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Plea bargaining and its practical application

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Abstract

The plea bargain judgment and sentencing agreement is an innovation introduced in the Criminal Procedure Code through the reform undertaken in 2017. The purpose of adopting this type of special judgment was to establish agreement between the prosecution authority and the defendant regarding the admission of guilt, the type of punishment, the severity of the penalty, and the manner of its enforcement. This agreement is executed in the necessary presence of the defendant's counsel.
The inclusion of this type of special judgment in the code aimed at judicial efficiency as well as benefiting from the admission of guilt. In this kind of judgment, certain important rights are waived, such as the principle of adversarial proceedings, evaluation of evidence, their examination, and potentially the right of appeal. However, this type of judgment is considered to be in line with the spirit of the Criminal Procedure Code and its Article 6.
The agreement is prepared by the prosecutor and approved by the court, which verifies the fulfillment of legal conditions.
Although the legislator's intention was judicial economy and benefit for the defendant, statistical data reveal initially high demand for approval and a recent drastic decrease, with almost an inexistent number of agreements prepared by the prosecutor. This situation requires intervention in the provisions of the Criminal Procedure Code, making it more enticing and competitive with the expedited trial.

Keywords: plea bargain, prosecution, defendant, counsel, court.

1. Trial by Agreement on the Conditions of Admission of Guilt and Sentencing

Within the framework of reform in procedural criminal justice,[1] it was deemed necessary to introduce, for the first time, the trial by agreement on the conditions of admitting guilt, as a special type of trial that does not follow the rules of ordinary trials. This special type of trial ***has a privileged role, as its application brings judicial economy and potentially "satisfies" the prosecutor's demands, such as the admission of guilt and the acceptance of the punishment measure, but also benefits the defendant who must benefit from confessing guilt.***
Trial by Agreement for Admission of Guilt and Sentencing involves the drafting of an agreement by the prosecutor until the trial has not yet started.[2] This agreement

[1] Law no. 35/2017, date 30.03.2017.
[2] Article no. 406/d. Elements of the agreement. Code of Crimminal Procedure on Albania "*From the moment of registering the name of the person attributed to the criminal act until the commencement of the judicial review, the prosecutor, the defendant, or their designated representative may propose reaching an agreement on the terms for*

requires the consent of both parties, the prosecutor and the defendant, where the parties must agree on all elements related to criminal liability. In this agreement, the prosecutor assumes the attributes of dispensing criminal justice, and from this perspective, the prosecutor must meticulously determine all elements related primarily to the existence of the criminal act, the provability of the criminal act beyond reasonable doubt based on evidence, proper qualification of the criminal act, mitigating and aggravating circumstances, specify the type of punishment, the extent of the punishment, and the mode of its enforcement. The agreement is permissible solely for criminal offenses for which the law stipulates a maximum punishment of not more than 7 years of imprisonment, excluding cases involving justice collaborators where this limitation does not apply.[3]

As the agreement involves legal elements, the presence of the defense attorney is obligatory.[4] The discussion that arises here concerns effective defense, particularly in cases of specifically appointed defenders. Effective defense will fully guarantee the rights of the accused, as the main condition in this agreement is the admission of guilt by the defendant, which would be given when the criminal act was proven beyond any reasonable doubt based on evidence. The agreement on the conditions of admitting guilt and determining the punishment requires, first of all, negotiations between the prosecutor, the defendant, and the defense attorney, to determine the terms of the agreement along with all its elements. When the parties agree, they draft it in writing, and this agreement is invalid if it does not contain the following elements:

a) a clear description of the criminal act for which the accused is charged and its legal qualification;

b) the statement of admission of guilt by the defendant;

c) the type and extent of the main criminal sentence, supplementary punishment, as well as the mode of their execution, for which the parties have agreed;

ç) provisions for material evidence and items belonging to the criminal act, as well as for the confiscation of the means and products of the criminal act, as per Article 36 of the Penal Code;

d) in cases where civil claims are legitimate, his/her written approval for the measure of compensation for damages by the defendant.

d) the amount of procedural expenses;

e) the signatures of the parties and the defense attorney.[5]

During the drafting of the agreement, the prosecutor must carefully exercise the competencies provided by the law in the preparation of this agreement, as mentioned earlier, he exercises the competencies of dispensing justice, assuming the attributes of a court, as we stated earlier.

When the prosecutor reaches the agreement, he informs the victim or their heirs that the agreement has been reached and that he has agreed regarding the criminal

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admitting guilt and determining the sentencing".

[3] CCP, Article 406/d, Paragraph 2: "*Reaching an agreement is applicable for criminal offenses for which the law stipulates a maximum punishment of not more than 7 years of imprisonment. This limitation does not apply in the case of a justice collaborator."*

[4] Article 406/d.2. *"In negotiations for reaching the agreement, the presence of the defense attorney of the accused is obligatory."*

[5] Article 406/d. Content of the Agreement. The agreement is made in writing.

liability of the accused.[6]
The Code has not specified whether the agreement is approved or not when the victim does not give consent.
So, as we mentioned earlier, the agreement on the conditions of admitting guilt and determining the punishment is drafted by the prosecutor, thus assuming the attributes of a court, as the sole constitutional body that administers justice.[7] Certainly, this special type of trial, where the prosecutor dispenses justice, was not well-received by the judiciary, which in this type of trial remained without the function of dispensing justice. This led to the practice of judges being resistant, not approving the agreements. The provisions for trial by agreement were subject to constitutional review. In the following, we will see the position of the constitutional court regarding these provisions.

2. **Constitutionality of Plea Barging**

The amendments to the Code of Criminal Procedure (hereinafter referred to as CCP) were accompanied by debates on the constitutionality of the provisions related to trial by agreement, seeking before the Constitutional Court the annulment of the second paragraph of Article 406/dh of the CCP of the Republic of Albania.[8]
In this decision, the Court stated that:
"1. The contested provisions of the CCP are inconsistent with the content of Article 148 of the Constitution, according to which the prosecution is the sole body responsible for criminal prosecution and represents the accusation in court on behalf of the state. The competences of the prosecution's body in conducting criminal prosecution are limited, and the principles of legal hierarchy and the separation and balancing of powers are violated. According to the petitioner, the removal of the prosecution's exclusive authority in conducting criminal prosecution constitutes a deviation of this body from the exercise of its constitutional activity... In this case, it is not a matter of control anymore, but rather the assumption of competences. The legislator has acted against the provisions of the Constitution and the fundamental principles of criminal prosecution, as it envisages the prosecution as an independent and constitutional body. The Constitution-maker, by granting such a constitutional position to the prosecution, which is not part of the judicial system, has also conditioned the determination of the principles of exercising criminal prosecution.
In its reasoning, the Constitutional Court concluded that trial by agreement is inherently unconstitutional, as the prosecution is the subject responsible for criminal prosecution and represent the accusation on behalf of the state [9]*, but it is not an organ that dispenses justice; this is exclusively attributed to the judiciary.*[10] *But the provisions were not declared unconstitutional because the necessary quorum could not be reached, and these provisions are being applied in practice.*[11]
In this specific type of trial, the defendant waives certain rights that are part of the right

[6] Article 406/4. "*After signing the agreement, the prosecutor informs the victim or their heirs, when their identity and residence result from procedural acts, by sending them a copy of it."*
[7] Article 30, 141 Constitute of Albania.
[8] Article 406/d. At this moment, it is important that the content of this paper refers to Decision No. 7, dated 02.03.2018, of the Constitutional Court of the Republic of Albania.
[9] Article 148 of the constitute of Republic of Albania.
[10] See article 30 and 141 of the Albanian Constitution.
[11] Voted in favor of the request: Gani Dizdari, Besnik Imeraj, and Fatos Lulo. Voted against were the judges: Bashkim Dedja, Vitore Tusha, Altina Xhoxhaj, and Fatmir Hoxha.

to a fair legal process, such as the principle of adversarial proceedings, cross-examination, compensation, evidence presentation, and the right to appeal, under circumstances when the defendant has given consent and admitted to committing the criminal act. As mentioned earlier, the Constitutional Court failed to reach a decision due to a lack of quorum. Meanwhile, elements of the right to a fair legal process that are either avoided or compromised in this type of trial were not part of the constitutional debate. Next, we will examine the standpoint of the ECHR court regarding these types of specialized trials."

3. The Jurisdiction of the ECHR regarding plea bargain judgments

The jurisdiction of the ECHR is comprehensive regarding plea bargain judgments, encompassing not only their nature but also the elements of the right to a fair legal process, such as the principle of protection, adversarial nature, evidence presentation, the right of appeal, etc.

In the case of Natsvlishvili and Togonidze v. Georgia,[12] it provided a legal interpretation of "plea bargaining judgments."

In this case, the ECHR has expressed it views for the first time regarding the compatibility of plea bargain judgments with the principles of a fair legal process and the right of appeal. The European Court of Human Rights has highlighted that the determination of the sentence in a plea bargain between the prosecution and the defendant is already a characteristic of the criminal justice systems of European states, and this trial procedure cannot be criticized. The Court has recognized the legitimacy of the plea bargain trial procedure as a procedural tool aimed at simplifying the judicial process. Additionally, in this decision, the ECHR has stated that limiting the right to appeal in the plea bargain trial procedure does not violate the right of appeal and the fair legal process. Specifically, the defendant, Natsvlishvili, had voluntarily reached the plea bargain agreement and had declared understanding of the content and consequences of the abbreviated trial.

The ECHR states that: "*In plea bargain trials, there is a possibility for the defendant to make a more favorable change to the charges or to benefit from a reduction in their sentence in exchange for admitting guilt."*

Waiving specific procedural rights wasn't inherently problematic according to Article 6. *However, it's crucial to fulfill certain conditions:*

a) that waiving these rights be clearly stipulated.

b) that waiving these rights be accompanied by even minimal safeguards to prevent abuses.

c) that waiving these rights is not in conflict with the public interest.

In the specific case, the Court noted that it was the accused, Natsvlishvili, who had initiated the request for a plea barging with the prosecutor. He was familiar with the evidence against him and was represented by two chosen defense lawyers who had assisted him during the negotiations for the agreement. Before the court, he had declared that he had signed it, fully understood its contents and the legal consequences that arose from it, and that the agreement's conclusion was not a result of pressure or false promises. Moreover, a signed copy of the agreement by Natsvlishvili himself had been submitted to the court. For these reasons, the court had rightfully approved the agreement.

[12] The decision dated June 25, 2013, of the European Court of Human Rights, in the case of Amiran NATSVLISHVILI and Rusudan TOONIDZE vs Georgia, Application No. 9043/05.

Regarding the alleged violation of Article 2 of Protocol 7 to the Convention (right of appeal in criminal proceedings), the Supreme Court of Justice (GJEDNJ) has expressed that there was no violation of the right to appeal. According to the court, Natsvlishvili, with full awareness, had accepted the agreement's judgment and the consequences it entailed, one of which was waiving the right to appeal. The acceptance made by the accused was not a result of pressure or false promises from the prosecutorial authority. On the contrary, the agreement was accompanied by sufficient procedural guarantees. The court also noted that the agreement did not run counter to the public interest.

What is evident in the jurisdiction of the ECHR court is its comprehensive stance regarding the compatibility of the nature of plea agreements in general with Article 6 of the ECHR. The approval of the plea agreement is accompanied by procedural guarantees such as the right to defense, free will, and benefits such as the reduction of the sentence, and the accused has voluntarily waived certain other rights. We will further examine the position of our courts regarding plea agreement procedures.

4. **Assessment of the agreement by the court**

The agreement reached by the parties, prosecutor, defendant, and defense counsel, is subject to control by the court.[13] This verification is not merely formal but also substantive.

The formal elements that the court examines are the conditions specified in Article 406/d of the Criminal Procedure Code. After verifying the fulfillment of the formal legal conditions and criteria for the judgment by agreement, the court proceeds to the next phase, the substantive one. The court assesses whether the admission of guilt and the determination of the penalty are in harmony, in line with the very purpose of this institution, as well as with the legal provisions of the Penal Code regarding criminal liability, the determination and individualization of the penalty, and the mitigating and aggravating circumstances.

The elements that are reviewed by the court include:

a. ***The free will of the accused,*** this is the first element verified by the court, occurring in situations where we have an agreement between the prosecutor and the accused, and if this will is absent, the agreement would be invalid.

b. Another element that the court checks is ***the presence of the defense attorney in the negotiations for reaching and signing the agreement***. The achievement of the agreement requires specific knowledge about all elements of criminal liability, such as the proper legal qualification of the criminal act, the standard of proof, mitigating and aggravating circumstances, the type and extent of the punishment, its execution method; all these elements are not factual but legal matters that necessitate the presence of the defender in a mandatory manner, whose presence would be a guarantee for the accused.

c. The distinctive and defining element of this judgment, is the acknowledgment of guilt by the accused. ***If the accused understands the agreement*** for admitting guilt and determining the punishment, and comprehends its content, it requires effective recognition of this agreement and all its elements. This is another element that the court verifies. However, it's not only about effective recognition of the agreement, but also

[13] Article 406/dh. Examination by the court. "*1. Upon reaching an agreement, the prosecutor submits it for approval to the court, along with all preliminary investigation documents. When the agreement is presented in the preliminary hearing, the court decides according to the provisions of Article 332/dh, paragraph 1, letter "b," of this Code".*

the consequences brought about by signing the agreement. From this perspective, the court checks whether the accused has understood that they have waived certain rights, such as the right to appeal, the right to contest evidence, to argue about them and present new evidence, as in this type of judgment there is no debate concerning the evidence.

d. ***Finally, the court examines the proportionality between the committed criminal act and the specified punishment in the agreement***. In this case, the court verifies all elements related to criminal liability, individualizing the accused's sentence. If this agreement achieves the purpose of justice and if the judge himself would have rendered justice objectively, then this would be the decision.

5. Approval or refusing the Agreement.

In the judgment through plea barging on the conditions of admission of guilt and the determination of punishment, drafted by the prosecutor, the court has a controlling and verifying role of the aforementioned elements, but it cannot alter the terms of the agreement.[14]

However, the court, in the exercise of its exclusive constitutional function of dispensing justice, before approving the agreement, mainly assesses whether we are dealing with cases of dismissing the charges or case or returning the case back to the prosecutor. Otherwise, it approves the agreement.[15]

The court shall refuse the approval of the agreement when:

a) the defendant withdraws his consent.

b) it is proven that the will of the defendant is flawed

c) the defendant who has been duly summoned, does not attend the hearing, without legitimate reasons

In these cases, the decisive element for the agreement is clearly missing, the will of the accused. When this will is missing, there is no valid agreement for the court to approve.

ç) one of the grounds for non-initiation of the proceedings or dismissal of the charge or the case exist

These are circumstances for which the accused cannot have penal liability, and the non-approval of the agreement is a proper decision of the court in the exercise of its function of dispensing justice.

d) evidence in the investigation file contradict the admission of the defendant to have committed the criminal offence

Even in this case, it is not proven that the criminal act has been committed by the accused. The accused's confession regarding the commission of the criminal act contradicts the evidence and the standard required by Article 4 of the Code of Criminal Procedure, which states that the court declares the accused guilty based on the standard that the person committed the criminal act beyond reasonable doubt, based on evidence.

dh) the legal qualification of the criminal offence and the circumstances of its commission are wrong or

In this case, the court verifies whether the criminal offense committed by the accused and confessed by them has been properly qualified by the prosecutor, so that the

[14] Code of Criminal Procedure, Article 406/e, point 4.

[15] Code of Criminal Procedure, article 406, point 1.

accused can be held criminally liable for the act they have committed.
e) the punishment set in the agreement is inappropriate in relation to the committed offence and the character of the defendant.
In this case, the court rightly verifies the most important and essential element of the agreement, whether justice has been served through this agreement, or if there has been a subjective stance by the prosecutor. We believe this is the crucial element that the court should verify.
Following we can see some practical cases when the court has refused the agreement.

5.1. **Practical cases from the courts regarding the approval or disapproval of the agreement.**

In this perspective, we would like to draw your attention to the fact that in many cases of practice, the applicability of judgment by agreement has not been approved by the court precisely for these reasons.

Missing defendant attorney
The Tirana District Court, in several of its decisions with numbers 68 dated 17.01.2018 and 2106 dated 12.07.2018, rightfully refused the approval of the agreement due to the mandatory absence of the defense lawyer.[16] In these decisions, it is stated*: "The agreement was reached without the presence of a defense lawyer, as there is no signature of the mentioned defense lawyer in the agreement."*

Non-signing, lack of effective knowledge about the agreement, and absence of defense counsel.
The Tirana District Court, in its decisions No. 68 dated January 17, 2018, and No. 2106, has stated that: "...to reach the final decision regarding the prosecutor's request for the approval of the agreement dated December 7, 2017, for admitting guilt and determining the criminal penalty against the defendant B.H., will take into consideration the fact that the agreement dated December 7, 2017, for admitting guilt and determining the penalty, was made in writing between the prosecutor and the defendant B.H., who is not only illiterate and unable to read and understand the content of this agreement but also was not assisted by a defense counsel. As a result, the Court concludes that this agreement is not valid."[17]

Lack of the defendant's will.
The Elbasan District Court, with Decision No. 437, dated June 6, 2018, has decided not to approve the agreement, which was reached without the presence of the defendant himself, as there is no evidence that the defendant has signed the agreement. The Court reasoned that: "The prosecutor should not have accepted the defense counsel's proposal to reach a plea agreement, as the defendant must be present in reaching the agreement and consequently all the criteria provided by the procedural provisions are unfulfilled."

[16] This fact is stipulated as a reason for non-validity according to letter e), point 3 of Article 406/d "Content of the Agreement" of the Code of Criminal Procedure.
[17] Not in accordance with the provisions of paragraph e), point 3 of Article 406/d of the Code of Criminal Procedure, which stipulates that: "The agreement is made in writing and leads to invalidity: a)...; e) the signatures of the parties and the defense counsel."

Defendant's absence in the session for the approval of the agreement.
In several decisions of the Tirana District Court, with numbers 3103, dated November 22, 2017; 70, dated January 17, 2018; 408, dated February 12, 2018; 625, dated March 5, 2018; 2046, dated July 9, 2018; 251, dated February 1, 2019; 404, dated February 15, 2019; 473, dated February 21, 2019, the defendant did not appear in several sessions without justified reasons.

In the mentioned cases, the court has rightly decided to reject the agreement due to the defendant's absence in the court session. The court has not had the opportunity to verify whether the defendant has made the agreement with his free will, understood its content, and comprehended the consequences arising from the approval of the agreement. This legal provision has been established with the purpose that the court, as a procedural subject established by the law over the parties, verifies whether during the preliminary investigations, the prosecution and the defendant have exercised their rights and obligations in accordance with the principle of equality of parties in the process, without being influenced by the superiority that the prosecution has in the preliminary investigation phase. The consequences of not fulfilling the above-mentioned conditions regarding the mandatory presence of the defendant are provided in Article 406/d, point c, of the Criminal Procedure Code, where in the event that the duly notified defendant does not appear in the session without justified reasons, the court must decide to reject the agreement.[18]

Appropriate sentence determined in the agreement.
The appropriateness in sentencing is another essential condition that the court verifies in the exercise of its constitutional function of dispensing justice. The District Court of Tirana, in its decisions with numbers 298, dated 09.01.2018, 180, dated 13.02.2020, and 277, dated 29.06.2020, found that the penalty imposed in the agreement was not appropriate in relation to the gravity of the committed offense, as per Article 197 of the Criminal Code[19]*. The prosecution imposed a penalty below the minimum allowed by the relevant provision.*[20]
In this case, the prosecution has entered into an "Agreement on the Conditions of Admission of Guilt and Determination of Sentence" with the accused S.C. on December 20, 2017, regarding the admission of guilt for the criminal offense of "Illegal Construction" as stipulated by Article 199/a/2 of the Penal Code, and the imposition of a 3-month prison sentence based on the Penal Code. The prosecution has also requested the suspension of the prison sentence under Article 59 of the Penal Code and has placed the accused on a probationary period of 6 months. In its submission, the prosecution has argued that the accused, through his actions, has fulfilled the elements of the offense, has considered his admission of the charge, and has taken into account the fact that he has no prior convictions when determining the type and extent of the sentence. On its part, the Court has assessed that the prosecution's request did not fulfill all the criteria and specifications required by this specific type of trial outlined in Articles 406/d-406/e of the Penal Code. The Court has reasoned that: "The prosecution has agreed with the accused on the agreement of December 20, 2017, by accepting the accused's admission of guilt for the criminal

[18] Article 406/e/1/c of CCP.
[19] Article 197 of the Penal Code of the Republic of Albania states: *"Operating gambling, games of chance, or betting activities in violation of legal provisions constitutes a criminal offense and is punishable by a fine or imprisonment of up to three months."*
[20] Article 406/ë/e

offense attributed as stipulated in Article 199/a/2 of the Penal Code[21] *and imposing a sentence below the minimum allowed by this provision (the sentencing range for imprisonment from 1 to 5 years). Therefore, the sentence determined in this agreement is inappropriate and in contradiction with the restrictive sanctioning provisions of the said penal provision."*
In another decision, the court has reasoned that: "The application of Article 63 of the Penal Code does not achieve the purpose of the imposed sentence and does not achieve effective justice." (The criminal offense for which the accused was charged was "Forgery of school documents" as stipulated in Article 187 of the Penal Code).

