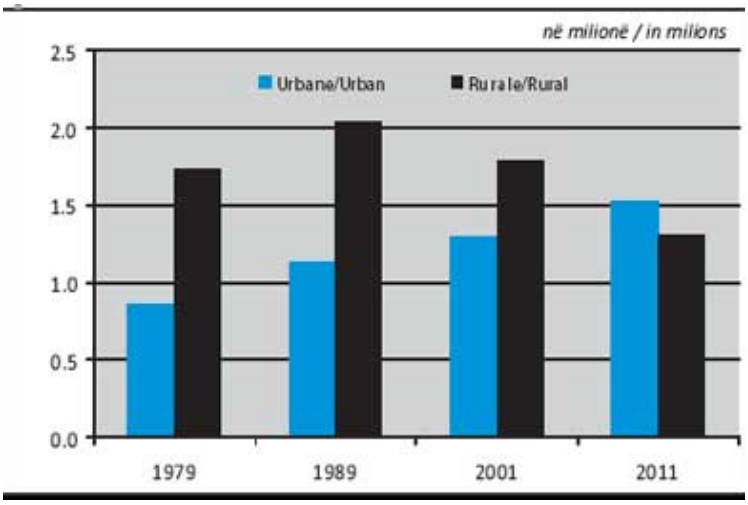
Urbanization has gone through pre-industrial, industrial and post-industrial stages. In the pre-industrial phase, cities were small, rare with urban population participation between 15 and 20 percent. Underdeveloped and developing countries are in this phase of urbanization. In the industrial phase, industry was developed and the participation of the urban population reached between 20 and 50 percent. The post-industrial phase is reached in the high degree of urbanization with over 2/3 of the city population. The main role in this phase is played by the solvent activities. During this phase, migrations in the village-city direction are almost reduced or stopped, but they appear in the city-district direction. si (Burgess dhe Venables 2004, (p4):
The positive sides of urbanism are: merging the properties of the rural-traditional population into contemporary urban properties, raising the educational and cultural level, reducing the natural increase of the population, socializing the population, etc.
The negative sides of urbanization are: great pressure on jobs, pressure on the housing fund, problems in transportation, environmental pollution, noise, alienation of people, criminality, etc.
Forecasts show that:
- The percentage of the urban population will continue to increase in the less developed regions, narrowing the gap with the more developed regions where the percentage of the urban population is more or less at the same levels.
- The urban population as a whole, in the less developed regions, will continue to grow beyond that in the more developed regions due to the slow rates of natural growth and rural-urban migration. (Moomaw RL, fq. 40; Shatter AM J Urban Econ. 1996, p. 13-37).
- The number of cities as a whole and of large cities in particular, in the peripheral and semi-peripheral regions, will continue to grow, surpassing the number of these cities in the central regions.
The main feature in the less developed regions is that of the fastest growth of urban settlements, which are the largest pennas. So cities are growing faster than villages, cities faster than towns, cities with more than 1,000,000 inhabitants faster than cities

with less than 1,000,000 inhabitants, etc. (Urbanization and the wealth of nations. Bloom DE, Canning D, Fink GScience. 2008). Population projections show that the urban population in the world will grow twice as fast as the population of peripheral and semi-peripheral regions.

Urbanization in Albania

Urbanization in Albania has gone through three different phases since the fall of communism. The first phase was dominated by the informal sector. The second phase was characterized by the consolidation of the informal sector and the emergence of the formal sector. The third and existing phase consists in strengthening the formal sector and regulating informal developments. The main objective of the government during the third phase would be the legalization and integration of the real estate market. New construction and urbanization in the first two phases were spontaneous and occurred with very little intervention from the central government. Among the first areas where newcomers from the northeastern areas moved after 1991 were the state and cooperative farms bordering the city. In Tirana, these were state farms and medium-sized cooperatives, such as Alias, Mihal Grameno, and Selita. These farms were immediately urbanized within a few years, and many areas were formally converted into urban areas in 1994. In many secondary cities, about 20–25% of residents are estimated to live in such informal areas.