6. Analysis of the Progress of Adjudication through Plea Agreements via Statistics.

The approval of this specific type of adjudication, in August 2017, aimed at judicial efficiency and the agreement between the admission of guilt and the determination of the sentence by the defendant and the defense counsel.
Following, we will analyze the progression of this type of adjudication over the years. According to the statistics obtained from the Tirana District Court, the overall jurisdiction indicates that:
In 2018, there were a total of 280 requests for plea agreement approval, 141 were approved (of these, 62 were from the year 2017 and 78 were from the year 2018).
In 2019, there were a total of 150 requests for plea agreement approval, 103 were approved (of these, 49 were from the year 2018 and 52 were from the year 2019).
In 2020, there were a total of 107 requests for plea agreement approval, 26 were approved (of these, 22 were from the year 2019 and 4 were from the year 2020).
In 2021, there were a total of 39 requests for plea agreement approval, 17 were approved (of these, 16 were from the year 2020 and 1 were from the year 2021).
In 2022, there were a total of 8 requests for plea agreement approval, 29 were approved (of these, 25 were from the year 2021 and 4 were from the year 2022).
What is noticeable is a drastic decrease in the requests for plea agreement approval.

Conclusions and recommendations

The plea agreement trial regarding admission of guilt and determination of punishment was an innovation aimed at judicial economy, as it avoided the trial phase and eased the position of the defendant. Our Constitutional Court expressed that the drafting of the plea agreement by the prosecutor is unconstitutional, as it is a way of dispensing justice, and this constitutional competence is vested in the court. The decision was not made due to a lack of quorum, and in these circumstances, the plea agreement trial is constitutional. A significantly different standpoint is held by the GJEDNJ, which finds the plea agreement fully aligned with the spirit of Article 6, but emphasizes that the waiver of certain rights must be accompanied by specific procedural safeguards.
According to the statistics from the Prosecutor's Office of the District Court of Tirana, the General Jurisdiction, it appears that the prosecution has initiated requests for plea agreement trials in the early years. However, it is observed that the approved requests by the court are quite low, around 1/3 of those requested. The reasons for

[21] Penal Code Article 199/a/2 "Unauthorized Construction 2. This offense, committed on public or state-owned land or on someone else's land, is punishable by imprisonment from one to five years."

refusal often lack legal support, as the court sometimes abuses the legal criterion of its approval, that of appropriateness regarding the type, extent, and manner of serving the sentence, rejecting the plea agreement even when it has been appropriate. Meanwhile, Criminal Procedure Code underwent some changes in relation to the preliminary hearing in 2021.[22] When the defendant requests an expedited trial, the case is judged by this judge and closed in a single hearing. This is a more cost-effective solution compared to a plea agreement, which, when not approved, needs to be sent back to the prosecutor, who then has to initiate new procedural requests. These elements have resulted in a drastic reduction in plea agreement trials, which are currently nonexistent.

The Criminal Procedure Code allows the prosecutor to negotiate a plea agreement until the judicial proceedings have commenced, even during the preliminary hearing. According to Article 406/dh of the Criminal Procedure Code, if the plea agreement is presented during the preliminary hearing, the court decides according to the provisions of paragraph 4 of Article 332/c of the same Code,[23] which states: "After the defendant presents their claims, the victim, and other private parties present theirs, when they are present."

The role of the victim in the approval of the plea agreement is mainly formal; their consent is not of significant importance. The victim cannot exercise the rights recognized by the law, such as the right to compensation[24].

To encourage more frequent application of this special type of trial by the prosecution and its approval by the court, amendments to the Criminal Procedure Code should be made to incentivize the defendant to seek this type of trial, such as: ***the possibility of suspending the prison sentence, reducing the sentence by up to one-third, exemption from the obligation to pay procedural costs, non-application of supplementary penalties or security measures, non-recording of the conviction in the criminal record, etc.***

Raising the awareness of judges that in the specific case, the attribute of dispensing justice is not being taken away from them, as the control still passes through them.

Encouraging defendants to seek this type of trial as much as possible, by undergoing some changes to the trial by agreement process.

Raising the awareness of prosecutors to apply this type of trial by agreement as much as possible.

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[22] Approved with law no. 41/2021.

[23] 1. After verifying the attendance of the parties, the court declares the judicial trial open. 2. The prosecutor presents briefly the results of the preliminary investigations and the evidence on which the request for sending the case to the trial is based on. 3. The defendant may submit requests for the invalidity of the acts of the preliminary investigations, the non-usability of evidence, the need to obtain new evidence, request for abbreviated trial and can make all statements he deems necessary or request to be questioned, applying the rules provided for in articles 38 and 39 of this Code. 4. After the defendant, the victim and other private parties, when present, shall present their claims.

[24] The victim is notified and has the right to participate. The absence of the victim does not prevent the case from being reviewed.

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Laboratory testing of women in reproductive age for some STIs, through the detection of the relevant IgG and IgM Antibodies

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Abstract

In recent years there has been an increase in infertility problems not only in couples who are of a certain age but also in young couples. One of the leading causes of infertility problems are STI. STI's in most cases are asymptomatic, causing harm without being understood. Therefore the subject of our study were women of reproductive age (16-45 years) and the determination of the immunological situation, of some SSTs such as *Herpes simplex 1 & 2, Syphilis, Cytomegalovirus, Mycoplasma hominis and Ureaplasma urealyticum*. In the fight against STI, it is of great importance to detect them as quickly as possible in the most efficient way possible and with a procedure as easy as possible for the person undergoing detection. The most innovative way in solving these problems are marker-based immunological tests used in diagnostics. Immunological tests with markers make it possible to quickly measure very small amounts of Ag and by revolutionizing the diagnosis, monitoring range of diseases, leading to their rapid treatment. In this study 11339 serums were analyzed for the presence or absence of specific IgG and IgM antibodies, for STI mentioned above. Serum testing was performed through the most efficient immunological methods: CMV IgM & IgG, HSV 1 IgG, HSV 2 IgG and Syphilis IgM & IgG via ECL method, bridging principle; HSV 1 IgM & HSV 2 IgM via SERION ELISA classic method, sandwich principle; *Mycoplasma hominis* and *Ureaplasma urealyticum* through the indirect immunofluorescence method. The results were statistically processed and it was concluded that the highest prevalence of STIs in the study is CMV (77.7%), and HSV 1 (70.08%), while the lowest prevalence between STIs in the study is HSV 2 (8.05%), and Syphilis (5.28%). The population studied has acquired very high immunity to CMV and HSV 1. Higher immunity presents HSV 1. HSV 1 has a higher prevalence than HSV 2. Syphilis shows a slight tendency to increase prevalence over the years. Avidity testing of IgG for CMV, is very important to distinguish a recent infection from a past infection. The ever-increasing number of women tested shows that Albanian women over the years are more sensitized to be tested for STIs.

Keywords: *Herpes simplex 1 & 2, Syphilis, Cytomegalovirus, Mycoplasma hominis Ureaplasma urealyticum, IgG & IgM antibodies.*

Introduction

In recent years, the increase in infertility problems has been noticed not only in couples who have a certain age but also in young couples. One of the main causes of problems related to infertility are STIs. STIs have a significant prevalence in the world and constitute an important problem for public health.

Thus, HSV 1 infection is encountered with a global prevalence of 66.6% in 0-49-year-olds, while globally, 536 million people were estimated to be infected with the HSV 2 virus in 2003. According to estimates by the World Health Organization, in 2016 , about 13.2% of the world's population aged 15-49 were living with HSV 2 infection.

(World Health Organization, 2016).
HSV-1 and HSV-2 can rarely be transmitted from an infected mother to her baby when the infant is exposed to HSV in the genital tract during birth. The risk is greatest when a mother first acquires HSV infection in late pregnancy (World Health Organization, 2017). The risk of transmission if the mother is infected around the time of birth is (30% to 60%), because the time for the generation and transfer of protective antibodies from the mother to the child is insufficient until the child is born. (Brown et al 2003)
CMV infection is relatively common, but CMV does not spread very easily through simple contact. Transmission of infection requires direct contact with infected secretions. (Cheeran M. et al., 2009; Akhter & Kauser, 2015)
In the USA, Australia and Europe, CMV seroprevalence among adults, ranges from 36-77%. In the USA 50%-85% of adults are infected with CMV by the age of 40. In many countries where studies have been conducted, the prevalence of CMV ranges from 20-100% in women of reproductive age and 100% in drug users.
Maternal CMV infections during pregnancy are associated with a high risk of intrauterine transmission from 0.2-3% of live births in Western Europe and up to 14% in developing countries. (Schlesinger et al., 2005; Zhang et al., 2007; Cannon et al., 2010; Manicklal et al. 2013, 2014; Gumbo et al., 2014; Mwaanza et al., 2014). The highest risk of transmission is in the first trimester of pregnancy: 80%, (Kenneson and Cannon, 2007). If a mother tests positive for primary CMV infection in the first trimester of pregnancy, amniocentesis is recommended to investigate if the embryo has been affected by the disease. If the fetus is affected by CMV, unfortunately, the degree of damage cannot be determined exactly. This makes the early diagnosis of primary infection of particular importance.
Serologic testing for anti-CMV IgG/IgM antibodies may not be sufficient to distinguish between recent and past infection, so it is necessary to determine IgG avidity in IgM-seropositive mothers. A high IgG avidity index during the first trimester of pregnancy excludes acute infection. If the IgG avidity is low, this indicates a primary and acute infection.
Syphilis is caused by T. Pallidum. It was very common in Europe during the 18th-19th centuries, but at the beginning of the 20th century, infections declined rapidly due to the widespread use of antibiotics, until the 1980s-1990s (Franzen, 2008). Since 2000, rates of syphilis have increased in the US, Canada, the UK, Australia and Europe, mainly among gay men. Syphilis affects 700,000-1.6 million pregnancies annually, causing miscarriages, stillbirths, and congenital syphilis. (Woods., 2009). During 2015, syphilis caused an estimated 107,000 deaths, up from 202,000 in 1990 (Global Burdenof Disease, 2015). In many Eastern European countries the incidence of syphilis is significantly higher than in Western Europe. The incidence of syphilis per 100,000 inhabitants for the countries of the region has been reported at the following levels: Bulgaria (2009) 5.5 cases, Romania (2007) 25.71 cases, Slovenia (2009) 2.3 cases, Turkey (2000) 4.95 cases. (Herbert & Middleton, 2012).
In Albania in the years 1973-1995, not a single case of syphilis was reported. The number of infections has increased about 20 times, after 1995, as a result of the opening of the country to the West, the high emigration of the population and the liberalization of life in the country. From a study conducted for the period April 1, 2011-May 1, 2012, 59 new cases of syphilis were found out of 336 sera examined

(16.22%). (Torba. et al., 2013).
T. pallidum can be transmitted through the bloodstream from an infected mother to her developing fetus at any time during pregnancy, but the risk of fetal infection is much higher when the mother has primary syphilis (Woods, 2009)
Colonization with M. hominis and U.Urealyticum can occur during childbirth but in most cases the infection clears up. Only in a small number of cases the colonization continues. Colonization levels increase when individuals become sexually active, approximately 15% with M. hominis and 45% - 75% with U. urealyticum. Carriers are asymptomatic, but organisms can be opportunistic pathogens. (Mayer G; Microbiology end Immunology online).
In our country, from a study conducted on women of reproductive age who were presented for specialized medical assistance, at the Maternity Hospital "Mother Geraldine" in Tirana, the overall prevalence of Mycoplasma Hominis was 30.4% and that of Ureaplasma Urealyticum 54.3%. (Tavo.V, 2013)
When left untreated M. Hominis and U.urealyticum lead to complications in pregnancy, recurrent miscarriage and infertility in women (Hillitt, KL; et al, 2017). M.hominis also causes infertility in men (Public Health Agency of Canada 2011). Studies have also shown that men with infertility have higher detection rates of U.urealiticum in semen than fertile men (Rodríguez, C.S, et al 2018)
STIs are mostly asymptomatic, causing harm without being realized. In the fight against STDs, it is of great importance to detect them as quickly as possible in the most efficient way possible and with a procedure that is as easy as possible for the person submitted to the detection. The first word in solving these problems has immunological tests based on markers used in diagnostics that enable rapid measurements of very small amounts of Ag and At, revolutionizing the diagnosis and monitoring a variety of diseases, as well as leading in their rapid treatment.

Material and methods

Women of reproductive age (16-46 years) were included in the study. A total of 11,339 women were tested(during seven years: 2011-2017) for the presence of antibodies anti Herpes simplex type 1 IgG and IgM, anti Herpes simplex type 2 IgG and IgM, anti Human cytomegalovirus IgG and IgM, anti Mycoplasma hominis IgG and IgM and anti Ureaplasma urealyticum IgG and IgM. For Syphilis, a total of 1287 sera were analyzed for total IgG and specific IgM antibodies against T. Pallidum
For anti Herpes simplex type 1 IgM, anti Herpes simplex type 2 IgM testing was performed with the SERION ELISA classic method, for anti Mycoplasma hominis IgM & IgG and anti Ureaplasma urealyticum IgM & IgG testing was performed with the indirect immunofluorescence method. For anti Human cytomegalovirus IgG and IgM, anti Herpes simplex type 1 IgG, anti Herpes simplex type 2 IgG and anti Treponema pallidum (syphilis) IgG & IgM, testing was performed by the ECL method on the Cobbas 6000 , which uses the bridging principle for detection of IgG and IgM antibodies specific for each of the analyzed pathogens. The choice of these testing methods was made based on the sensitivity and specificity that the above tests present.

All samples were analyzed in the Intermedica Laboratory. Samples were taken from two state maternity hospitals, as well as from several private gynecological clinics in Tirana. The testing was performed on healthy women, who underwent the above analyzes before the start of a pregnancy, on women who had problems conceiving a child, or who were tested during pregnancy. There are no cases included in the study with suspect diagnosis: infectious disease. For each patient, after filling in a form with personal data, 5cc of blood was taken in a gel tube from which, after centrifugation for 10 min at 25,000 rpm, serum was extracted. The test was performed within two hours of taking the blood.

Results and discussions

In accordance with the aim of the study, 11339 sera were analyzed (divided into seven years, 2011-2017) for the presence of specific antibodies anti HSV1 IgG and IgM, anti HSV2 IgG and IgM, anti CMV IgG and IgM, anti M.hominis IgG and IgM and anti U.urealyticum IgG and IgM, while for Syphilis, due to the special characteristics of infection with Troponema pallidum as well as the high cost of the test, only a small group of women included in the study agreed to perform the test for the presence or absence of At. Thus, a total of 1287 sera were analyzed for total IgG and specific IgM antibodies against T. Pallidum.

The number of those tested, as seen in Table 1, has been increasing from year to year. This indicates a great awareness of the population about undertaking a healthy pregnancy, also appreciating the role that STIs have in it.

Year	2011	2012	2013	2014	2015	2016	2017
No. of the tesed	1004	1098	1441	1550	1824	2068	2354

Table 1: Number of tested in years

In the group under study, in the time period 2011-2017, the immunological situation for STIs included in the study is presented as follows.

HSV1

For the group under study, the presence of IgG antibodies to HSV-1 was observed in 66.23% of cases and IgM antibodies in 6.26% of cases. In total, the HSV1 infection rate in our study group is 70.08%.

As can be seen from Graph 1, the individuals who have developed anti HSV 1 IgG antibodies are much more than those who have developed anti HSV 1 IgM antibodies,

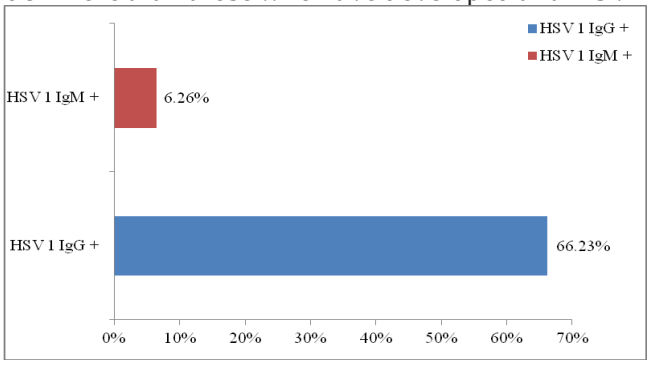


Chart: Spread of infection *HSV 1*

about 11 times more, which shows that most of the tested women have acquired immunity to HSV 1. This is normal considering the fact that HSV 1 is also spread through oral contact and it is not only the sexual route that spreads it.

HSV2

For HSV2 in the study group, the presence of IgG antibodies was observed in 6.46% of cases and IgM antibodies in 2.32% of cases. In total, the HSV1 infection rate in our study group is 8.05%

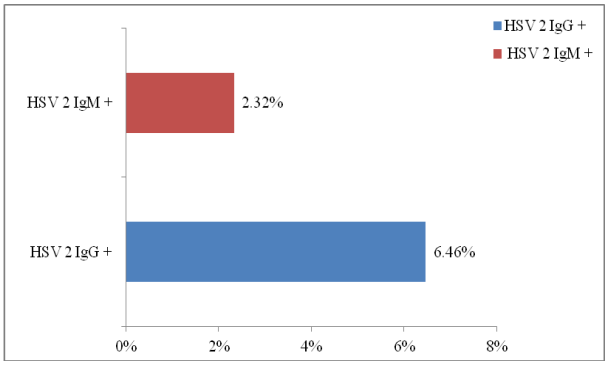


Chart 2: Spread of infection *HSV 2*

An estimated 536 million people or 16% of the population worldwide were infected with HSV-2 as of 2003 with higher rates among women and developing countries. (Looker et al.,2008)

In our study population, the prevalence of HSV 2 is about 2 times smaller than the global one reported in 2003. This is because HSV 2 is an infection that spreads almost entirely through sexual contact, despite advances in sexual freedom in our country,there are still taboos about it, which also affects the lower prevalence of HSV 2 in our study population.

CMV

For the group under study, the presence of anti-CMV IgG antibodies is observed in 76.5% of cases and anti-CMV IgM antibodies in 1.82% of cases. In total, the spread of CMV infection in our study group is 77.7% (Chart3).

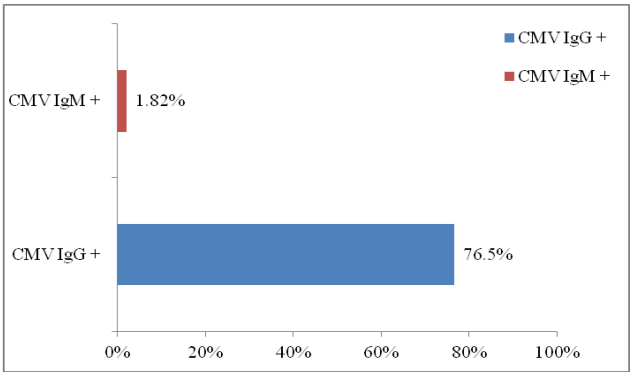


Chart 3: Spread of infection *CMV*

From the comparison of the results obtained for the percentage of women positive for IgM and IgG in years, a much larger percentage of women positive for anti-CMV IgG compared to those positive for anti-CMV IgM is observed. The fact that a large part of the population has immunity to H.cytomegalovirus reduces the chance of infection and reduces the chance of appearing At CMV IgM positive. This fact is explained by the At curve that H.cytomegalovirus infection follows and testifies to high immunity to CMV in the study population.

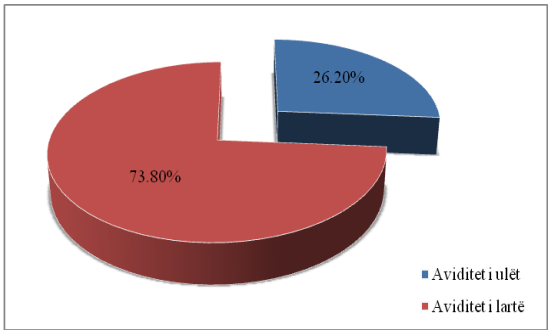


Chart 4: Avidity to IgG of women positive for IgM *CMV*

Serological testing for IgG/IgM anti-CMV antibodies may not be sufficient to distinguish between a recent infection and a past infection, so it is necessary in cases where IgM and IgG are positive, especially in pregnant women, to determine avidity of IgG. From the IgG avidity testing of the 206 women who tested positive for IgM and IgG, only 26.2% of them showed low IgG avidity, thus with recent infection. Most of them, 73.8%, showed high avidity to IgG, and therefore immunity to CM

Syphilis (TPA)

In the study group, in the period 2011-2017, the presence of IgG antibodies to *Treponema pallidum* was observed in 4.12% of cases. And of IgM antibodies in 1.71% of cases. In total, the spread of *T.pallidum* infection in our study group is 5.28%

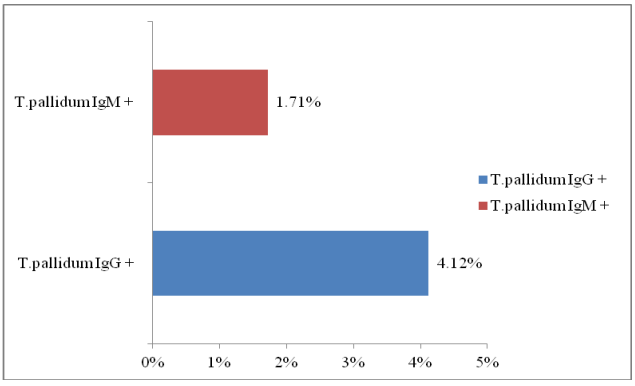


Chart 5: Spread of infection *T. pallidum* IgG dhe IgM

By comparing the values of anti-TPA IgG and IgM antibodies over the years, a similar

trend of the two types of antibodies is observed, explained by the fact that, in contrast to other STI infections, anti-TPA IgM antibodies stay positive longer during the course of the infection.

M. hominis

In our study group, in the period 2011-2017, the presence of anti *M. hominis* IgG antibodies is 9.36%. the presence of anti *M. hominis* IgM antibodies is low, around 1.15%. The total prevalence of *M. hominis* infection is about 10.54%.

Comparing the results obtained in the years under study for the percentage of positive women (Chart 6) for IgM and IgG shows a higher percentage of positive women for IgG anti-*M. Hominis* compared to those positive for IgM anti-*M. hominis.*

The level of At is low because they are bacterial infections, which after the emertion of symptoms are treated with antibiotics, usually tetracycline, and are not viral infections where immunity usually lasts. This is explained by the following chart.

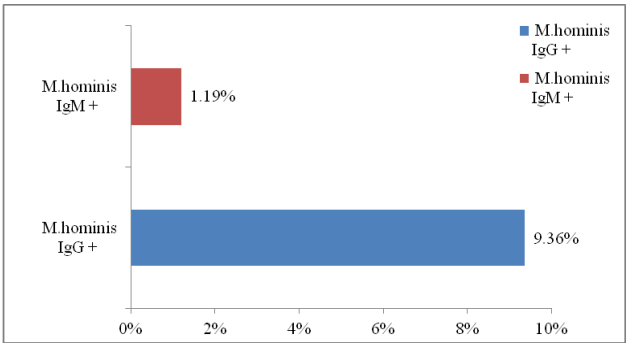
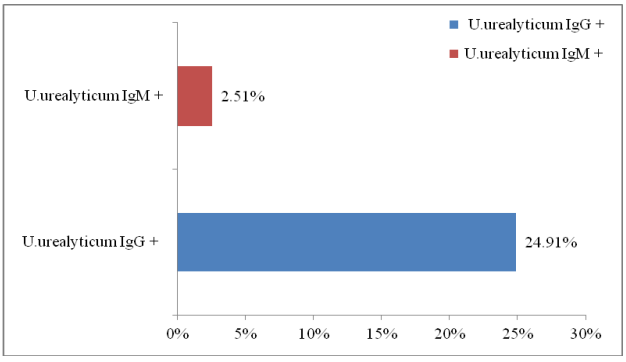


Chart 5: Spread of infection *M. Hominis*

U. Urealyticum

In our study group, in the period 2013-2017, the presence of anti *Ureaplasma urealyticum* IgG antibodies are observed in 24.92% of cases. the presence of IgM antibodies against *U. urealyticum* results in 2.51%. The total prevalence of *U. urealyticum* infection is about 27.22%.



Grafiku 7: Përhapja e infeksionit *U. urealyticum*

The study of the immunological situation for U. urealyticum shows a much higher

percentage of women positive for anti-U.urealyticum IgG compared to those positive for anti-U. urealyticum IgM. This is explained from the chart that the infection follows for U. urealyticum and coincides with the results in the region and the world.

Comparison of prevalence rates of infections in the study

Chart 8 presents in a comparative way the level of IgG+ for each STI in the study. The graph shows that the population under study has acquired higher immunity for CMV and HSV1, while the lower immunity is for syphilis and HSV2

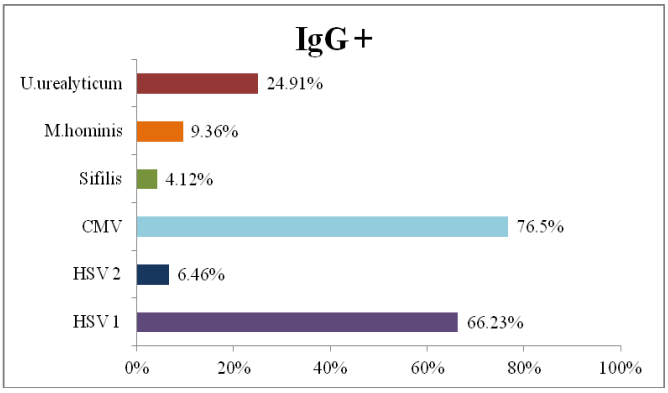


Chart 8: Immunological status for IgG + antibodies, for each STI under study

Comparing the level of IgM+ for each STI in the study as it appears in chart 9, it results that among the tested STIs, the most pronounced acute or current infection is found for HSV 1, while the least expressed is for M. hominis 1.19% and syphilis 1.71%. From the analysis of the results of the total number of Antibodies (IgG and IgM), the prevalence of STIs in the study group is as follows:

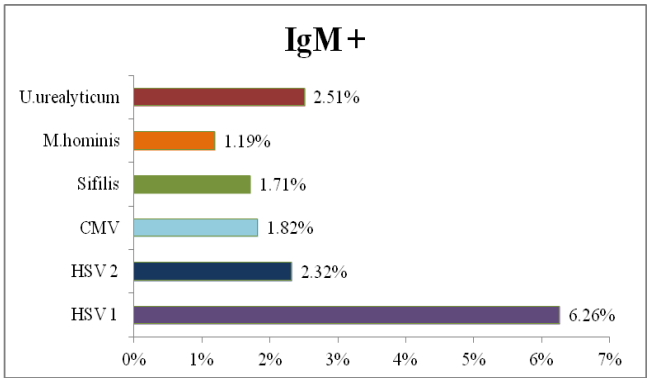
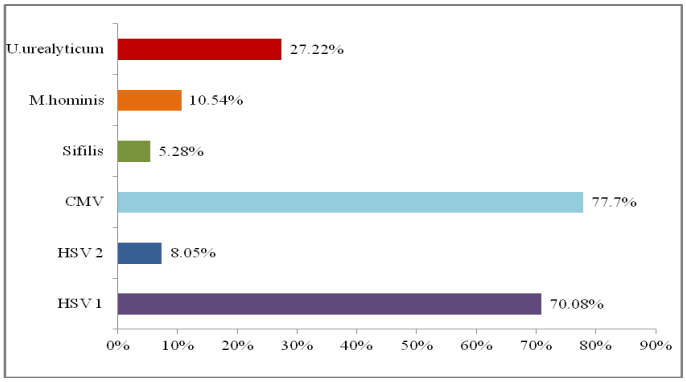


Chart 9: Immunological status for IgGM+ antibodies, for each STI under study

From the comparison of prevalence of the studied infections shows that CMV infection has the highest spread, followed by HSV 1, since these infections are spread in addition to sexual contact, blood and through other routes, namely: CMV through contact with infected saliva and HSV 1 through kissing (when there are lesions on the lips, or the oral cavity). Less common infections include syphilis and HSV 2 as they

are spread only through sexual contact and blood.

Chart 9: Prevalence of STIs in the study



Conclusions

The ever-increasing number of women tested shows that over the years, Albanian women are more sensitized to be tested for STDs

Sexually transmitted infections, which are associated with fetal damage when the infection occurs during pregnancy, or infertility problems such as HSV 1, HSV 2, CMV, Treponema Palladium (Syphilis), M.hominis and U urealyticum exist at levels to be evaluated in Albanian women of reproductive age.

The greatest prevalence of STIs in the study is CMV (77.7%), and HSV 1 (70.08%), while the lowest prevalence among STIs in the study is HSV 2 (8.05%) and Syphilis (5.28%).

Smaller prevalence among STIs in the study is HSV 2 (8.05%) and Syphilis (5.28%).

The population under study has acquired very high immunity to CMV and HSV 1, while HSV 1 represents the highest immunity at the moment.

The IgG avidity test for CMV is an important immunological test that helps to distinguish a recent infection from a past infection in cases where At CMV IgM is positive.

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Women's Literature: A Comparative Analysis of German and Albanian Literary Examples and Cases

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Abstract

Women's literature refers to literature written by women that often explores themes, experiences, and perspectives related to women's lives. It encompasses a wide range of literary genres, including novels, short stories, poetry, essays, and more. Women's literature can focus on a variety of topics, such as gender roles, identity, relationships, and societal expectations.
Historically, women's literature has been instrumental in shedding light on the unique challenges and experiences faced by women in different time periods and societies. It has played a crucial role in feminist movements, raising awareness about gender inequality and advocating for women's rights.
Women authors have made significant contributions to the world of literature, producing timeless classics and contemporary works that continue to resonate with readers of all backgrounds.
Women's literature is not limited to a single style or theme; it encompasses a rich and diverse body of work that reflects the voices and experiences of women from various cultural, social, and historical backgrounds.

Keywords: Women's literature, themes, experiences, perspectives, gender roles, identity, societal expectations, literary genres, social backgrounds, historical backgrounds.

1. Introduction

The term women's literature (in German Frauenliteratur) is very vague and difficult to define. This term is often used to name stories that encourage or embed clichés about female identity, but there are also cases when this term is used to define real feminist literature. In fact, the dominant use of this term is for books in which female authors write about the lives or fates of female characters.
Women's literature can be defined as literature centered around women and supportive of women's perspectives. The concepts of "female literature" and "female novel" ("Frauenliteratur" and "Frauenroman") emerged towards the end of the 19th century as categorical distinctions in cultural contexts, bookstores, and more. This was in response to the increasing presence of female authors who viewed writing not merely as a means of livelihood but as a creative outlet to express themselves artistically.
In the early 20th century, this label was often used for marketing purposes, nearly becoming synonymous with terms like "popular literature" or "mainstream novels," essentially signifying non-elite literature aimed at the general populace. However, in the latter half of the 20th century, its scope broadened significantly. The term "women's literature" encompassed all written works related to women, ranging from novels centered around female characters to texts offering guidance for young individuals or addressing various aspects of life.

During the 1960s, influenced by the "New Women's Movement", "women's literature" came to specifically denote feminist and emancipatory fiction and essay-type works.
Today, this term is predominantly used to describe literature authored by women. It also includes literary works featuring female protagonists and recognizes female authors from earlier eras of German literature, such as Sophie von La Roche, Therese Huber, Sophie Mereau, Fanny Lewald, Luise Otto, and others.
In the 1980s, feminist literary criticism sparked a protracted debate on the concept of "women's writing", questioning its existence and where it could be appropriately categorized.
This discourse, although inconclusive, established the understanding that a writer's specific life experiences shape their literary creations, leading to distinctions between works viewed through a female perspective versus a male one. The discussion also delved into defining "women's literature" as a subset of literature, recognizing that literature, rather than being a neutral concept, was dominated by male perspectives, relegating women and the feminine to secondary roles.[1]
Since the 1990s, there has been a trend to incorporate terms like "feminine," as seen in phrases like "Frauenkrimi" (women's crime fiction), which refers to detective stories featuring female protagonists. In German literary criticism, the term "women's literature" has largely been avoided, with a preference for new designations such as "literarischeFräuleinwunder" ("female literary miracle") when discussing works by female authors.

2. A Brief History of German Women's Literature

The term "women's literature" encompasses a range of literary expressions dealing with topics specific to women, exploring their emotions and thoughts. In a narrower sense, it denotes emancipatory literature by and for women. In a broader context, it includes literature that offers a distinct female perspective, rooted in the unique experiences of women within socially and historically patriarchal societies. Throughout the history of literature, women have left their mark as writers and authors of novels, essays, and, to a lesser extent, dramas and theatrical works.
In antiquity, the lyrical poetess Sappho composed odes, elegies, and hymns, leaving behind a lasting legacy. During the Middle Ages, women found creative outlets within monastic settings, with figures like the mystic Hildegard von Bingen and Katharina von Siena showcasing their talents.
In the 17th and 18th centuries, French aristocratic women such as Madame de La Fayette and Madame de Sévigné played pivotal roles by establishing literary salons and engaging in extensive correspondence that mirrored the social dynamics of their era.
In 19th-century Germany, women's literature flourished within bourgeois and aristocratic circles, with notable authors such as Bettina von Arnim, Karoline von Günderode, and Annette von Droste-Hülshoff leading the way. Until this period, female literature had been primarily represented by a select few, individuals who were also prominent figures in social life.

[1] Kristo/Likaj, 2022, p.20.

However, in the 20th century, women's literature transformed into a widespread phenomenon, encompassing a diverse array of genres, from conventional literature to feminist works. Literary scholars have grappled with the question: *Does a distinct and unmistakably female approach to writing exist, characterized by unique traits that differentiate female literary creations from those of male authors?*

In the annals of German literature, the emergence of female writers can be traced back to the 12th century. During this period, the circumstances often led these pioneering women to compose their initial works in Latin. However, it wasn't until the 13th century that the so-called "weaker gender" began to increasingly employ the local (provincial) language for their writings.

A common thread among these early female writers was their profound connection to God and their propensity to write both to and about Him. God, for them, was a presence felt directly and tangibly through their mystical experiences. As both God and writing were relatively new aspects of their lives, they not only conveyed the messages they believed they had to share with the learned, but they also chronicled the transition from silence to the written word. In this unintended process, they inadvertently assembled a rudimentary theory of writing.

In a broader context, a distinction can be made between women who wrote in the medieval period, differentiating between those in the secular (non-religious) sphere and those in the religious or ecclesiastical sphere.

In the case of secular women, it's worth noting that they were primarily aristocratic ladies, who were not only the intended recipients of these works or secular texts but also their central figures. It's also noteworthy that during this era, literary pursuits were often more pronounced among aristocratic women than among their male counterparts. Notable aristocratic women to whom these writings were directed include individuals such as Empress Judith (the wife of Ludwig dem Frommen), Beatrix von Burgund (the wife of Barbarossa), Duchess Mathilde von Sachsen (the wife of Heinrich der Löwe), among others.

Also important are the women of the religious category, who stood between Latin and German. Here we must bear in mind that Latin was considered the language of learned people. Although many nuns or simple women did not have any training in Latin, they managed to acquire a good Latin and theological training with the help of spiritual teachers. Among them we can mention: Hrotsvit von Gandersheim, Hildegard von Bingen, Elisabeth von Schönau, etc.

The first German known by name, who also used the language of the country in her religious writings, is Ava (nun).

Hrotsvit von Gandersheim is regarded as the first German writer, born around 935 in Sachsen and died around 975 in Gandersheim. She is thought to be descended from an aristocratic family from Saxony. She wrote in the medieval language eight legends in six-syllable verses, six plays, which differ in form from each other, but do not differ in content. The main theme of these writings was the positioning of people and the choice they make between fate, happiness and damnation. The motives are simple and clear: impeccability, conversion to Christianity, mystery. The purpose is to explain the teachings of the Christian religion. Her poems about Otto der Grosse and about the beginnings of the Monastery in Gandersheim are valuable sources for German history.

Hildegard von Bingen gave importance to mystical writings in the twelfth century.

Her book "Scivias" needed the Pope's blessing, since the transmission of God's teachings by a female hand was something new and was viewed with suspicion.
Other important mystics were: Mechthild von Magdeburg, Gertrud von Helfta, Christine Ebner, Margarethe Eber, etc.
It's important to underscore that the literature of the 13th and 14th centuries cannot be comprehended without acknowledging the significant contributions of women within the monastic communities. German court literature, while drawing inspiration from French aristocratic literature and culture, often evolved in contrast to it. For instance, while French aristocratic women played a pivotal role as literary connoisseurs, the influence of German women in comparison remained relatively smaller. In France, the culture of courtly love songs thrived, seen as a subtle form of protest by aristocratic women against sexual oppression and suppression. In contrast, this type of culture did not gain substantial traction in Germany. German love songs seldom focused on realized love, diverging from their French counterparts. This distinction holds true until the end of the 13th century.

3. Female literature in Albania

Feminine literature (qualifying with this term the literature of female authors for female characters) in Albania has a short history, if we compare it with the relevant European literature, which includes works that date from the 16th-17th centuries until today.While in Albanian literature, female authors are mentioned for the first time only in the middle of the 20th century.
If we want to study this part of literature, we must first divide it into three periods: literature before 1945, literature during the dictatorship period and literature after the 90s.
The first female writer in Albania and the only one until the 70s is MusineKokalari. She is regarded as an important personality of the pre-communist period, both in the individual and literary aspects.
She belongs to the constellation of writers of the 30s and in the field of artistic creativity, in the first editions: "*Seçmëthotënënuaplakë*" "What the old lady says to me", "*Rrethvatrës*""Around the hearth", *"Sa u tuntjeta*""How twisted life is"and up to the last edition "*Sikur tëishalule*""If I was a flower", writer MusineKokalari, has addressed the subject of misery, one of the most sensitive topics for the Albanian reality in those years.In the Panorama newspaper, dated 24.04.2006, in a long article on the life and work of the writer MusineKokalari, it is stated:"*If for a moment we were to separate the name of Musine from the works she had published, they would be included without fear in the textbooks of the dictatorship period, because they were the same topics that Migjeni, Nonda Bulka, Mitrush Kuteli, etc. but Musine wrote and acted without complexes, only to serve the Albanian nation and culture."*[2]
During her time as a student at the University of Rome, MusineKokalari frequently addressed the theme of women's emancipation in her sketches. She advocated for active participation and liberation from traditional constraints, aiming to convey important messages to Albanian girls. Her message encouraged them to challenge fanaticism and pursue education, becoming active contributors to social progress.