Urban and rural population 1979 -2011



Source INSTAT 2011

In most of these constructions, rights of way and necessary access to the infrastructure, including through informal (illegal) connections, have been defined. For this reason, the main problems in these areas are not access to infrastructure, but: (a) the lack of residents' fiscal contributions to the municipalities; and (b) the unresolved issue of land ownership, compounded by data requirements showing that the rural population was estimated at 964,791 in 2019. The percentage of the rural population has steadily declined from 42.57 percent in 2015 to 38.89 percent in 2019. , caused by immigration and lower birth rates. The population in rural areas fell by about 4 per-

cent during the period 2015-2019, compared to -1.3 percent of the total population, "Monitor" reports (INSTAT- 2019).
Also, residents of rural areas continue to be attracted mainly from urban areas, as the rate of urbanization is increasing despite a general decline in population. According to forecasts, the Albanian population will decrease by 100,000 people to about 2.75 million in 2031 compared to 2020, which will be mainly in rural areas, further widening the large socio-economic gap between urban and rural areas without countermeasures. . These movements are leading to a rapid aging of the rural population, jeopardizing the development of agriculture (INSTAT 2020).

Urbanization and social problems

Impact on the environment
Air pollution, poor quality drinking water, noise pollution and urban waste are among the main problems that are negatively affecting the health of the population. The problem is more serious, especially in urban areas and especially in big cities. Factors that significantly affect health are water and hygiene, air quality, living and working conditions, access to health services and resources, etc. All these conditions and factors in the urban environment make urbanization as a process a great force that is itself a major determinant of public health in the 21st century.
Air pollution continues to be a serious problem for the health of the population. Emissions from vehicles and various constructions contribute a lot to urban air pollution, causing breathing problems, especially among the very young and the elderly. During the year 2001-2005, we have a 14.6 percent increase in the number of vehicles. The quality of the fuel used by vehicles is of particular importance, which in our country is of lower quality than that of the EU countries. The monitoring results show that the air quality in urban areas is problematic in terms of dust content (Air quality - presence of PM10 and LNP pollutants) PM10 and LNP are two of the most important air quality indicators. They express the number of solid particles suspended in the air. PM10 (Particulate Matter) is a mixture of liquid and solid particles in the air, with a diameter of less than 10 micrometers. Its main source is the gases released by vehicles, especially old cars with diesel engines. This indicator has been described by the World Health Organization as the greatest health risk for urbanized areas, since these types of particles penetrate the lower part of the lungs. In all the cities of Albania, the PM10 values are above the norms allowed in the country (60 μg/m3) and those of the EU (50 μg/m3). The situation is problematic especially in the big cities, Tirana, Durrës, Fier and Vlorë. LNP (Pezull Solid Matter) is an indicator, which expresses the presence of dust particles in the air. Its main source is the numerous constructions and unpaved roads. Rapid overcrowding of urban areas, changing and improving lifestyles has brought about a huge increase in urban pollution.

Impact of urbanization on poverty
Urbanization has shown its potential impact on poverty alleviation. The geographic movement of the workforce, including population movements within the urban area, is one of the most important regulatory mechanisms for households to use to adjust their incomes and assets. them to cope with poverty, as well as the escalation of unemployment. The poverty analysis confirms that migration means moving away

from poverty – in particular from the poorest and most remote areas of the country to the relatively richer districts of Tirana and the coast. Improvements in property taxation and currently allocating new construction taxes to investments in the necessary infrastructure associated with them will be essential in increasing fiscal efficiency and the urban economy. Economic disadvantages. The most common economic disadvantages are in areas with a large urban concentration, such as heavy road traffic, high land prices, environmental pollution, crime and the loss of green spaces as a result of appropriate policies and investments. In conclusion, just like all over the world, urbanization in Albania tends to appear in two forms: Planned, which takes time, months, even years to put on paper; Urbanization that comes naturally to respond to the modernization and development of industrial life in an area (as in the case of developing countries).