[2] http://www.panorama.com.al/20040330/faqe12/1.htm.

In those years, few women continued their education; society, deeply patriarchal, predominantly confined them to domestic roles as wives and mothers.

An emancipated woman of MusineKokalari's caliber, possessing a commendable level of education and culture, not only made a significant impact as a literary creator but also became a literary figure herself, indirectly. This is exemplified in Shefqet Musaraj's work "*Para agimit*""Before the Dawn", where the author references MusineKokalari while constructing the character of Ermira Velo. Such instances of contemporary personalities being incorporated into literature are known, and in the 1930s, there were few prominent female figures in Albanian society who could serve as typified characters in various literary works.

Regrettably, MusineKokalari's creative endeavors were interrupted, not due to literary reasons but political ones. Her third text was published in 1945, and until the 1970s, there was a notable absence of literary works written by female authors.

During the era of the dictatorial regime in Albania, when literature adhered to socialist realism, a generation of female literary creators emerged, with their creative works dating back to the 1970s. Among these notable writers are Helena Gushi-Kadare (born 1943), Natasha Lako (born 1948), and Diana Çuli (born 1951), who dedicated some of their literary works to exploring the role of women in Albanian society.

Natasha Lako, a well-known author, has penned several volumes of poetry, including *"Marsi brenda nesh"*"Mars within us"(1972), "*E para fjalë e botës*" "The first word of the world" (1979), *Yllësia efjalëve*" "Stardom of words" (1986), among others. Additionally, she has contributed to various film scripts, such as "*Mësonjëtorja*" "The teacher"(1979), "*Njëemër midis njerëzve*""A Name Among People" (1983), ""*Fletëtëbardha*" „White Sheets" (1990), "*Lule tëkuqe, luletëzeza*" "Red Flowers, Black Flowers" (2003), and more.

Helena Kadare and Diana Çuli, on the other hand, are renowned novelists. Some of their notable works include Helena Kadare's "*Njëlindje e vështirë*""A Difficult Birth" (1970) and "*Njëgruanga Tirana*" "A Woman from Tirana" (1996), and Diana Çuli›s "Requiem" and "*Dreriitrotuareve*""Deer of sidewalks". These authors have placed Albanian women at the center of their literary creativity, although within the ideological framework of the society at that time.

Indeed, during the socialist era, the portrayal of women in literature had to align with the narrative of their emancipation under the socialist regime. This included addressing both the significant strides made in women's liberation and the smaller challenges encountered along the arduous journey towards that emancipation. Themes like the emancipation of rural women, the strengthening of the new Albanian family, and even the topic of abortion were explored in literary works.

For instance, in Helena Kadare's novel "*Njëlindje e vështire*""A Difficult Birth," the story revolves around Bardha, a young village girl who experiences the transition into womanhood at the age of 18. However, this transition is not her choice; rather, it is decided by the men in her family, including her father and uncle. Due to arbitrary and unfounded reasons related to honor (sedra), she is forcibly separated from her husband. Only after she gives birth to a child and with the assistance and support of the party organization, is the new family reunited within the larger family structure. Through these events, the protagonist takes a significant step forward in society, feeling a newfound strength in her position. This narrative illustrates the complex interplay of societal norms and women's emancipation during that period.

Considering the context of the 1970s when the novel "A Difficult Birth" was written and the educational and cultural conditions of both women and Albanian society as a whole, it becomes evident that the work had an emancipatory purpose. The narrative highlights several elements reflecting the deeply traditional and backward state of the rural village while simultaneously indicating a gradual shift towards change.

The protagonist's upbringing in an extremely patriarchal family is a central theme in the story. In this family, married brothers coexist in the same household with their wives and children, and all decisions are made by the men of the house, with the eldest brother holding the ultimate authority. He has the power to determine the fate and lives of other family members, including approving or disapproving of marriages and separations. He even has the right to discipline his brother's daughter-in-law as he sees fit.

In contrast, another peasant family in a more advanced village affords more freedom to women. While the mother-in-law's opinion is respected, crucial decisions still fall under the purview of the uncle, underscoring the pervasive patriarchal norms. Women in these settings have no agency to make decisions; they are expected to fulfill their roles as wives, daughters-in-law, and mothers.The novel portrays the deeply entrenched cultural backwardness that has endured for centuries, and it conveys the message that the party represents the catalyst for change: "Let my case be resolved in the (political) party". However, considering the limited cultural development of the time and the primary focus on eradicating illiteracy, the reception of literary works in rural areas may have been challenging. While the work had a cognitive character for urban readers, it held an emancipatory potential for the rural population. Nevertheless, given the prevailing low cultural level, only a superficial critique might have been feasible in terms of fostering societal change.

When analyzing the role of women in Albanian society during the socialist era, it is essential to recognize both the positive and negative aspects of that regime. While the socialist regime often denied individual human rights, it actively promoted and enforced gender equality, marking a significant and valuable step towards the emancipation of women.

The regime not only allowed but also compelled women to join the workforce, granting them the opportunity to engage in group activities, socialize, and become active participants in social life. This was a substantial and high-quality stride toward women's emancipation.

In the films and artistic performances of the time, women were typically portrayed as positive characters, while men were often depicted as prejudiced and backward figures. Women actively participated in various events, danced at youth gatherings, or engaged in collective activities. Women from rural areas even started to adopt new hairstyles and slightly modified clothing, which can be considered achievements in terms of breaking with tradition. However, it's essential to acknowledge that these changes had their limits, especially when they did not align with the regime's interests.

The socialist regime condemned prejudice, traditional thinking, and discrimination against women, particularly targeting rural women. However, concerning the more advanced segments of society, such as intellectuals and urban citizens, the push for emancipation was constrained. While women from rural areas, like Bardha in the novel "A Difficult Birth", were encouraged and allowed to cut their hair, discard headscarves, or wear pants while working in the fields, they had to endure hardships

along the way. In contrast, urban women who wished to express their femininity by keeping long hair, wearing feminine attire, dancing to modern music, and more were often labeled as carriers of bourgeois-revisionist ideas and were not "reborn" but rather marginalized.

In summary, the socialist regime criticized archaic prejudices and traditions, aiming to replace them with new prejudices that were, at times, counterproductive to the broader emancipation of women and society as a whole.The Albanian woman made use of the opportunities provided by the socialist regime to carve out her identity and contribute positively to society.

Starting in the 1960s, women began to assert themselves in Albanian society, establishing their own profiles and garnering respect for their roles. In fields where development had been relatively slow, such as literature, performing arts, and visual arts, the absence of a firmly entrenched male hierarchy created openings for women to occupy respected positions. This led to women pursuing professions as singers, artists, classical musicians, television show presenters, among others, which in turn brought about substantial qualitative changes in their daily lives and helped diminish existing prejudices.

However, in fields that involve creativity, such as writing, composing, painting, architecture, and more, women who actively participate in ideation, innovation, and construction remain relatively few. This gender imbalance highlights the need for continued efforts to promote gender equality and encourage women to explore diverse areas of creative expression and professional endeavor."[3]

In her literary work prior to the 1990s, the writer Diana Çuli explores the role of active women in society who encounter challenges and difficulties stemming from both male and female selfishness, as well as individual ambitions.

In the novel "Dreriitrotuareve" "Deer of sidewalks", a woman becomes a victim of a love that is hindered by societal constraints and negative opinions. This theme reappears in literature after the 1990s but is often viewed from a different perspective, as seen in works like Ornela Vorpsi's "Vendi, kunukvdeskurrë""The Place Where You Never Die".

Regardless of the varying approaches to this theme, one constant remains unchanged: women are often depicted as victims within relationships, suffering the consequences, including extreme cases such as loss or ending of their lives. In contrast, men are frequently portrayed as the apparent cause of these relationship dramas. However, it is essential to recognize that both women and men are victims of an unemancipated society that perpetuates these dynamics. Society plays a significant role in victimizing both genders, and its influence is a crucial underlying factor in these literary portrayals.

In literary works published after the 1990s, there is a noticeable shift in the portrayal of female characters. While the themes explored may not be significantly different from those before the 1990s, there is a clear attempt to move away from ideological constraints and redefine moral norms. The focus is not solely on female figures seeking equality in society, but on individuals striving for freedom of thought and action, regardless of gender. Female authors appear more self-assured in depicting female characters, as they feel a stronger connection to the female experience. Consequently, female protagonists are a common choice.[4]

[3] Diana Çuli, "*Ese për gruan shqipare*", Tiranë 2000, fq.42.

[4] Likaj, 2019, p.26.

For example, Suzana, the protagonist of Helena Kadare's novel "Njëgruanga Tirana" "A Woman from Tirana", is an educated woman who lacks a stable sense of identity or awareness of her role as a woman. She feels restricted in making choices that align with her desires, leading to a sense of emptiness and unfulfillment in her life. Suzana primarily relies on her instincts and reacts to situations as a response to the absence of freedom rather than as a result of an internal, conscious decision-making process. The marital relationship in the story doesn't revolve around issues related to the unequal division of roles between husband and wife or misunderstandings stemming from gender differences. Instead, it highlights deficiencies in the individual's overall development, including cultural and intellectual shortcomings, which are exacerbated by an empty and prejudiced life, lacking a clear vision for the future.

It's important to acknowledge that a society like Albania, with a deeply ingrained cultural backwardness and nearly 50 years of isolation, needed time to adopt progressive ideas about the role of women comparable to more advanced European societies. Progress could only come after years of cultural opening, self-recognition, and an increased understanding of the world. This process allowed for the reevaluation of many social phenomena and the more precise and thoughtful treatment of these issues.

In recent years, literature by female authors has introduced a new theme that reflects the changing position of women in Albanian society. Society has undergone significant transformations and encountered various phenomena, some of which have had negative aspects often categorized as societal plagues. Women, being more vulnerable, have been affected by previously unknown phenomena in society, notably violence and prostitution. These issues have found their way into various literary works.

Numerous authors, including those mentioned earlier in this paper such as Diana Çuli, Helena Kadare, and Natasha Lako, as well as newer authors with relatively short experiences like Elvira Dones, Milena Selimi, and Miranda Haxhia, have explored the contemporary Albanian woman's experiences in light of these new challenges.

One particular work that stands out is Ornela Vorpsi's debut novel, written in Italian and published in Italian, French, and translated into several languages, titled "Il paese dove non simuoremai" or "The Place Where I Never Die". This novel offers a provocative perspective on the female figure during and after the dictatorship in Albania, providing a unique and thought-provoking exploration of this period of history and its impact on women.

4. Conclusions

In this article, we conducted a comparative analysis of women's literature in Germany and Albania. Our aim was to examine the unique perspectives, themes, and experiences of female authors in both countries and to highlight both similarities and differences.

We found that women's literature plays a crucial role in exploring gender roles, identity, relationships, and societal expectations in both Germany and Albania. Female authors in both countries have made significant contributions to literature, raising awareness about gender inequality and advocating for women's rights.

In Germany, authors such as Christa Wolf, Ingeborg Bachmann, and Elfriede Jelinek have advanced feminist discourse through their works and reached a wide

readership. In Albania, writers like MusineKokalari, Ornela Vorpsi, and Elvira Dones have shaped Albanian women's literature and illuminated the challenges faced by women in Albanian society.

We also observed that women's literature has evolved over time. While it was often used in the past to question the social and cultural conditions of women, it now increasingly focuses on new challenges such as violence and prostitution arising from societal changes.

Our study underscores the significant role that women's literature plays in the literary landscape of both Germany and Albania. It contributes to making the voices and experiences of women in society visible and propels discussions on gender equality.

It is important to emphasize that women's literature is not confined to a single theme or perspective but encompasses a broad spectrum of topics and approaches. Authors in Germany and Albania have highlighted the diversity of women's literature in their works, creating a rich body of literary contributions.

The evolution of women's literature over time mirrors the societal changes and challenges women face. In both countries, authors have bravely addressed the pressing issues of their times through literature, contributing to the emancipation and visibility of women.

The examination of women's literature in Germany and Albania underscores the importance of literature as a reflection of society and a tool for social change. It reminds us of the significance of acknowledging and supporting women's voices in literature, as they play a crucial role in promoting gender equality and social progress.

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The efficiency evaluation of first instance courts of general jurisdiction in Albania

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Abstract

At the beginning of 2023, in Albania, a new judicial map was implemented which defined a new way of organizing the judicial districts and the territorial jurisdiction of the courts. In this new judicial map, the number and location of first instance courts of general jurisdiction, appellate courts of general jurisdiction and first instance administrative courts were determined. The territorial reform of the judicial system was carried out based on a strategic plan by the High Judicial Council, after a study established upon the analysis of some important indicators of the courts' performance.

This paper focuses on the efficiency evaluation of first instance courts of general jurisdiction before the implementation of the territorial reform, referring to the relevant data of 2019. By the end of 2022, there were 22 such courts in Albania. According to the new judicial map, starting from 2023, 13 first instance courts of general jurisdiction will be operating in our country. The efficiency evaluation of the 22 first instance courts of general jurisdiction for 2019 was done through Data Envelopment Analysis (DEA) method. As a result of the analysis for this year, the entirety of first instance courts of general jurisdiction was divided into two groups: the group of efficient courts, which includes the courts of Berat, Elbasan and Vlora, and the group of inefficient ones including all the rest.

Keywords: first instance courts of general jurisdiction, efficiency, Data Envelopment Analysis (DEA).

Introduction

The Convention for the Protection of Human Rights and Fundamental Freedoms and the jurisprudence of the European Court of Human Rights require judicial systems to ensure the effective implementation of the right to a fair trial within a reasonable time [14]. Aiming towards this goal, during recent years, many European countries (Denmark, Holland, Sweden, Moldova, Portugal) have decided, among others, to change their judicial maps. Similarly in Albania, the need for an impartial and independent judicial system necessitated the reform of justice, which was undertaken on November 27, 2014 by the Parliament of the Republic of Albania and was finalized in 2016 with the approval of a comprehensive reform package. On July 22, 2016, in addition to a series of constitutional amendments, a package of seven justice reform laws was approved, which aimed to increase the independence of the judicial system and improve the quality and efficiency of judicial services. The new legislation introduced innovative approaches to the territorial distribution of courts, defining new principles and criteria for the configuration of the new judicial map [1].

In accordance with this reform package, the High Judicial Council (HJC) set up an Inter-institutional Working Group to evaluate the judicial system and provide recommendations regarding the best way to reorganize the courts and their territorial powers. The Working Group focused only on first instance courts of general jurisdiction, first instance administrative courts and appeal courts of general jurisdiction, while the Appeal Administrative Court, special courts for corruption and organized crime and the High Court were not included in this assessment [1].
Article 14 of Law no. 98/2016 provides that the territorial powers of the courts are assigned aiming at fulfilling in a balanced manner the right of access to justice, the need to reduce costs and the right of use of public resources and the need to increase the quality of offered services [1]. Article 15 of Law no. 98/2016 provides the determening criteria for the territorial distribution of first instance courts of general jurisdiction, courts of appeal and special courts, including administrative courts, dividing the country into judicial districts, which are the units where first instance courts of general jurisdiction operate. A judicial district may cover one or more local government units. Article 15 requires that the following criteria be taken into account for the assignment of judicial districts and territorial powers of the courts: administrative territorial division of the country, demographic development, number of inhabitants in relation to the number of courts, economic development, road infrastructure and transport conditions towards and between courts, as well as geographical characteristics; the workload in the courts, the efficiency of courts and judges in delivering justice, the available human resources, as well as the location and size of the institutions for the execution of criminal decisions [1].
During its analysis, the Working Group has prioritized access to justice for citizens, reducing costs and increasing quality and proper performance in providing services. The second and third objectives require establishing a balance between the distribution of the workload and the distribution of judges between the courts. The assessment of the Working Group was made within the existing legal framework, which, as mentioned above, includes a number of restrictions and requirements. A careful assessment of the current situation of the courts based on selected indicators (eg, density, population, distribution of human resources, case types, rendiment) was carried out [1].
In order to make the right decisions regarding the new judicial map, the performance analysis of the judicial system activity had to be done. One of the main tasks of the HJC was to define the standards for the internal functioning of the courts and, among others, the standards related to the efficiency and quality of justice given in the courts. The legal package of justice reform, specifically law no. 96/2016 "On the status of judges and prosecutors in the Republic of Albania", as amended, and law no. 115/2016 "On the governing bodies of the justice system", charge the HJC with the task of defining some basic standards and indicators of the operation and performance of the courts and the justice system in general. Specifically, the HJC has the obligation to define indicators of compliance with legal deadlines, meeting the minimum time standards, the average time dedicated to each case, the rendiment of the completion of court cases and the average time for obtaining the final court decision on a case. In addition, in determining the criteria and performance indicators of the judiciary,

the HJC consults the European standards for the judiciary work indicators, such as the rate of disposition of cases, the number of cases per judge, the average duration of cases, etc [15].
The standard justice efficiency rules include provisions for the standard time limits for the trials of different types of court cases, including, when possible, also the time limits for the main stages of the procedure for the execution of decisions, taking into account the judicial organization and procedural norms. In this framework, the HJC considered and analyzed the best examples offered by the European Commission for the Efficiency of Justice (CEPEJ), opinions of the Venice Commission, projects financed by the EU, the CEELI Institute (which for several years is supporting the Central and Eastern European Judicial Exchange Network), the Bangalore principles, the UN guidelines regarding the rule of law, the Kiev recommendations (prepared in cooperation with the OSCE) on the independence of the judiciary in Eastern Europe, the South Caucasus and Central Asia, etc. As for the above, this analysis aimed to address the general principles governing the judicial system such as independence, efficiency and accountability and indicators of the quality of justice, based on the most consolidated indicators currently used by judicial systems in Europe and beyond [15].
As for first instance courts of general jurisdiction, the final evaluation report of the Inter-institutional Working Group set up at the HJC, on the reorganization of the judicial districts and territorial powers of the courts, reached the following conclusions [1]:
-First Instance Court of General Jurisdiction of Berat: the Working Group proposes keeping the judicial district of Berat. -First Instance Court of General Jurisdiction of Elbasan: the Working Group proposes keeping the judicial district of Elbasan. -First Instance Court of General Jurisdiction of Vlorë: the Working Group proposes keeping the judicial district of Vlorë. -First Instance Court of General Jurisdiction of Sarandë: in function of the effectiveness and sustainability of the Judicial Map, assessing that the workload of the Court of Sarandë is on an increasing trend, as well as the economic and social development of the city, while also taking into account infrastructure and access, the Working Group proposes keeping the Court of the judicial district of Sarandë as a separate court with 7 judges. -First Instance Court of General Jurisdiction of Tiranë: the Working Group proposes the Court of Krujë to merge with the Court of Tiranë. -First Instance Court of General Jurisdiction of Dibër: the Working Group proposes the merger of the Court of Dibër with the neighboring Court of Mat. -First Instance Court of General Jurisdiction of Durrës: the Working Group proposes the merger of the Court of Kavajë with the Court of Durrës. -First Instance Court of General Jurisdiction of Fier: the Working Group proposes the merger of the Court of Lushnjë with the Court of Fier. -First Instance Court of General Jurisdiction of Gjirokastër: the Working Group proposes the merger of the Courts of Gjirokastër and Court of Përmet. -First Instance Court of General Jurisdiction of Kukës: the Working Group proposes the merger of the Court of Kukës with the Court of Tropojë. -First Instance Court of General Jurisdiction of Korçë: the Working Group proposes the merger of the Court of Pogradec with the Court of Korçë. -First Instance Court of General Jurisdiction of Lezhë: the Working Group proposes the merger of the Court of Kurbin with the Court of Lezhë. -First Instance Court of General Jurisdiction of

Shkodër: the Court of Pukë should be considered to merge with the Court of Shkodër. Based on the findings and proposals of the evaluation report of the Inter-institutional Working Group, the HJC in 2022 approved the new judicial map with the aim of improving the performance of the courts and increasing their efficiency, as well as in the best interest of access to justice. As for first instance courts of general jurisdiction, the new map began to be implemented from 01.05.2023. These courts were reorganized, from 22 judicial district courts to 13 such courts.