Conclusion

The analysis of the paper testified to the existence of a number of studies related to urbanization and development. The factors that influence the urbanization of space are economic, political and social. This analysis showed the influence of each of the factors that influence urbanization and economic growth (such as population, Foreign Direct Investments, life expectancy in urban areas, enterprises, businesses, country development etc.). Economic growth has a clear connection with the growth of Albanian cities, with Tirana at the top. The stronger the growth of the Gross Domestic Product, the faster the Albanian villages will lose their inhabitants and the cities will grow. Albanian cities, with Tirana at the top, risk becoming parasitic centers and not cities that grow from the virtuous cooperation between investments that attract population and the population that invests and creates development. Also, as in the case of Tirana and other Albanian cities, life expectancy in cities continues to increase more than in rural areas. Foreign Direct Investments have a positive effect on economic growth and urbanization in Albania. Urbanization is a strong basis to create and support an important strategy in the economic growth of a country. Urbanization, deurbanization, suburbanization are very closely related to each other. If urbanization is the process of increasing the role of the city in the life of society, then suburbanization is, on the contrary, an exit of the population to the peripheral areas. Despite the presence of common features of urbanization as a global process in different countries and regions, it it has its own characteristics, which, first of all, find expression in different levels and degrees of urbanization.

References

Bernstein.H., Underdevelopment and development, 1978 p. 15.
Brunn.D.S., Williams.J.F., Cities of the *ëorld-ëorld* regional development, 1983 p.56.
Cadëallader. M., Urban Geography-an anlytical approach, 1996 p.78.
Harding.A., Blokland.T., Urbantheory, a critical introduction to poëer, cities and urbanism in the21-stcentury, 2014 p .45.
Jacobs.J., Cities and the *ëealth* of nations, 1984 p.56.
Jacobs.J., The economy of cities, 1969 p .89.
Knox.P., Urbanization, 2010 p.21.
Neëman, P., Jennings, I., Cities as sustainable ecosystems, principles and practices, 2008 p76.

Krey, V., van O'Neill, B.C., Ruijven, B., Chaturvedi, V., Daioglou, V., Eom, J., Jiang, L., Nagai, Y., Pachauri, S., Ren, X., 2012. Urban and rural energy use and carbon dioxide emissions in Asia. Energy Econ. 34 (S3), S272–S283.
Liddle, B., Demographic dynamics and per capita environmental impact: using panel regressions and household decompositions to examine population and transport. Popul. Environ. 26, 2004: 23–39.
Luisito B. and Black D. (2002)., "Urbanization and Growth", discussion paper 2002/44, August.
Madlener, R., Sunak, Y. (2011),. Impacts of urbanization on urban structures and energy demand: what can we learn for urban energy planning and urbanization management? Sustain. Cities Soc. 1,: 45–53.
Mooaw, R. and Shatter, A. M. (1996). "Urbanization and economic development: A bias toward larger cities?", Journal of Urban Economics, 40, 13-37. Phillips, P.C.B. (1991). "Optimal inference in cointegrated systems", Econometrica, 59, 283-306.
O'Sullivan.A., Urban economics, 2009 p .98.
Politika e Zhvillimit të Territorit Të Bashkisw Tiranë, 2012.
Pomeroy, George M. A (2003). spatio-temporal, functional classification of Indian Cities. In Dutt et al. (Eds.), Challenges to Asian urbanization in the 21st Century. Dordrecht: Kluwer Academic Publishers. Pp. 137 – 162.
Soubbotina. Tatyana, The World Bank Washington, D.C. Beyond Ecnomic Growth: 8.
Xhepa, S. dhe Agolli M. (2004) "Zhvillimi i ndërmarrjeve të vogla dhe të mesme në Shqipëri". Instituti i Studimeve Bashkëkohore, Tirana, Shtator.

Western Balkans - from war to peace

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Abstract

The Western Balkans have historically experienced political and institutional instability due to its diverse population and its geographical position as a frontier between the East and the West. This instability stems from conflicts between different Christian and Muslim religious denominations, which have influenced the region's political institutions. The presence of the European Union (EU) has been crucial in promoting stability in the Balkans by encouraging pluralism and peaceful coexistence among religious groups.