As it was shown above, the analysis of HJC for the evaluation of the performance of first instance courts of general jurisdiction is based on important indicators of their efficiency, evaluated for several years. In this paper, in an alternative way, the efficiency of first instance courts of general jurisdiction will be evaluated through the nonparametric Data Envelopment Analysis (DEA) method, applied to the data of 2019 before the implementation of the territorial reform.

Literature Review

The evaluation of the efficiency of the judicial system with the help of the DEA method has been widely applied in the literature. Kittelsen & Forsund (1992) in their work measure the efficiency of the Norwegian district courts by focusing on the number of judges and office staff, and, as outputs, 7 different case categories treated on these courts. The efficiency is calculated for each court using the nonparametric DEA method for the 1983 to 1988 period. Elbialy & García-Rubio (2011) in their study have used the DEA method for an efficiency analysis in a set of 22 First Instance Courts in Egypt. Court evaluation is described using three inputs: the number of judges, the number of administrative staff members, and the number of computers per court, and an output: the number of resolved cases.

Yeung & Azevedo (2011) weighted the inputs and outputs of each state court according to its workload, that is, dividing the inputs and outputs by the sum of the current year's new cases and the pending cases from the previous year. Two outputs were used: the number of adjudications in the first and in the second-degree courts and three inputs were used: the number of judges, the number of auxiliary staff, and the number of computers. This paper uses a linear optimization method (DEA) to measure the efficiency of Brazilian State Courts during the years of 2006 to 2008. Santosa & Amado (2014) have evaluated the performance of 223 different first instance courts in Portugal during the period of 2007 to 2011, by using the DEA technique. In their paper they have used: the number of judges, the number of support staff as inputs and 43 different outputs.

Major (2015) have evaluated the efficiency of civil jurisdiction courts in Poland. The DEA method was applied to 26 Cracow district courts and as inputs were taken: the number of judges, the number of assistants, the number of officials and as output the number of cases resolved in 2013. Filomeno & Rocchetti (2019) applied the DEA method to evaluate the efficiency of each Italian court of first instance referring to the year 2018. The input variables considered are: judicial personnel coverage rate, year 2018 (judicial present personnel/judge working staff in courts); number of incoming cases over the judge working staff in courts in the civil sector (standardised variable).

The output variables taken into consideration are: the percentage of infra-triennial pending proceedings (enrolled in the last three years) over the total of pending proceedings on 31/12/2018; ratio between ultra-triennial proceedings 2017 and ultra-triennial proceedings 2018; number of resolved proceedings over the working staff assigned to the civil sector; clearance rate (resolved over incoming cases).

Vazquez (2019) in the study consider fifteen OECD countries for the year 2012. The purpose of this study is to analyse the working efficiency of fifteen OECD members' Judicial Administration using the DEA methodology. The output was the number of disposed cases, while the inputs were: the number of filed cases plus the number of pending cases, public spending and the number of judges plus the number of prosecutors. Yeung (2020) in their paper have used DEA to evaluate the efficiency of Brazilian courts in recent years (2009-2015). Two inputs were used: the number of judges and the number of judicial staff in each state court. The output is the sum of the number of decisions taken in the first and second level courts. The authors also weighted the inputs and outputs of each state court by its respective workload.

Fusco at al., (2021) in their work have used the DEA method to evaluate the efficiency of Italian Ordinary and Appeal courts and have taken as inputs the total number of magistrates and the interception expenses. As outputs, in the first model built by them, they obtained the number of civil and penal procedures, in the second model, they split the number of magistrates into judges and prosecutors, and in the third model, the number of civil and penal procedures was weighted for the time average stock, in order to take the workload and processing time into account. Falavigna & Ippoliti (2023), in their paper, technical efficiency results were calculated using DEA, adopting the same output (number of settled cases) and two alternative sets of inputs (judicial expenditure and human resources). This work investigates the Italian judicial system, considering both the first and second levels of civil and criminal justice.

Material and Method

To evaluate the performance of first instance courts of general jurisdiction, in the 2019 Annual Report of the HJC, the workload of the courts, their human resources, the average workload of judges (WR), the efficiency rate (ER), the indicator of the time needed for the disposition of cases (DT) and the rate of resolution of cases (CR) have been analysed, as the basic indicators of their efficiency evaluation.

The number of cases carried over from the previous year and the number of new cases registered constitute the workload (court load) faced by each court during the reference year [15]. The percentage of the load of each first instance court of general jurisdiction over the total load of the country courts, during 2019, are presented in figure 1 below.

Unsolved cases in the previous year are carried over and named as the stock of carried cases (backlog). The stock of pending cases is one of the most important indicators of the efficiency of the judicial system as it shows how much the judiciary and individual courts are able to cope with the flow of cases registered in the reference year. The number of cases registered in the courts is an element that must be taken into account in the analysis of the performance indicators of the judiciary. This number directly

affects the efficiency indicators and is related to factors such as the jurisdiction of the court, the territorial extent and the number of the population [15].

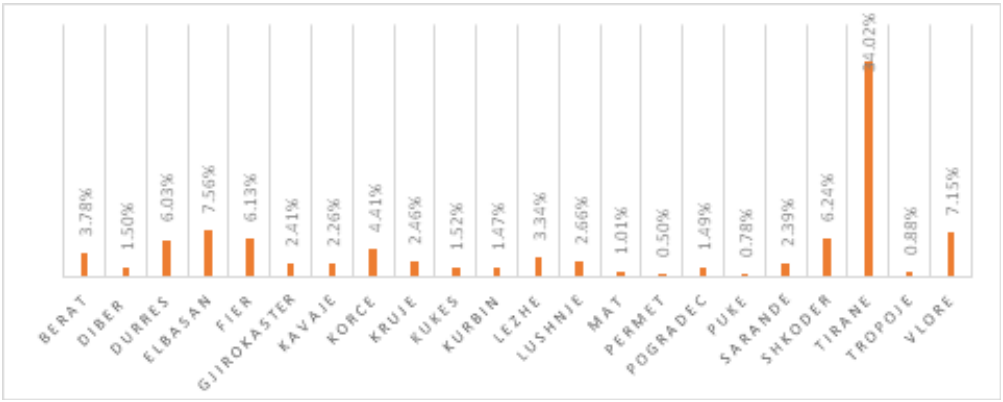


Figure 1. The percentage of courts load over the total country load during 2019
Source: Processed by the authors on the data of Annual Report of 2019

In accordance with CEPEJ guidelines, data on judicial staff (judges and court clerks, etc.) are given in full-time equivalent. The full-time equivalent (the effective number of available judges) is the sum of the ratio of the months that each judge has worked with the number 12 [15]. Tables 1 and 2 below present the situation of human resources in first instance courts of general jurisdiction for 2019.

Table 1. Effective judges and the judges according to the decree for 2019

No	*Court*	*Judges (fact)*	*Judges (decree)*	*No*	*Court*	*Judges (fact)*	*Judges (decree)*
1.	***Berat***	5.22	10	*12.*	***Lezh**ë***	5	5
2.	***Dib**ër***	3	4	*13.*	***Lushnjë***	4.17	5
3.	***Durrës***	13	17	*14.*	***Mat***	3.16	4
4.	***Elbasan***	11.9	14	*15.*	***Përmet***	2	4
5.	***Fier***	12	14	*16.*	***Pogradec***	3	4
6.	***Gjirokastër***	5	6	*17.*	***Puk**ë***	2	4
7.	***Kavaj**ë***	4	4	*18.*	***Sarand**ë***	5	6
8.	***Korç**ë***	10.25	14	*19.*	***Shkodër***	11.25	14
9.	***Kruj**ë***	4	4	*20.*	***Tiran**ë***	66.82	76
10.	***Kukës***	3	4	*21.*	***Tropoj**ë***	2.5	4
11.	***Kurbin***	2.7	4	*22.*	***Vlor**ë***	11	14

Source: Annual Report of 2019

Table 2. The support staff in fact and according to the structure for the year 2019

No	Court	Support staff (fact)	Support staff (structure)	No	Court	Support staff (fact)	Support staff (structure)
1.	Berat	18.7	19	12.	Lezhë	14.5	15
2.	Dibër	13	14	13.	Lushnjë	11.77	14
3.	Durrës	34	34	14.	Mat	12	12
4.	Elbasan	27	27	15.	Përmet	11	11
5.	Fier	28	28	16.	Pogradec	10	12
6.	Gjirokastër	15	15	17.	Pukë	12	12
7.	Kavajë	12	12	18.	Sarandë	15	15
8.	Korçë	25	27	19.	Shkodër	27	27
9.	Krujë	13	13	20.	Tiranë	188.6	135
10.	Kukës	11.5	12	21.	Tropojë	12	12
11.	Kurbin	15	14	22.	Vlorë	28	28

Source: Annual Report of 2019

The workload faced by each court during the reference year, if divided by the effective number of judges, results in the average caseload per judge (WR) [15]. Table 3 below presents the WR indicator for 2019.

Table 3. WR indicator for 2019

No	Court	WR	No	Court	WR
1.	Berat	915	12.	Lezhë	843
2.	Dibër	630	13.	Lushnjë	805
3.	Durrës	586	14.	Mat	404
4.	Elbasan	802	15.	Përmet	316
5.	Fier	645	16.	Pogradec	627
6.	Gjirokastër	610	17.	Pukë	491
7.	Kavajë	714	18.	Sarandë	603
8.	Korçë	544	19.	Shkodër	701
9.	Krujë	778	20.	Tiranë	643
10.	Kukës	641	21.	Tropojë	446
11.	Kurbin	688	22.	Vlorë	821

Source: Annual Report of 2019

As can be seen from table 3, the majority of courts face an increased average workload per judge. The change of this indicator in different periods of time does not in itself constitute a positive or negative indicator. Something like this can be verified case by case, comparing individual data, because the change in workload can come from both internal factors (efficiency and productivity at work) and external factors (legal,

demographic, social, etc) [15].
The efficiency rate (ER) is the ratio of the number of cases resolved during the period with the number of effective judges in a court. It is an indicator of average work rates per judge [15]. The ER indicator for first instance courts of general jurisdiction is given in table 4, for the year 2019.

No	Court	ER	No	Court	ER
1.	Berat	749.8	12.	Lezhë	714
2.	Dibër	539.7	13.	Lushnjë	694
3.	Durrës	469.1	14.	Mat	352.5
4.	Elbasan	667.1	15.	Përmet	258.5
5.	Fier	557.9	16.	Pogradec	507
6.	Gjirokastër	506	17.	Pukë	449
7.	Kavajë	580.8	18.	Sarandë	495.8
8.	Korçë	465.8	19.	Shkodër	593.6
9.	Krujë	693	20.	Tiranë	500.2
10.	Kukës	539.3	21.	Tropojë	396.4
11.	Kurbin	572.6	22.	Vlorë	703.8

Table 4. ER indicator for 2019

Source: Annual Report of 2019

The average ER indicator for first instance courts of general jurisdiction is 546 cases a year per judge. The ER indicator, in order to give a more accurate reflection of the judge's performance, should also be analyzed in relation to other data such as the number of registered cases, the number of cases handled, the workload per judge (WR), etc [15].
Case Dissolution Time (DT) compares the number of cases resolved during the monitored period and the number of unresolved cases at the end of the monitored period. The number 365 is divided by the number of resolved cases, the latter divided by the number of pending cases at the end, in order to enable expression in days [15]. The DT indicator for 2019 results according to table 5 below:

Table 5. DT indicator for 2019

No	Court	DT civil	DT criminal	No	Court	DT civil	DT criminal
1.	Berat	98	53	12.	Lezhë	71	62
2.	Dibër	86	38	13.	Lushnjë	63	48
3.	Durrës	94	85	14.	Mat	76	36
4.	Elbasan	142	33	15.	Përmet	97	57
5.	Fier	66	45	16.	Pogradec	149	43
6.	Gjirokastër	85	66	17.	Pukë	21	79
7.	Kavajë	160	32	18.	Sarandë	100	44
8.	Korçë	101	29	19.	Shkodër	86	54
9.	Krujë	52	39	20.	Tiranë	128	55

10.	*Kukës*	72	66	*21.*	*Tropojë*	55	34
11.	*Kurbin*	102	44	*22.*	*Vlorë*	79	36

Source: Annual Report of 2019

The DT indicator shows the estimated average time (in days) needed to resolve a case in court. The higher the DT indicator, the more difficult it is for the courts to deal with the created backlog. Referring to the average indicators, in relation to the reasonable term provided by the procedural legislation, it can be said that civil and criminal cases in courts of first instance are judged within reasonable terms [15].

The case resolution rate (CR) is determined by the ratio between cases completed within a period and new cases, given as a percentage. The CR indicator provides a general trend on the state of the judicial system in terms of the progress of the system over a period of one year, i.e. it provides an overview of whether the courts have managed to maintain the pace between new cases registered and those concluded [15]. Table 6 below presents the CR indicator for 2019 for all first instance courts of general jurisdiction, divided by case categories and expressed in %.

Table 6. CR indicator for 2019

No	*Court*	*CR civil*	*CR criminal*	*No*	*Court*	*CR civil*	*CR criminal*
1.	**Berat**	97	96	**12.**	**Lezhë**	96	97
2.	**Dibër**	94	101	**13.**	**Lushnjë**	102	98
3.	**Durrës**	94	95	**14.**	**Mat**	95	101
4.	**Elbasan**	107	98	**15.**	**Përmet**	91	95
5.	**Fier**	98	102	**16.**	**Pogradec**	91	97
6.	**Gjirokastër**	98	90	**17.**	**Pukë**	101	90
7.	**Kavajë**	96	100	**18.**	**Sarandë**	88	96
8.	**Korçë**	94	103	**19.**	**Shkodër**	101	101
9.	**Krujë**	101	101	**20.**	**Tiranë**	90	96
10.	**Kukës**	91	92	**21.**	**Tropojë**	101	96
11.	**Kurbin**	103	102	**22.**	**Vlorë**	95	103

Source: Annual Report of 2019

For cases where the indicator is below 100%, it can be said that the rhythms have not been maintained and the backlog of cases has increased compared to a year ago [15].

In this paper, the relative technical efficiency of first instance courts of general jurisdiction in our country has been evaluated for the year 2019 through the data published in the Annual Report of the HJC. The efficiency of first instance courts of general jurisdiction in Albania is evaluated in this paper using the non-parametric DEA method, through the input-oriented CCR model (Charnes, Cooper and Rhodes, 1978), in its multiplier form, under CRS assumption, as follows:

$$max\ z = \sum_{r=1}^{s} \mu_r y_{r0}$$

Subject to:

$$\sum_{r=1}^{s} \mu_r y_{rj} - \sum_{i=1}^{m} v_i x_{ij} \leq 0 \quad for\ j = 1\ to\ n$$

$$\sum_{i=1}^{m} v_i x_{i0} = 1$$

$$\mu_r, v_i \geq 0 \quad \forall i, r$$

Where:
represents the output value of unit
represents the value of input of unit
is a non-negative weight assigned to output
is a non-negative weight assigned to input
is the number of outputs
is the number of inputs.

DEA is a relatively new "data oriented" approach for evaluating the performance of a set of peer entities called Decision Making Units (DMUs) which convert multiple inputs into multiple outputs[5]. As DMU in this analysis, first instance courts of general jurisdiction in Albania were taken. The relative technical efficiency of each court, through DEA, has been evaluated in relation to the efficiency of all other courts participating in the analysis. The number of judges and the number of judicial support staff were taken as inputs in this model and the number of resolved cases (civil and criminal) (calculated by the authors) were taken as output. Inputs and output of each court are weighted, that is, inputs and output of each court is divided by its workload [21] (calculated by the authors). The DEA model will divide the set of courts into two groups. The first group will be composed by courts that are efficient and the second group will be composed by inefficient courts.

Results and Discussions

Solver in Excel was used for data processing. The obtained results of these relative technical efficiencies for each first instance court of general jurisdiction in our country that enables the DEA model are reflected in table 7.

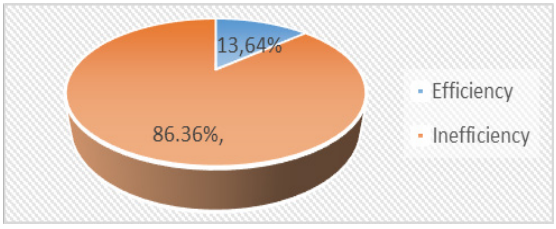
Table 7. Efficiency results of courts

No	*Court*	*Efficiency*	*No*	*Court*	*Efficiency*
1	**Berat**	1	**12**	**Lezhë**	0.9923
2	**Dibër**	0.7197	**13**	**Lushnjë**	0.9691
3	**Durrës**	0.6636	**14**	**Mat**	0.4701
4	**Elbasan**	1	**15**	**Përmet**	0.3447

5	**Fier**	0.8257	**16**	**Pogradec**	0.6862
6	**Gjirokastër**	0.6989	**17**	**Pukë**	0.5988
7	**Kavajë**	0.8022	**18**	**Sarandë**	0.6848
8	**Korçë**	0.6753	**19**	**Shkodër**	0.8672
9	**Krujë**	0.9427	**20**	**Tiranë**	0.6985
10	**Kukës**	0.7192	**21**	**Tropojë**	0.5286
11	**Kurbin**	0.7636	**22**	**Vlorë**	1

Source: Processed by the authors

The relative technical efficiency values are derived from the data of 2019 observed for each court. In table 1 above, it is noted that the courts of Berat, Elbasan and Vlorë have a result of relative technical efficiency equal to 1, which means that they show the best performance in the group of 22 courts taken into analysis. These three courts are technically efficient and located on the efficient frontier. The relative technical efficiency of these courts, evaluated according to CCR-I, means that they have made a better use of their inputs in their institutional activity compared to other courts. Other courts are technically inefficient, as their efficiency scores are less than one. They do not result in optimal levels in their performance and are below the efficient limit. The court with the lowest score of relative technical efficiency is that of Përmet (0.3447), followed by the courts of Mat (0.4701), Tropojë (0.5286), etc. Their inefficiency shows non-optimal use of available inputs in their institutional activity compared to other courts.



In this analysis regarding the efficiency of the 22 first instance courts of general jurisdiction in Albania, presented in the graph below (figure 2), we note that, in 2019, about 13.64% of them reach the maximum value, so they are technically efficient, while approximately 86.36% of them are technically inefficient.

Figure 2. Percentages of efficient and inefficient courts
Source: Processed by the authors

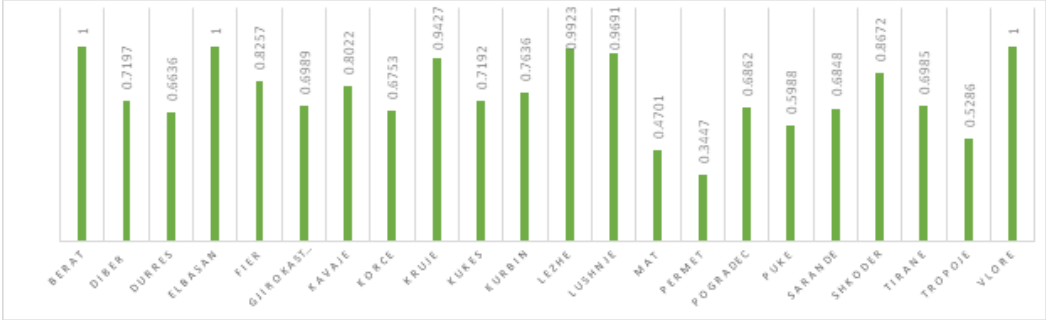


Figure 3. Efficiency results for first instance courts of general jurisdiction
Source: Processed by the authors

We note that the first three courts which, according to the HJC, have not been merged are the courts of Elbasan, Vlorë and Berat. Even in our study, it is precisely these three courts that were technically efficient by the DEA for 2019. The courts that, according to the HJC, were merged two by two to form nine first instance courts of general jurisdiction are the courts of Tiranë, Krujë, Dibër , Mat, Durrës, Kavajë, Fier, Lushnjë, Gjirokastër, Përmet, Kukës, Tropojë, Korçë, Pogradec, Lezhë, Kurbin, Shkodër and Pukë. These courts were found to be inefficient by the DEA for 2019 in our study. The only exception here is the court of Saranda, inefficient according to the DEA for 2019 (which is also the case in the HJC's analysis), which was not merged for the reasons explained above in the HJC's report.

Conclusions

Based on the indicators taken into consideration in our study, the courts of Elbasan, Vlorë and Berat are technically efficient compared to other courts and have had the best practice according to DEA model. While, in other courts, that have a technical efficiency result of less than 1, there is room for improvement since they have not used the inputs to the maximum in their work.

Evaluating and, above all, improving the performance of the country's courts is very important as they must offer the highest quality service to the public. It is possible to find through the DEA model how inefficient courts can improve their relative technical efficiency score, thus improving their activity performance. As it was discussed above in the paper, based on the findings and proposals of the evaluation report of the Inter-institutional Working Group, the HJC in 2022 approved the new judicial map with the aim of improving the performance of the courts and increasing their efficiency, as well as in the best interest of the right of access to justice.

The new judicial map has just started to be implemented and its effects will be measured later in time. In this regard, future efficiency evaluations of the reorganised courts, according to this new judicial map, can be done through DEA model.

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The Impact of Discontinued Vertical Elements on Buildings in High Seismic-Prone Areas

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Abstract

This paper embarks on a comprehensive investigation into the integration of discontinued vertical elements within structures located in regions highly susceptible to seismic activity. The exploration is situated within the broader framework encompassing architectural design, seismic resilience, public safety, and sustainable urban development.
The section addressing seismic considerations and structural analysis unveils the intricate dynamics governing the interplay between seismic forces and architectural frameworks. Through meticulous examination of both lateral and vertical forces, the paper establishes a fundamental comprehension of seismic effects. Central to this understanding is the concept of load distribution, a cornerstone principle preserving structural integrity during seismic events and laying the groundwork for subsequent analytical endeavors.
The scrutiny of architectural and aesthetic facets delves into the art of harmonizing form with function. The imperative of reconciling aesthetics with safety imperatives is underscored, particularly as potential challenges and drawbacks are acknowledged. This discourse fosters a constructive dialogue bridging the realms of architectural vision and engineering prudence, ultimately steering design decisions towards safe and aesthetically pleasing outcomes.
Engineering strategies for mitigation are presented with a panoramic scope, encompassing an array of applied solutions. The narrative is enriched by tangible instances, illustrating how these strategies effectively counter vulnerabilities engendered by the incorporation of discontinued vertical elements.
The inclusion of case studies, spanning diverse architectural styles and contexts, yields insights into the tangible outcomes resulting from the fusion of architectural vision with seismic design considerations. These multifaceted factors collectively shape the trajectory of integrating discontinued vertical elements, rendering this discussion instrumental in navigating the practical complexities inherent to seismic-resilient architectural design.
In its conclusions, this paper emphasizes the significance of informed design practices in engendering not only safety but also architectural innovation and sustainable urban development.

Keywords: Impact, discontinued vertical elements, buildings, High Seismic-Prone Areas.

I. Introduction

Seismic activity poses a significant challenge for regions highly susceptible to earthquakes. Ensuring the safety of architectural structures in these areas is of paramount importance, not only for the preservation of human lives but also for sustainable urban development. The interplay between architectural design, seismic resilience, public safety, and urban sustainability forms a complex and critical nexus within the realm of civil engineering and architectural practice.
In this context, this paper embarks on a comprehensive investigation into a specific aspect of seismic-resilient architectural design: the integration of discontinued

vertical elements within structures. The discontinuation of such elements, which include columns, supports, and load-bearing elements, presents a unique challenge that warrants careful examination. While discontinuing vertical elements may be driven by architectural aesthetics and functionality, it can potentially impact a building's ability to withstand seismic forces. This intersection of architectural vision and structural integrity demands thorough analysis and understanding.

The primary objectives of this research are twofold. First, we seek to unravel the intricate dynamics that govern the interaction between seismic forces and architectural frameworks, with a specific focus on the discontinuation of vertical elements. By delving into the principles of load distribution and lateral forces, this paper aims to establish a fundamental comprehension of seismic effects on structures. This understanding forms the basis for subsequent analytical endeavors within the context of our investigation.

Second, this research endeavors to foster a constructive dialogue bridging the realms of architectural vision and engineering prudence. The imperative of harmonizing form with function and reconciling aesthetics with safety in seismic-prone regions cannot be overstated. Potential challenges and drawbacks associated with discontinued vertical elements will be acknowledged, leading to an exploration of innovative solutions that balance architectural vision with seismic resilience.

In summary, this paper embarks on a journey through the intricate landscape of architectural design in regions highly susceptible to seismic activity. By scrutinizing the integration of discontinued vertical elements, we aim to contribute to the body of knowledge that informs informed design practices, ultimately enhancing not only the safety of our built environment but also nurturing architectural innovation and sustainable urban development in earthquake-prone regions.

II. Seismic Considerations and Structural Analysis

Load distribution is a fundamental concept in structural engineering that pertains to the allocation and transfer of loads, including the dead loads and external forces such as live loads, wind loads, seismic forces, through the various components of a building's structural system. It plays a pivotal role in maintaining the structural integrity and stability of a building under normal conditions and, crucially, during seismic events.

In a well-designed building, a load path is established to ensure that all applied loads are safely transmitted from their point of origin to the foundation. A load path typically starts from the point of application, travels through various structural elements such as beams, columns, walls, and slabs, and ultimately transfers the load to the building's foundation and the ground.

Load Redistribution: During seismic events, the ground experiences dynamic lateral and vertical movements. These movements generate seismic forces that impose additional loads on the building. Load distribution mechanisms must be robust enough to accommodate these dynamic forces. The building's structural elements should be designed to efficiently redistribute these loads, preventing concentrated stresses or deformations that could lead to structural failure.

Load distribution is critical for maintaining the structural integrity of a building during seismic events for several reasons:

Even Load Distribution: A well-designed load distribution system ensures that seismic forces are distributed evenly across the building's structural elements. This prevents localized areas of stress concentration, which can lead to structural damage or failure.
Reduction of Shear Forces: Proper load distribution minimizes shear forces, which can cause lateral movement and deformation in the structure. Reducing shear forces helps maintain the building's stability.
Mitigation of Torsional Effects: Load distribution systems help mitigate torsional effects caused by seismic forces. Torsional effects can lead to twisting or rotational movement, which can be detrimental to a building's stability.
Preservation of Load-Bearing Capacity: Effective load distribution ensures that each structural component operates within its designed load-bearing capacity. This prevents overloading of any single element, reducing the risk of structural failure.
Protection of Non-Structural Elements: Load distribution also extends to non-structural elements, such as walls, partitions, and building contents. By evenly distributing seismic forces, these elements are less likely to suffer damage during an earthquake.
To maintain structural integrity during seismic events, engineers and architects consider various design strategies:
Strategic Placement of Load-Bearing Elements: Engineers strategically place load-bearing elements, such as columns and walls, to create load paths that efficiently distribute forces to the foundation.
Use of Shear Walls and Moment Frames: Shear walls and moment frames are commonly employed to resist lateral forces and facilitate load distribution.
Base Isolation and Damping Systems: These systems help decouple the building from ground motion, reducing the transmission of seismic forces and protecting the structure.
Redundancy: Redundancy in structural systems ensures that multiple load paths exist, providing backup routes for load distribution in case one path is compromised.
In regions prone to seismic activity, careful consideration of load distribution is integral to the design and construction of resilient buildings. It ensures that structures can withstand the dynamic forces generated during earthquakes, preserving both the safety of occupants and the integrity of the built environment.

III. Architectural and Aesthetic Facets

Architectural aesthetics and structural safety are intertwined aspects of building design, especially in regions prone to seismic activity. Achieving a balance between these two aspects is crucial for creating resilient and visually appealing structures.
Architectural aesthetics encompass elements such as building shapes, facades, materials, and interior design. Balancing these aesthetic considerations with structural function and safety is a core challenge.
Architects often have a unique vision for a building's design, which may include innovative and aesthetically pleasing features. Integrating this vision with seismic-resilient design principles can be complex.
The local cultural and historical context can influence architectural aesthetics. Adhering to these contextual elements while ensuring seismic safety is essential.

While pursuing aesthetically pleasing designs, several challenges and potential drawbacks may arise:
Structural Complexity: Architectural features like large cantilevers, intricate facades, or unconventional shapes can introduce structural complexity, making it challenging to ensure seismic resilience.
Redundancy vs. Aesthetics: Achieving structural redundancy (the presence of backup load paths) often involves adding structural elements that may not align with the desired aesthetics.
Cost Implications: Seismic-resilient design measures, such as base isolators or additional structural reinforcement, can increase construction costs, potentially conflicting with budget constraints.
Aesthetic Sacrifices: Ensuring seismic safety might require design compromises, such as reducing the size of large openings or altering the facade to accommodate bracing systems.

IV. Engineering Strategies for Mitigation

Structural redundancy involves the incorporation of multiple load paths within a building's framework to ensure that if one path is compromised, others can still carry the load. The design of multi-story buildings with redundant lateral load-resisting systems, such as shear walls and moment frames, enhances structural stability.
Base isolation systems decouple the building from ground motion by using flexible isolators or bearings. This reduces the transmission of seismic forces to the structure.
Energy dissipation devices absorb and dissipate seismic energy, reducing vibrations and structural damage.
Ductile materials, like reinforced concrete and steel, are used to enhance a building's ability to deform without failure during an earthquake, dissipating energy.
Seismic bracing systems, such as diagonal braces and eccentrically braced frames, increase lateral stability and dissipate seismic forces.

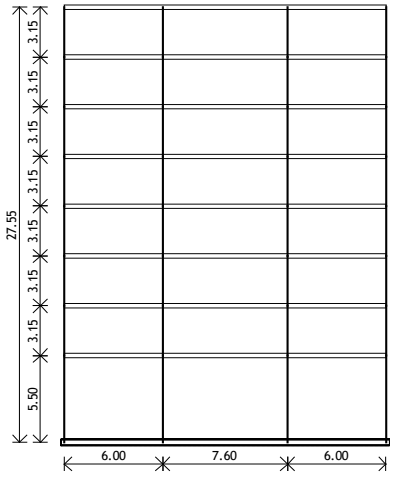
V. Methodology

To investigate the seismic behavior of reinforced concrete buildings in Albania's high seismicity region, a specific building has been chosen for comparative calculations. This eight-story residential structure, situated near Tirana's city center, serves as a representative example of the architectural and structural characteristics commonly encountered in the area.
The selection of this particular building model is considered pertinent and crucial in fulfilling the research objectives, which revolve around comprehending how reinforced concrete structures respond to seismic forces, particularly those with discontinued vertical columns.
This chosen building model closely mirrors the typical structures found in Tirana and mirrors the prevailing construction practices in the region. It was purposefully designed as a residential facility, emphasizing its significance in the context of scrutinizing the seismic behavior of residential buildings.
Gaining insight into the behavior of this representative building type carries substantial implications for devising strategies and guidelines aimed at enhancing

the seismic resilience of reinforced concrete buildings in areas prone to high seismic risk.

The selected building under analysis exhibits a rectangular floor plan measuring 20m x 12m. It's worth noting that the positioning of the staircase and elevator core is not centralized within the floor plan, a common irregularity observed in constructions in this locale.

This building model encompasses a total of eight stories. The arrangement of columns within the building demonstrates a relatively uniform layout, with axial distances of 6m by 6m.



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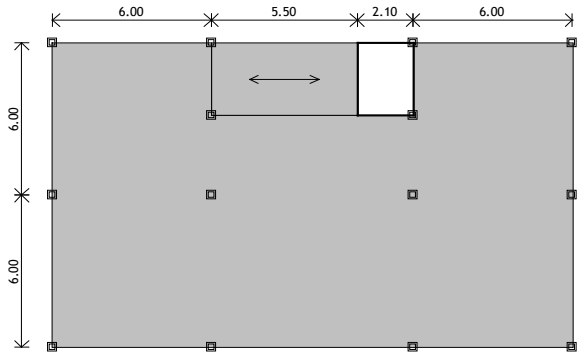
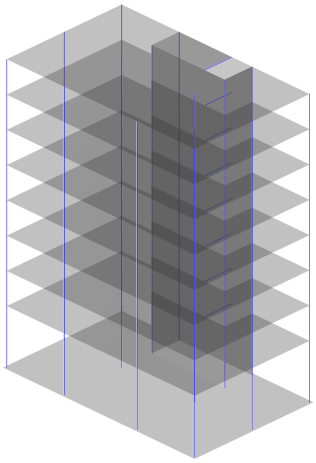


Level: 2 [8.65 m]

Figure 1: Plan and elevation of building model



Isometric

Figure 2: 3D model

The seismic analysis adheres to the guidelines stipulated in Eurocode, employing a multi-mode analysis approach that comprehensively accounts for the influence of all computed modes on the structural response. This methodology incorporates seismic parameters specific to the city of Tirana, ensuring a thorough examination of the building's behavior under seismic forces.

To assess the seismic performance of the building, this study considers several pivotal evaluation criteria, including drifts, periods, and displacements. By evaluating these criteria, a comprehensive comprehension of the seismic behavior and performance of the structure can be attained.

Three comparative models have been selected for the identical building structure with flat slabs to investigate the impact of discontinuous vertical elements. In all scenarios, the slabs maintain a consistent thickness of 20 cm, while the columns possess planimetric dimensions of 50x50 cm. The shear walls maintain a consistent thickness of 30 cm in all models.

System 1 depicts a structure characterized by continuous columns throughout all levels.

System 2 represents a structure with discontinuous columns at level 3, transitioning to continuous columns in all subsequent levels, featuring a 1-meter cantilever.

System 3 showcases a structure with discontinuous columns at levels 3 and 5, transitioning to continuous columns in all other levels, with a 1-meter cantilever at level 3 and a 2-meter cantilever at level 5.

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

The reinforced concrete is designed with a volumetric weight of 25 kN/m^3.

The load exerted by floor layers and walls is considered to be 2.5 kN/m^2.

"Live Load Category A" is assumed, with a load intensity of qk = 2 kN/m^2.

By comparing the seismic responses of these models, the study aims to assess the impact of varying discontinuous vertical columns 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 (ag) is designated as 0.293g. These parameters significantly influence the seismic analysis and contribute to a comprehensive understanding of the building's seismic behavior and performance.
In accordance with Eurocode 1998, the structure is categorized as 'ordinary' with an assigned importance factor of II, and the seismic analysis is conducted utilizing Spectrum Type 1.

VI. Case study

a) System 1: Structure with continuous vertical column configuration throughout all stories System 1:
This system employs a structural framework that integrates an uninterrupted arrangement of vertical columns, complemented by strategically positioned shear walls and flat slabs. The strategic placement of shear walls is judiciously confined to specific areas, notably the stairwell and elevator core. Within this system, the continuous vertical columns assume a paramount role, serving as the primary conduit for delivering essential vertical support and facilitating the efficient transfer of loads from the flat slabs to the foundation.
Strategically distributed throughout the structure, these columns play a pivotal role in achieving precise load distribution. Their fundamental responsibilities encompass the preservation of structural integrity through the unwavering provision of vertical load support and the steadfast assurance of structural stability.
The calculations have been performed for 20 modes, with only the first three provided. The first three natural frequency modes of the structure are delineated as follows:

Natural frequency of structure		
No	T [s]	f [Hz]
1	1.2103	0.8263
2	0.7275	1.3745
3	0.3269	3.0585

Table 1: Natural frequency of system 1

Interstorey drifts - SRSS						
Level	Z[m]	Height[m]	dr(0°)[mm]	dr(90°)[mm]	dr.max[mm]	dlim[mm]
8	27.55	3.15	14.74	25.07	25.07	31.50
7	24.4	3.15	14.3	25.65	25.65	31.50
6	21.25	3.15	14.59	25.82	25.82	31.50
5	18.1	3.15	14.78	25.84	25.84	31.50
4	14.95	3.15	14.83	25.63	25.63	31.50
3	11.8	3.15	14.7	25.08	25.08	31.50

2	8.65	3.15	14.88	24.46	24.46	31.50
1	5.5	5.5	23.49	38.41	38.41	55.00
0	0					
Conditions for limiting interstorey drifts are fulfilled.						

Table 2: Interstorey drifts of system 1

b) **System 2**: Structure with discontinuous columns at level 3, transitioning to continuous columns in all subsequent levels.
The structure is designed with a unique column configuration. At the third level, there is a transition from discontinuous columns to continuous columns that extend through all the remaining levels of the building. Additionally, there is a distinctive architectural feature: a 1-meter cantilever, which means that certain portions of the structure protrude outward without additional vertical support. This architectural choice not only adds to the aesthetic appeal but also has structural implications, as it affects the distribution of loads and the overall stability of the building.

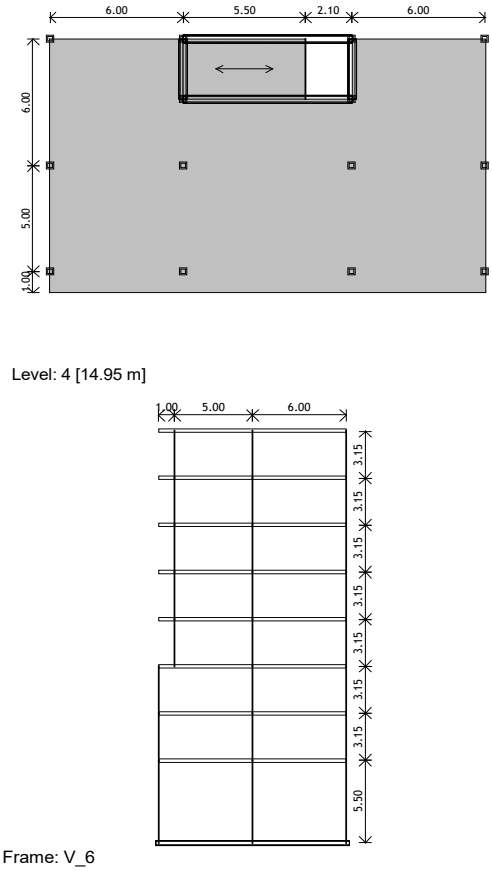


Figure 3: Plan and elevation of building model 2

Natural frequency of structure		
No	T [s]	f [Hz]
1	1.1315	0.8837
2	0.7096	1.4092
3	0.3236	3.0897

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	14.55	23.21	23.21	31.50
7	24.4	3.15	13.98	23.87	23.87	31.50
6	21.25	3.15	14.19	24.08	24.08	31.50
5	18.1	3.15	14.39	24.23	24.23	31.50
4	14.95	3.15	14.39	23.88	23.88	31.50
3	11.8	3.15	14.39	23.53	23.53	31.50
2	8.65	3.15	14.71	23.12	23.12	31.50
1	5.5	5.5	22.91	36.35	36.35	55.00
0	0					
Conditions for limiting interstorey drifts are fulfilled.						