The Balkans' complex history has been marked by the growth of Slavic populations, conflicts between the Eastern and Western Christian Church, and the Ottoman Empire's influence. During the rise of nationalism in the 19th century, religious affiliations played a significant role in shaping states' identities and their relationships with political institutions. The tension between the Christian and Muslim worlds persisted, leading to the disintegration of the Yugoslavian Federation and subsequent wars in the late 20th century.

The EU's presence in the Balkans has aimed to assimilate the region and promote stability. The EU and international bodies have urged the newly emerged states to adopt pluralistic approaches to state-religion relations, especially in regions with strong religious affiliations. The negotiation of relationships between states and religious denominations has sought to create harmonious coexistence among diverse beliefs. However, challenges persist, as intra-denominational conflicts often arise due to the complexities of theological and historical debates.

The international community, including the EU, has made some errors and faced ambiguities in managing inter-religious conflicts in the Balkans. Misunderstandings have occurred, leading to institutional solutions that have exacerbated rather than resolved the conflicts. Some legislation, such as in Northern Macedonia and Kosovo, has limited religious denominations and autonomy, hindering the coexistence of different religious groups.

An anomaly in this complex landscape is Albania, where the state has successfully maintained religious peace through a legal system that allows different religious denominations to establish relations with the government using common law. The Albanian model, characterized by denominational and intra-denominational pluralism, individual religious freedom, and the absence of special laws for guaranteeing religious rights, serves as a potential solution for other countries in the region.

Overall, the Western Balkans' transition from war to peace requires ongoing efforts to promote pluralism, peaceful coexistence, and respect for religious autonomy. The EU and international bodies play a critical role in supporting these endeavors, while individual states must develop institutional policies that ensure the coexistence of diverse religious groups and mitigate religiously motivated conflicts.

Keywords: Western Balkans, war, peace.

1. Introduction

In the European history, the Balkans have always represented an area of political institutional instability due to the presence in it of different/diverse populations by language

and religion, since it has constituted the frontier mark between two worlds, that of the West and that of the East. This pivotal position dates back to Roman times, which witnessed a progressive growth of the Slavic presence, shrinking the space of the Illyrian and Dalmatian and Greek populations.
Frontier territory between the Eastern and Western empire, the Balkans experienced the conflict between the Eastern and Western Christian Church and the rise of numerous religious confessions develop on their territory. The intense theological debate that developed in the area produced numerous and contrasting visions of the Christian message. The theological speculations that followed demonstrate the great propensity for the spiritual life of the populations that did not fail to produce religious movements such as the Bogomil heresy from which the Cathars were influenced in the West and from which Protestantism took up later on.
Progressively an amalgamation of ethnicities was eventually established, a richness of thought and a variety of religious affiliations getting more complex after the Ottomans made their entry into the region succeeding the fall of Constantinople. In particular this event contributed in making the region a place of confrontation (and clash) between two worlds the Christian and Muslim one.
When in the nineteenth century nationalisms exploded, their affirmation was conditioned and linked with religious affiliations that, characterizing the States, transmitted a conception of the world, a role of political institutions and a particular version of the relationship between religion and power directly linked to the vision that the various cults had institutions. Some States took as their own the vision of this relationship, opting for harmonious relations between political power and religious power; others set out towards western-style identity relationships linked to the vision of Roman Christianity; still others maintained in a widespread way a reference to the presence of the Umma and to the practice of the Muslim cult, even if territorially this presence did not give life to state teams, such as political expressions of Islam; indeed, Albania, which has become an area with a pre-eminent Islamic presence, will, as we will see, take on special institutional characteristics in matters of relations between the State and cults.
When in the nineteenth century the nationalisms erupted their establishment was afflicted by and linked to religious affiliations which in determining the nature of the states, imparted a vision of the world, a role of political institutions and a particular version of relationship between religion and power closely bound to the vision that the diverse cults had on them. Some of the states made their own the vision on this relationship opting for an harmonious relationship between political and religious power; others took the path of identity relationships of occidental kind bound to the very vision of Roman Christianity; others yet diffusely maintained the pivotal role of the Ummah and Muslim cult practices despite the fact that territorially this presence did not establish state entities, as political expressions of Islam; in fact a rather predominantly Muslim area, Albania will eventually assume peculiar institutional nature in matter of relationship between state and religious cults.
The common feature of the Balkans remains anyway this deep tension between the Christian world which has succeeded in establishing a set of references at State level and the Muslim one which has not yet been able to establish proper institutions even in the areas, like Bosnia, where it has a remarkably strong presence. This aspiration was not to find a positive solution even within the Yugoslavian Federation

and eventually ended up in a war which has shattered the Balkans at the end of the century we just left behind.

2. The presence of European Union as factor of stability

After the war which was the trade mark of the Yugoslav Federation disintegration we have witnessed a process of adhesion to the European Union by the States newly emerged, a process which may seem hardly understandable unless we consider that after the affirmation of their territorial identities, these entities were to assess the economical sustainability.
But after all, this served the same Union or at least of a part of its components, to assimilate the Balkan area, a handy reservoir of manpower and a transit corridor for energy (natural gas overall).
Thus, the conflict in the Balkans has acquired the nature of nationalism and was fostered by affiliations. Amongst them the religious affiliation has been of the most divisive ones and therefore seeking an equilibrium and coexistence amongst the affiliated of different beliefs today is of relevant importance in maintaining the peace. In fulfilling this requirement, the new Balkan States have been induced by the European Union and international bodies to comply by bestowing to the set of relationships between state and religious denominations a nature of pluralism wherever the presence of one of the cults is strong. This, because the presence of a majoritarian cult, put in existence or made visible also by the implemented "ethnic and religious cleansing", has contributed in establishing homogeneous state structures while paradoxically has driven to negotiated relationships with the religious cults. In reality once defined by agreement the relationship between State and the majority cult in sequence was proceeded to stipulate agreements with the minority cults conferring to the relations negotiated features.
This is what happened in Croatia and Serbia and to some extent in Slovakia while the relations in many other states of former Yugoslavia have acquired a conflictive nature by many ways although of different specifics. Here the problems of non-having unique denominations because representing the various religious cults has been and still is contested by several religion denominations due to the high degree of intra denominational pluralism which can trace his roots and historical motivations right from the complexity and richness of theological-religious debate.
It happens that representing a cult is claimed by several religious organizations as is the case of Northern Macedonia where the Macedonian Orthodox Church lay claims to the denomination Orthodox and thus to the right of representing all the orthodox in the country against the Serbian Orthodox Church present in the country through the Archbishopric of Ohrid or the case of Islamic Religious Community (IRC) which lay claims as well to be the sole representative denying legitimacy to the autonomous presence of the *Bashkesia _Fetare Islame e Maqedonise.* A similar situation in Montenegro was involved in the conflict. It included the Serbian Orthodox Church, precisely its branch in Montenegro, the Metropolitanate of Montenegro and the Littoral and the Montenegro Orthodox Church. Not different is also the conflict in Kosovo between the Muslim community and the Tariqat contesting the representation of Islam in Kosovo.
These conflicts show in all their dramatic nature the deficiencies of the international

bodies end the European Union in managing the inter-religious conflict above all when it acquires the nature of the intra religious denomination conflict. A great responsibility indeed is to be blamed on the States for not being able to draft institutional policies able to guarantee the coexistence to the affiliates of different religious cults, defusing the reasons for religious motivated conflicts.