Table 4: Interstorey drifts of system 2

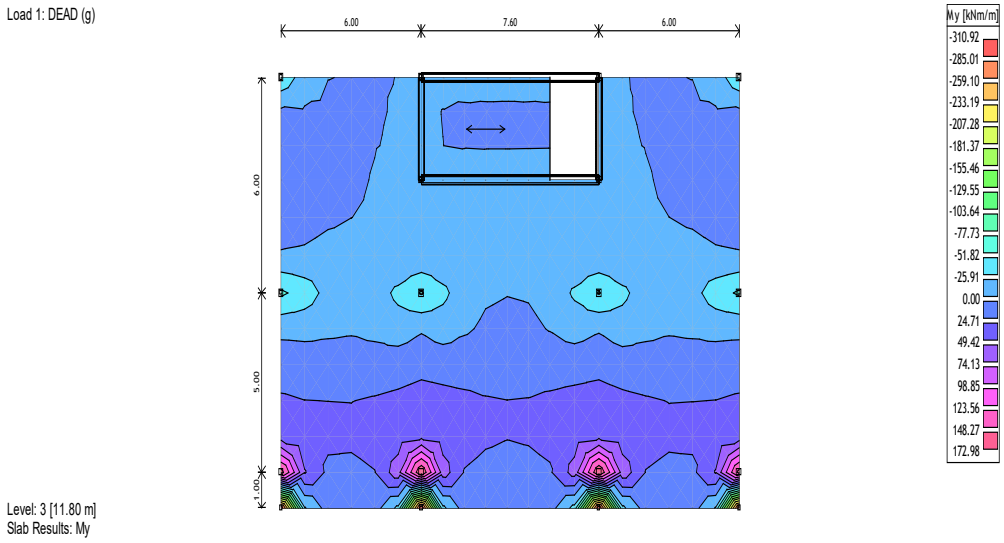


Figure 4: Analysis of Moments in Slab Level 3

When structural columns are positioned directly on a concrete slab, it creates what is known as a "punching zone." This term refers to the area immediately around the column where concentrated loads from the column are transmitted to the slab. This

zone is of particular importance in structural engineering because it is where the slab is most vulnerable to shear forces.
As a result, the slab in the vicinity of the column experiences increased shear stresses. Proper design and reinforcement of the punching zone are crucial for maintaining the structural integrity and safety of the building, as failure in this region can lead to structural collapse.
In System 2, it is imperative to increase the thickness of the slab at column anchorage points, necessitating the implementation of punching reinforcement. Ensuring uninterrupted load transfer within the columns on the second floor is of paramount importance, while simultaneously preventing any structural collapse that could compromise the integrity of the slab.

c) **System 3**: Structure with discontinuous columns at level 3 and 5.
This system represents a structure designed with discontinuous columns on two levels, specifically on levels 3 and 5. These discontinuous columns undergo a transition to continuous columns that extend below level 3 of the building, transmitting the load to the foundation. Notably, 1-meter cantilever projections were introduced at level 3 due to the withdrawal of the columns, and 2-meter cantilevers were implemented at level 5 to account for a second column withdrawal. The system's configuration represents a unique design solution imposed by urban planning regulations.

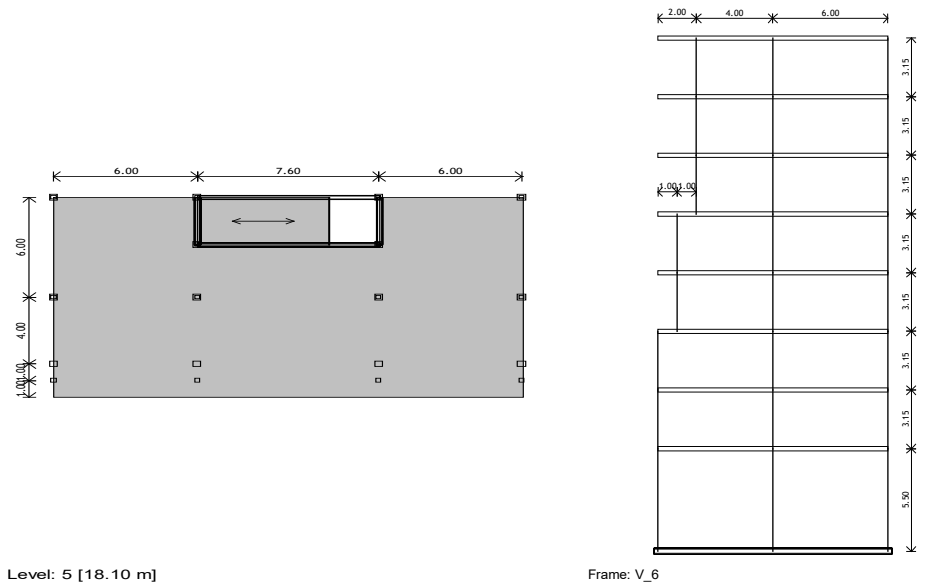


Figure 5: Plan and elevation of building model 3

Natural frequency of structure		
No	T [s]	f [Hz]
1	1.1669	0.8569
2	0.7216	1.3857
3	0.3248	3.0782

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	14.61	23.89	23.89	31.50
7	24.4	3.15	14.17	24.59	24.59	31.50
6	21.25	3.15	14.37	24.62	24.62	31.50
5	18.1	3.15	14.58	24.81	24.81	31.50
4	14.95	3.15	14.61	24.59	24.59	31.50
3	11.8	3.15	14.61	24.19	24.19	31.50
2	8.65	3.15	14.81	23.82	23.82	31.50
1	5.5	5.5	23.38	37.43	37.43	55.00
0	0					
Conditions for limiting interstorey drifts are fulfilled.						

Table 6: Interstorey drifts of system 3

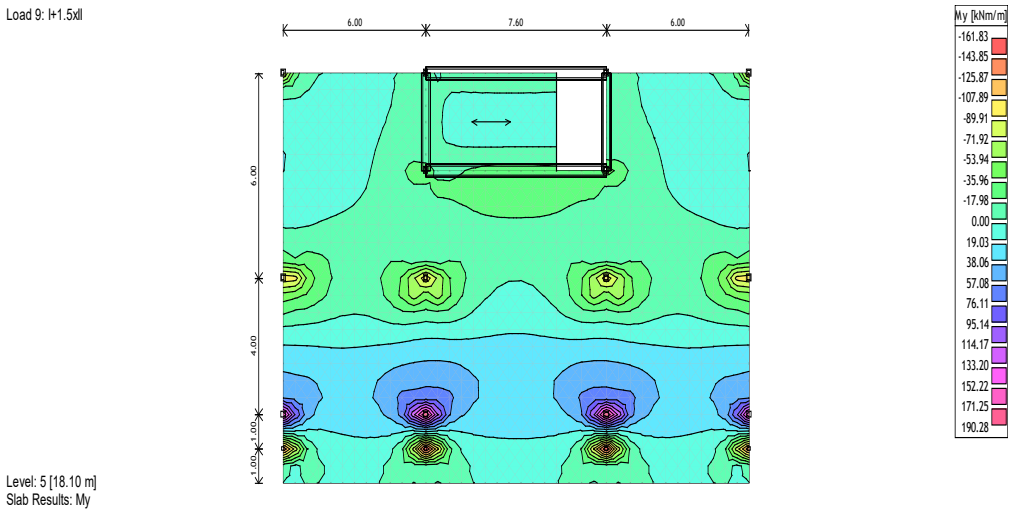


Figure 6: Analysis of Moments in Slab Level 5

In System 3, it is evident that stress concentrations occur in the slab soles within the regions where discontinuous columns are situated. Merely augmenting the slab thickness and introducing punching reinforcement within this system does not guarantee prevention of sole puncturing.

The imperative implementation of deep beams becomes necessary, requiring the incorporation of drilling reinforcement. The paramount objective remains the assurance of inward load transfer from the level 5 columns, while simultaneously mitigating the risk of any structural collapse that could compromise the integrity of the slab.

VII. Results

Based on the descriptions and analyses of the three structural systems presented, some potential conclusions that can be drawn.

System 1 with continuous vertical columns exhibits robust load distribution and structural stability due to the presence of continuous vertical columns and strategically placed shear walls. The design's reliance on continuous columns enhances its ability to withstand various loads, including seismic forces. The system is well-suited for applications where structural integrity and stability are paramount.

System 2 with transitioning columns presents the transition from discontinuous to continuous columns introduces complexity and requires careful analysis at the transition points. The incorporation of cantilevers adds architectural appeal but necessitates thorough consideration of load distribution and potential stress concentrations. Proper reinforcement and design modifications are essential to ensure the integrity of the slab and prevent structural issues, especially in the punching zones.

System 3 with discontinuous columns with transitions and cantilevers presents a unique design challenge with discontinuous columns at levels 3 and 5, transitioning to continuous columns below level 3, and the use of cantilevers. Stress concentrations are observed in the slab soles, necessitating the introduction of deep beams and drilling reinforcement to mitigate risks associated with discontinuous columns and cantilevers. The design aligns with urban planning regulations but requires careful engineering to ensure structural integrity and safety.

In summary, each system offers distinct advantages and challenges. System 1 showcases simplicity and stability with continuous columns, while System 2 introduces complexity with cantilevers and column transitions. System 3, while adhering to urban planning rules, demands specialized design solutions to address stress concentrations and ensure structural robustness.

Ultimately, the choice of a structural system should be guided by project-specific requirements, budget constraints, and adherence to local building codes and standards. A thorough engineering analysis and ongoing monitoring during construction and occupancy will be critical to verifying the performance of the selected system and ensuring the safety and longevity of the structure.

Conclusion

System 1 offers a straightforward and stable design. Suitable for projects prioritizing simplicity and reliability.

System 2 introduces architectural complexity with cantilevers and column transitions. Provides design flexibility but requires careful engineering to ensure structural integrity.

System 3 represents a unique design solution to comply with urban planning regulations. Demands specialized engineering to address challenges related to column transitions and cantilevers.

In summary, the choice of a structural system should align with project-specific needs and constraints, considering factors such as complexity, aesthetics, and adherence to

regulations. Proper engineering analysis is crucial for ensuring the selected system's safety and performance.

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Factors affecting juvenile delinquency

Dr. Arta Mehmeti Ademi

Abstract

By researching the causes and circumstances related to all criminal behavior and other negative phenomena in society, criminal etiology is dealt with, which at the same time studies the causal links between the circumstances of various factors and criminality.[1] Criminal etiology is committed to the illumination and comprehensive recognition of connections and relationships between various social, economic, social, political, psychological, and other circumstances on the one hand and criminality and antisocial phenomena on the other.[2] Problems related to the causes, sources and roots of criminality, in criminal etiology, are often named as criminogenic factors. Criminogenic factors are defined as circumstances of an objective and subjective nature, which explain the connections and influences with criminal activities, present the phenomena, the causes that have an impact on criminality.[3] The interweaving of unfavorable social conditions, in most cases, has a decisive influence on the presentation of deviant behaviors of certain persons or groups, and as a rule, such influences lead to the deformation of the personality partially or in general. Thus, with the interweaving of causes and conditions which with their influence present a causal mechanism of criminality, the primary and decisive influence belongs to the influences of the social environment.[4] According to the opinion of many criminologists, external criminogenic factors have a very large influence on the presentation of delinquent behavior and according to them, external or exogenous factors represent the determining conditions and circumstances of criminal behavior. These factors directly affect the appearance of criminal activities in society. There are many external or objective factors and each one has its own importance and role in the appearance of juvenile delinquent behavior.[5] Thus, as factors with a visible influence on the appearance of criminal behavior, the following are treated: economic-social factors, ideological-political factors, microgroups, socio-pathological factors, etc.[6] However, as much as external or objective factors have an important role in the presentation of criminal behavior, the phenomenon of criminality and its causes cannot be properly explained without the analysis and illumination of internal, subjective factors that are related to the personality of the perpetrator.

When it comes to subjective factors, we usually think of the individual, of the human personality, where the role and importance of the biopsychic life and its connections with criminal behavior and actions are especially emphasized.[7]

Although subjective factors are very important in explaining the causes and factors that influence juvenile delinquency, this paper will only deal with the objective factors that have an impact on juvenile delinquency.

Keywords: criminality, minors, external factors.

[1] Dr. Ragip Halili, Criminology, p.235.
[2] Dr. R. Gassin, Criminologie, fq. 4 – 7.
[3] Dr. Ragip Halili, Criminology, p.236.
[4] Dr. Z. Jasovic, Juvenile delinquency, st. 159.
[5] Dr. Ragip Halili, Criminology, p.241.
[6] Dr. M. Milutinovic, Criminology, p. 376.
[7] Dr. Ragip Halili, Criminology, p.376.

Introduction

The economic living conditions of minors play an important and leading role in the life of minors,[8] are counted among the main factors that can have an impact on the appearance of juvenile delinquent behavior. In theory, regarding the impact of objective economic and social factors, there are different opinions and views. In this regard, it is emphasized that the rapid industrial development, the great technical achievements, the development of electronics and other transformations that have taken place in society, have also influenced the processes of the formation of man and his personality. These achievements, on the one hand, have contributed to the creation of a well-being and a high standard, but on the other hand, millions of people suffer from hunger, poverty, unemployment and various diseases, and all these, taken as a whole, have an impact determined in criminal actions and behaviors.[9]

The economic conditions of the life of minors, the contradictions that arise and develop in these circumstances, present the power that determines the appearance of various activities, and even of the pathological social behaviors of which they are a part and the delinquent behavior of minors. For a long time, there has been the opinion among scientists that the delinquent behavior of minors is a consequence of the deteriorating economic conditions in the environment where the minor lives and acts.[10] The lack of good economic conditions leads minors to adopt some negative behaviors because, preoccupied with the idea of securing better material conditions, they often do not even choose the means by which they will reach the securing of material income and in this way they indulge in various antisocial and delinquent behaviors. However, even though it is an accepted conclusion that difficult economic conditions play a decisive role in the appearance of negative behavior in minors and that in most cases juvenile delinquents are recruited from families that have poor material status, there are still cases when from families that have a good material status, there are cases of minors who are given after negative and delinquent behaviors. Often the parents of these minors, preoccupied with providing material goods for their family, neglect their children by making concessions in their education and put the children in those conditions where they cannot adapt.[11]

Among the economic and social factors of juvenile delinquency, the most theoretical ones are: accelerated industrialization and urbanization, migration, economic crises and depressions, poverty, wealth, unemployment, difficult housing conditions, etc.[12] Industrialization as a process has great and positive impacts in all directions of development of contemporary societies, but accelerated industrialization and urbanization, as well as changes in different countries, have had negative effects and impacts, unfortunately even though in some countries thanks to industrialization and urbanization has reached a standard of great material well-being, in some of these places crime has also shown a significant increase.[13] Thus, from many studies that have been done regarding the phenomenon of juvenile delinquency, it has been

[8] Dr. Ismail Zejneli, Delinquency of minors in R.M, p. 75.
[9] Dr. Ragip Halili, Criminology, pg. 241-242.
[10] Dr. Ali Dida, Social pathology of minors in Kosovo, pg. 113.
[11] Ibid, p.114.
[12] Mr.Stevan Aleksoski, Social, personal and psychosocial determinants of juvenile delinquency in RM, p. 24.
[13] Dr. Ragip Halili, Criminology, pg. 242-243.

shown that juvenile delinquency has mostly spread in industrialized and urbanized countries.[14] The rapid process of industrialization and urbanization of various centers in society contemporary, has brought with it the movement, migration and large concentration of the population in several centers and cities, and in this way it has been impossible to solve the problem of housing, health protection, employment, the problem of inclusion in the process of education and training of children, minors as well as other people who came to these cities, and these shortages have encouraged the increase of unemployed people, poor people and the increase of people wandering the streets. Also, in the created industrial centers, the phenomenon of alcoholism, drug addiction, gambling, etc. has been presented, as well as a special problem for the newcomers in the new environment, has been the adaptation and adaptation to the new environment, because due to the scarcity and the impossibility of connection in work and normal life activities, many newcomers, especially young people, have given in to suspicious, criminal behavior and other antisocial activities.[15] Poverty, also, is considered as an objective factor of criminality which affects the appearance of criminal behavior. The ancient philosopher Aristotle also spoke about the great impact of scarcity and poverty on the presentation of negative phenomena, who emphasized that "poverty is the mother of crime, while prosperity is the mother of immorality".[16] Poverty and deprivation can affect the behavior and attitudes of some minors, especially the behavior of those minors who are still unstable and immersed in criminal actions and behavior.[17] Poverty always brings suffering, demoralization, disappointment, misery, and from the impossibility of meeting basic life needs, many families become unstable, the authority of parents is lost and concessions are made in the educational process of minors, with which young people in such situations can very easily fall under the influence of negative behaviors.[18] The most frequent forms of criminal behavior, which are committed due to poverty and difficult material conditions, are petty theft, robbery, fraud, panhandling, begging, prostitution and alcoholism. When the conditions of existence and living are miserable, circumstances are objectively created that directly push young people and minors into some prohibited and criminal activities. Criminological research done in many countries of the world proves that the large number of juvenile delinquents come from families and social groups that have problems and material difficulties. However, widespread criminality in a society is not only the result of poverty and the lack of material conditions, but is often also the result of other conditions and circumstances.[19] Thus, often even minors who come from families with good material status, due to parents being overworked, are neglected in education and are not given the necessary care and proper love, they can give in to negative behaviors and criminal. Unemployment is similar to the phenomenon of poverty, where the state of unemployment exerts negative effects, both in the social and individual aspects. Due to the impossibility of meeting the basic needs of family members, due to the impossibility of education

[14] Mr.Stevan Aleksoski, Social, personal and psychosocial determinants of juvenile delinquency in RM, p. 22.
[15] Dr. Ragip Halili, Criminology, pg.243.
[16] Ibid, p.247.
[17] Dr. Ismail Zejneli, Delinquency of minors in R.M, p. 77.
[18] Mr.Stevan Aleksoski, Social, personal and psychosocial determinants of juvenile delinquency in RM, p. 23.
[19] Dr. Ragip Halili, Criminology, pg.247.

and health protection, school dropouts, diseases and criminal behaviors follow.[20] Thus, one of the factors that influence the occurrence of juvenile delinquency is the phenomenon of unemployment.[21] Difficult housing conditions are also presented as factors that influence the presentation of criminal behavior of minors, where as a result of population migration from village to city, the problem of solving adequate housing is presented. Due to difficult housing conditions, it often happens that minors and young people leave their families, and seek other solutions by engaging in various criminal behavior and actions. There are not rare cases where minors run away from home and family, are associated with problematic and criminal groups of young people, giving in to drug addiction and other criminal phenomena.[22]

Microgroup factors

Family and family circumstances

The family as a social community has multiple tasks and functions when it comes to young people, their development and formation. In addition to providing material conditions and other objective conditions for life, the family also appears as one of the primary social groups where the process of education and socialization of young people takes place.[23] The family is a social community that protects and guides its members, especially children and young people. In the family, usually, conditions are created for children and young people to be formed and trained for life as independent personalities. The family is the bridge of the individual's connection with the outside world, with the environment where he lives and acts.[24] As a basic social unit, it also has many other necessary and important functions for the fair and comprehensive formation of the personality of children, minors and young people in general.[25] The aforementioned functions can be successfully realized only in functional families, while in those families where various elements and forms of functional disorganization are present, they become centers of deviant influences that are manifested through the delinquent behavior of minors. From here, in contemporary criminology, the prevailing opinion is that the delinquent behavior of minors cannot be imagined without looking at the negative conditions and influences that are made on young people in their family community.[26] Juvenile delinquents are considered to come from deficient families, degraded delinquents, immigrants, families with many members, with a low level of education and social status, where the degree of family engagement in the education of children and minors is very small or absent at all.[27] Some families and family environments that have to do with the incomplete structure of families also influence the presentation of some delinquent behaviors of minors and young people. We are talking about so-called deficient or deficient families, in which both parents or one of them are missing. In these cases, the lack of family integrity is