3. Ambiguities and errors of the international community in the Balkans

In Northern Macedonia the concept of denomination is introduced, claiming that a religion consists of an originary doctrinary nucleus of beliefs and truths of faith which distinguish it: to this corresponds one and only one religious denomination which remains exclusive prerogative to only one organized religious entity. It is all too clear that in so doing, harm is done to the autonomy of professing, forbidding a group of persons bound by the same religion performing common rituals and behaving as an organization of religious nature to share the same doctrinal principles when these are optioned bya similar religious group. Recognizing who is the lawful holder of the denomination the law assumes temporaneous criteria on the registration in the registry of the religious denominations, leaving it up to the state authorities to choose the entitled one amongst pretenders.
This choice excludes other religious groupings, although historically present in the country, from being counted as recognized religious denominations: this is the case of the Serbian Orthodox Church for ages bounded and deep-seated around the Archbishopric of Olu id and of the Bektashi community. The European Council, the CEDU end the United Nation itself not always have grasped the complexity of the situation suggesting institutional solutions which instead of putting order to the conflict have fomented it. Recent court rulings, *Case Orthodox Ohrid Archidiocese against the former Yugoslav Republic of Macedonia,* Application 26 December 2006; and *Case of Bektashi Community and others V. the former Yugoslav Republic of Macedonia,* 12 April 2018 have had these errors recognized.
The Kosovo legislation by explicitly mentioning the "traditional" religious denominations responds to the conviction that was necessary to introduce a law guaranteeing special treatment to a limited number of religious denominations, establishing a barrier to their proliferation, limiting the professing autonomy, imposing the adoption of a unique denomination to each religious cult and imposing a forced intra beliefs coexistence amongst religious groups often different in rituals, theological vision, religious practices and social modalities of exercising religious freedom, historical and experiential heritage.
Despite guaranteeing freedom of association for religious purposes, the law does not allow forming any religious association which in name or by statute could generate confusion and be mistaken for any of the registered religious communities as one and only one denomination could represent a religious cult. The aim of this disposition was to condition the procedures for restitution of ecclesiastical properties confiscated by the former regime and consent exclusively to certain organizations endowed of juridical personality and upon which the denomination was bestowed to claim ownership.
In analyzing the laws on religious freedom in the Balkans, it could be observed the choice to constantly pair the bestowment of civil juridical personality upon reli-

gious denominations to the recognition of only one denomination to each creed, as a juridical instrument pursuant the aim of eliminating the intra denominational pluralism, constraining the believers to uniform to one and only one of the religious message readings.
The State should instead acknowledge the very private nature of the religious phenomenon which assumes a public dimension through free manifestation of religious autonomy as stated by the Venice Commission in the recent Opinion No. 743/ 2013, *Draft law on amendment and supplementation of law no. 0_x/1--31 on freedom of religion in Kosovo* Strasbourg, 22 January 2014.

4. The Albanian anomaly and specificity

Despite the presence of Catholics, Orthodoxies, Muslims and Protestants, only one has managed to avoid religiously motivated conflicts, and it was Albania. It is so worth dwelling on the solution adopted and consider the separatism and pluralism of its legal system. Article 10 of Constitution provides for the possibility of different religious denominations to stipulate relations with the State using de facto the common law.
Acting in agreement with the Parliament, through the State Committee for Cults, the Government has stipulated agreements with the Catholic Church and latter with the Sunni Muslims,the Bektashi (an Islam fraternity with headquarters in Albania), with the Autocephalous Orthodox Church of Albania, with the Evangelical Brotherhood, a protestant creed present in the country since the second half of the nineteenth century. The system is open to agreements with new creeds which eventually should proliferate in the country. In Albania it is the common legislation that establishes the modalities on juridical personality entitlement by the religious denominations, making use of the law on NGO.
In this way the Albanian State has succeeded in maintaining the religious peace in a framework of denominational and intra denominational pluralism, in keeping the religious peace, proving it can regulate the religious phenomenon through common legislation without resorting to a special law for guaranteeing the religious phenomenon.
This was made possible because every religious group is permitted to give to itself a proper juridical structure, despite denomination or affiliation. It was so established an effective coexistence under the insignia of religious and intra denominational pluralism and individual religious freedom, guaranteeing the public and in the same time private role of religious affiliation. On the institutional plane this activity of executive power is balanced by the Parliament intervention always in compliance with the power separation which keep on dialoging between them.
This "recipe" constitutes to our opinion a possible and effective option even for the countries in the western part of the continent, as it allows a response to the extreme differentiation of religious affiliations, to the claims of state control on organizational and autonomy of religious denominations, which is proper of many States, above all in the Balkans wanting to find support for their feeble identity in alliances with certain religious denominations.
Thus the provision in the acts on religious freedom this countries have adopted of the role of the exclusive denominations to affiliation groups, pursuing the control

and containment of the cults to auto organizing through laws on religious groups and communities, contrasting the full expression of religious autonomy belonging to any group of persons that claim to be a religious denomination, behave like such and have conscience of it.