[20] Ibid, fq.249.
[21] Dr. Ali Dida, Social pathology of minors in Kosovo, pg. 124.
[22] Dr. Ragip Halili, Criminology, pg.252.
[23] Dr. Z. Jasovic, Juvenile delinquency, pg. 176.
[24] Dr. Ragip Halili, Criminology, pg.276.
[25] H.D. Schwind, Criminology, pg. 185.
[26] Dr. Z. Jasovic, Juvenile delinquency, p. 177.
[27] Mr. Stevan Aleksoski, Social, personal and psychosocial determinants of juvenile delinquency in RM, p. 35.

felt, which absence in some children and minors affects the presentation of disorders and psychic traumas. Also, serious spiritual trauma and conflicts are presented, if the absence of parents is the result of family tragedies, crimes in the family, problematic separations and divorces, abandonment of children, inadequate adoptions, etc.[28] Thus, it often happens that minors and young delinquents are recruited from these families. In delinquent, degraded families, the possibility of receiving minors with delinquent behavior is very high. Thus, in those families where there are cases of parents being taken by criminal acts, where the parents are alcoholics, drug addicts or prostitution is present in any of the family members, there is a very high possibility that even the minors who come from these families they are created and develop as delinquents, since delinquent behavior is learned from the example of family members or this behavior is simply accepted as a normal way of life.[29] In addition to deficient families, the criminal influence of families with a large number of children and minors is also mentioned in the literature. The criminal influence of these families is explained by the fact that these families cannot provide minimum material conditions for the existence of their children and the lack of these material means for existence, clothing, food, education, affects that some minors from these families are given after delinquent behavior. In these families, the minors from an early age begin to undertake activities and actions related to securing a living, but in many cases these activities are also delinquent because in the conditions of economic crises and unemployment, there are no normal and legal solutions.[30] As a possible factor in the presentation of deviant and negative behaviors of young people and minors, the literature also mentions the employment of parents and the obligations they have outside the family, as well as the fact that they are separated from their children for a certain time during the day. Children and minors of these families often spend their free time with relatives, neighbors and also on the street where minors have the possibility to very easily fall under the influence of negative behaviors. Thus, empirical criminological research shows that 30% of juvenile delinquents come from families where one or both parents are employed.[31] Relationships between parents and children have a great influence on the presentation of delinquent behaviors of minors and young people. Minors and young people who feel that they are not loved by their parents, those who feel that their parents are not fair in relation to them then the minors who have been subjected to physical and mental violence by their parents as a way of educating children and minors, in most cases these minors are treated with delinquent and negative behavior .[32] The family and family circumstances are very important factors in the development, formation, education and positive orientation of children and minors, while those families that are unable to successfully perform these tasks and functions become powerful criminogenic factors that affects directly or indirectly the presentation of delinquent behavior of minors.[33]

[28] Dr. Ragip Halili, Criminology, pg.280.
[29] Mr. Stevan Aleksoski, Social, personal and psychosocial determinants of juvenile delinquency in RM, p. 36.
[30] Dr. Ragip Halili, Criminology, pg.280.
[31] Ibid, p.281.
[32] Dr. Z. Jasovic, Juvenile delinquency, p. 227.
[33] Dr. Ragip Halili, Criminology, pg.282.

School and the educational-learning process

The school and the school environment is a very important factor and right after the family it appears as the most important institution which strongly influences the formation and orientation of children and minors.[34] School, as an important institution in which children spend a long time of their lives, is extremely important in the formation of the child's personality. As a pedagogical institution, the school has a tremendous impact on the emotional upliftment, intellectual development and formation of the overall structure of the minor.[35] However, even though the school and the educational-learning process have a positive effect on the development and shaping of the personality of minors, still some problems, flaws and difficulties appear in the school, which negatively affect the formation and proper education of children and young people. There are many reasons that influence the presentation of negative circumstances in school institutions which can be treated as criminogenic factors. The literature mentions the fact that in contemporary conditions the school is going through great difficulties of transformation, especially in those countries which are still underdeveloped and are in a transitional phase. Educational and educational institutions, especially their teaching and education programs, have not yet been transformed and have not adapted to the newest conditions and circumstances in the world.

Contemporary, in many schools there is a lack of qualified educational staff, there is a lack of material resources, there is a lack of adequate premises and there are no proper teaching tools. This situation also brings the poor success of minors, with which the phenomenon of running away from school, taking students with delinquent, violent and aggressive behavior, the phenomenon of drinking alcohol and consuming narcotic beverages during the time they are minors appears in school.[36] The presence of all these phenomena cannot be considered otherwise, except as negative behavior and for these reasons the school and the school environment are presented as factors that encourage some delinquent and criminal behavior.[37] Interpersonal relations in the school district and bad relations between teachers and students, influence that some students acquire certain frustrations which students cannot rationally fight. Unresolved conflicts as well as unsuccessfully resolved ones, reckless punishments of students at school, grading on a subjective basis as well as other injustices that are done to students in the educational-learning process significantly affect the negative behavior of minors even outside the environment school.[38] When minors are not engaged in the educational-learning process sufficiently and when they have free time that they have nowhere to spend, then minors are brought to the streets where they are exposed to negative influences and the possibility of engaging in delinquent and criminal behavior is brought to the maximum.

As factors that influence the appearance of negative and delinquent behavior of minors, from what was said we can conclude that they are low education, poor success in learning, various conflicts of minors in the school district as well as negative attitude towards school , but all these should not be taken separately from other factors such

[34] Ibid, p.283.
[35] Dr. Ali Dida, Social pathology of minors in Kosovo, pg. 329.
[36] Dr. Ragip Halili, Criminology, pg.284.
[37] Dr. Ali Dida, Social pathology of minors in Kosovo, pg. 329 & H.D. Schwind, Criminology, pg. 221.
[38] Dr. Z. Jasovic, Juvenile delinquency, p. 187.

as the family and other life conditions of minors which are important determinants in the appearance or not of delinquent behavior of minors.[39]

Ideopolitical factors

Ideopolitical factors include a large number of causes and circumstances that influence the appearance of juvenile delinquency.
Ideopolitical factors include a large number of social causes and circumstances, which directly and indirectly affect the appearance of criminality, such as: various ideological and political conflicts, certain cultural conflicts, the influence of mass communication tools, etc.[40]
Ideopolitical factors have a great impact on the presentation of juvenile delinquency, considering that various social, political conflicts, etc., do not spare even minors who are often manipulated by certain groups and used for the realization of interests and certain purposes,[41] whereby minors are brought into states and situations in which they can easily perform negative actions and delinquent behavior. In those countries where we have a permanent political conflict, in addition to affecting the increase in political violence and political criminality, it also affects the increase in general criminality, and this situation leads to total social disorganization and disruption of the lives of families and individuals.[42] Ideopolitical factors also include cultural conflicts, which can be presented as factors that influence juvenile delinquency. In a society, cultural values are of a heterogeneous and plural character simply by the fact that even individuals as members of society, with their individual and social characteristics and behaviors are different. The issue of cultural differences and the conflict between cultural values in contemporary society,[43]can initiate disputes and contradictions between groups, associations, associations and individuals.[44] Armed conflicts and conditions of war are also factors that exert a certain influence on the appearance of delinquent and criminal behavior. In literature, the influence of the circumstances of the war manifests itself in three phases: the war preparation phase, the war development phase and the post-war phase.[45] Factors of an ideopolitical nature, such as political conflicts, wars, cultural conflicts, contradictions, political persecutions, ethnic, religious, racial, gender or political discrimination, war crimes, terrorist acts, etc., are factors that with their appearance and action they can also affect the appearance of negative and delinquent behaviors of minors.[46]

Print and electronic mass media

The means of mass communication represent important factors that exert a powerful influence on contemporary man. Written and electronic mass media with their information that have educational and entertaining content contribute to the human

[39] Ibid, p.190.
[40] Dr. Ragip Halili, Criminology, pg.253.
[41] Mr.Stevan Aleksoski, Social, personal and psychosocial determinants of juvenile delinquency in RM, p. 25.
[42] Dr. Ragip Halili, Criminology, pg.254.
[43] Dr. Shaban Shehu, Sociological reviews - Society, Education and Culture, pg. 198.
[44] Dr. Ragip Halili, Criminology, pg.255.
[45] H. V. Henting, Crime - causes and conditions, p. 385.
[46] Dr. Ragip Halili, Victimology, pg.113.

being being informed in time about the various social relations and processes as well as filling the free time with content that relaxes and recreates the human being. The influence of mass communication tools is especially expressed in young people, who are in the process of social development and shaping.[47] The influence of mass communication tools on the personality of minors is often equated in the literature with the influential role of the family. ie schools in the process of socialization of children and minors.[48] In the criminological literature, the following are considered means of mass communication: the daily press, the revyal press, the illustrated press, the entertainment press, literature, television, radio, film, the Internet, etc.[49] In the modern world, the means of mass communication can have a positive and negative impact on young people and their overall development. Contents which are humane, qualitative, valuable, morally oriented and artistic can have a very positive impact on minors and young people in general, while those contents that favor violence, brutality, favor the "sweet" life, the easy life, reflect criminality and other immoral actions of minors, have a negative effect, especially on their social behavior.[50] The written media, namely, the daily press, revyal, illustrated newspapers, entertaining, often with their sensational information, with photographs and illustrations of criminal cases, especially with the detailed description of the case, events, biographies of various personalities, especially problematic ones, from the world of film, from the world of pop and rock music, etc., to a category of young people and problematic persons, encourage and push them into criminal activity. Such writings and presentations, in the columns of various newspapers and magazines, stimulate negative and criminal actions, therefore in these cases we talk about the negative effects and influences of these written media on the personality of minors and their delinquent behavior.[51]

Film as a form of artistic expression and as a means of mass communication has a similar influence as literature, television or other means of mass communication. Movies with inadequate content, where violence, robberies, lust and base instincts dominate, have a negative impact on young people. Such contents can often encourage criminal actions, because young people do not have the ability to critically and objectively analyze the actions, roles and various events that are played and presented in the film, they do not possess the ability to to judge objectively and there are young people who directly imitate the behaviors, gestures and actions of movie heroes. Regarding the way of treating the film as a criminogenic factor, there are different opinions. Some emphasize that the film does not directly affect the presentation of criminal behavior[52]160, while on the other hand, the opinions that emphasize the film as a criminogenic factor, present a series of data and cases in which the film is presented as an indirect or direct factor of criminal behavior.[53]

The Internet as the most modern means of mass communication can also be presented as a criminogenic factor. Thus, from several studies conducted by Stanford University in America, it is shown that regular Internet users spend less time with their family or various social activities compared to those who use the Internet little or not at all.

[47] Dr. Z. Jasovic, Juvenile delinquency, p. 197.
[48] Group of authors, Delinquent behavior of children and young people, p. 32.
[49] Dr. Ragip Halili, Criminology , pg.262.
[50] Group of authors, Delinquent behavior of children and young people, p. 32.
[51] Dr. Ragip Halili, Criminology , pg.262.
[52] Dr. Ragip Halili, Criminology , pg.267.
[53] Z. Jasovic, Juvenile delinquency, p. 201-203.

The Internet has made changes in people's lives, and it is especially worrying that by spending time on the Internet, people spend very little time with their families, which reduces the control of parents over children, and this can result in delinquent and negative behavior of minors.[54]
When talking about the negative influence of mass communication tools, we should not a priori conclude that only these have a determining role in the presentation of juvenile delinquent behaviors. A correct answer can only be given by analyzing the impact of mass communication tools in interaction with other personal and social conditions and circumstances of juvenile delinquency.[55]

Sociopathological factors

Sociopathological factors are also presented as factors influencing juvenile delinquency. They are called sociopathological for the reason that they are related to a social disease that captures certain relationships on a wider level, as well as they are related to attacks and violations of some human, moral, social values that contribute to the appearance of delinquent behaviors and criminal in one country. Prostitution, alcoholism, drug addiction, gambling and some other phenomena are mentioned as sociopathological phenomena in the literature. Prostitution, as a sociopathological phenomenon, in addition to being harmful and dangerous in itself, also has direct impacts and links to some criminal behavior. Many criminal behaviors are associated with the phenomenon of prostitution, such as murders, frauds, thefts, robberies, rapes, incitements and temptations in immoral actions and other perversions of minors and young people.[56]
This sociopathological phenomenon destroys social morality, promotes low human feelings and actions, affects the destruction of family relationships, the appearance of divorces and other harmful behaviors related to marriage and family, and also appears as a powerful factor in promoting pre-delinquent and criminal behaviors. in society.[57]165
Alcoholism and drug addiction are also sociopathological factors that influence the appearance of juvenile delinquent behavior. Today's societies are facing two very big problems such as alcohol and drugs, where the fact that these are largely being consumed by the younger generations is particularly worrying. People who are under the influence of alcohol and drugs have a reduced level of understanding, they cannot control their behavior and attitudes, they can very easily commit criminal offenses, [58] and for this reason, we encounter alcoholics and drug addicts in criminal and victimological statistics as perpetrators of deviant or criminal behavior.[59] In studies of the phenomenon of alcoholism, there is talk of its impact on the appearance of juvenile delinquency in many countries of the world such as America, France, Germany, Sweden, etc., where the excessive consumption of alcohol has influenced the increase in criminal and hooligan behavior of minors and young people. Notes and different data from practice show that the number of minors and young people

[54] Group of authors, Delinquent behavior of children and young people, p. 36-37.
[55] Z. Jasovic, Juvenile delinquency, p. 199.
[56] Dr. Ragip Halili, Criminology , pg.298.
[57] Jeta Katro & Liri Shimoni, Prostitution and trafficking of women in Albania, pg. 30.
[58] Dr. Vasilika Hysi, Criminology, pg. 229.
[59] Dr. Ragip Halili, Victimology, pg.104.

who consume alcohol is increasing day by day and that in such a state they commit various delinquent actions.[60]168 Similarly, drug addicts, or users of intoxicating drugs, are very suitable to be manipulated because they, as characters, are labile, servile, ready to lie about small doses of narcotic substances. Thus, when these addicts experience moments of crisis, they are able to undertake reckless actions and behaviors as well as commit various crimes.[61]

Gambling and loitering are also mentioned in the literature as sociopathological phenomena that have a certain impact on juvenile delinquency. Gambling as a harmful social phenomenon has multiple connections with criminality. Thus, it is emphasized that in those families where one of the parents or both parents deal with gambling, due to scarcity, and the material problems that arise as a result of this phenomenon, there are permanent conflicts, separation of spouses, abandonment of the family, lack of care of children as well as abuse and exploitation of children.[62] Even vagrancy as a sociopathological phenomenon is related to some criminal behavior such as theft, fraud, robbery, murder, rape, etc,[63] vagrancy is a social phenomenon which is manifested in the behavior of minors who is isolated from society, school, family, where these minors usually come from families where drugs are consumed, poor families where neither parent works, problematic families, etc. Many minors who come from these families wander from one place to another[64]172, leave home, school, start to associate with categories of suspicious persons and often get caught and commit various criminal acts.

Conclusion

This work is elaborated external factors that may have a definite impact on the appearance of criminal conduct of minors. All factors presented are circumstances that arise throughout the life of all children and young people and are an inseparable part of daily life, but which under certain conditions or in interaction with other factors may be presented as circumstances that in young people may affect the appearance of criminal behaviour. The family as the first cell in which the child is born, raised and educated is supposed to be an environment in which children and minors will receive the first lessons on everything around them, to educate themselves and prepare for independent life in the outside world, sometimes presented as criminal circumstances for how such may be incapable of performing the above mentioned duties. Such incapacity may be the result of so-called deficit families, multi-member families, families where one parent or second is addicted to asocial behaviours such as prostitution, gambling, alcohol or drugs, poor families who cannot ensure their own existence and children, where in such cases children can easily become prey to fraud and abuse by certain subjects, in order to secure material goods. But not only poor families, even in rich families in literature, cases are mentioned where children fall prey to asocial behaviors, as a result of what parents given to work and the provision of material welfare of the family, neglect childcare. School as a very important institution in the education of children in certain circumstances

[60] Dr. Ragip Halili, Criminology , pg.306-307.
[61] Dr. Ragip Halili, Victimology, pg.106.
[62] P. Wickman & P. Whitten, Kriminology – Perspectives on crime and criminality, pg. 239.
[63] Dr. Ragip Halili, Criminology , pg.324.
[64] Dr. Ismail Zejneli, Delinquency of minors in R.M., pg. 106-107.

can be presented as a circle where children can be abused, abused and indulged in criminal behaviour. Other external factors such as economic, ideopolitical factors, and the media, especially electronic media, play a very important role in shaping the personality of young people, and as such in certain cases may be presented as determinue s in the presentation of the associal and delinquent behaviors of children and minors.

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Media Influence on Public Perception of the Special Regime in the Albanian Penitentiary System: A Case Study Analysis

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Abstract

The introduction of a special regime in the Albanian penitentiary system marked a watershed moment in prison reform, drawing significant attention from both the media and the public. This study explores the crucial role that the media plays in shaping public perceptions of such reforms, particularly in a country like Albania, where issues related to prisons and detention centers have long been a cause for concern. Understanding how media coverage influences public discourse and attitudes towards prison reforms is vital in the context of criminal justice policy-making. This study delves into the media's portrayal and public reaction, shedding light on the potential impact of the media in shaping prison reform agendas. The research reveals that the media primarily provided neutral and informative coverage, lacking critical analysis. Public reactions varied, with significant support for security measures and doubts about the regime's effectiveness. Examining the relationship between media, public opinion, and prison reforms provides essential insights for both policymakers and researchers in the realm of social sciences. It underscores the significance of transparent communication, accountability, and public engagement in the pursuit of effective criminal justice policies, particularly in contexts undergoing substantial societal transitions. This study contributes to academic discourse by examining the interplay between media, public discourse, and prison reform in a specific context. It serves as a valuable reference for scholars and researchers in the fields of media studies, criminology, and sociology, offering a distinguished perspective on media's role in shaping social and policy dynamics.

Keywords: Special regime, Albanian penitentiary system, Media coverage, Public perception, Media influence.

1. Introduction

The introduction of the special regime in the Albanian penitentiary system marked the most radical prison reform since the 2000s, garnering significant media attention and capturing the interest of the general public. Being the second country after Italy to implement such a regime puts additional pressure on the capacity of the Albanian prison system to effectively implement and manage it. Given the country's history with prison issues, the introduction of this reform warranted close scrutiny and public discussion. In addition, the European Union's progress report on Albania for 2022 highlighted concerns surrounding the prison system and detention centers. Among the longstanding issues cited were political interference, corruption, and mismanagement, which have contributed to a lack of proper staffing, inadequate infrastructure, and deficiencies in healthcare and security measures. Furthermore, the absence of regular inspections and the lack of sufficient employment and reintegration programs for prisoners were identified as troubling aspects of the system.[1]

[1] *Albania Report 2022*. (n.d.). European Neighborhood Policy and Enlargement Negotiations (DG NEAR). https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en.

Amidst these multifaceted challenges, the influence wielded by media outlets extends far beyond mere information dissemination; it actively constructs narratives, frames issues, and molds public opinion. Within the context of framing theory, media outlets not only choose which aspects of an issue to emphasize but also employ specific linguistic, visual, and contextual cues to steer the audience's interpretation and understanding of the subject matter.[2] Consequently, analyzing the role of the media in the context of very specific issues, such as the introduction of the special regime in the Albanian prison system, becomes not only important but imperative. This study distinguishes that the media's portrayal of this particular issue carries profound consequences, both for the public's understanding of the reform and for the broader implications it may have on society, governance, and justice. So, it aims to uncover the factors that contribute to informed discourse by examining the intricate relationship between the reform in the Albanian penitentiary system and the media's role in shaping public perceptions.

When analyzing media influence on public perception about the special regime in Albanian prisons, several key issues have been considered:

1. **Objectivity vs. Advocacy**: Media outlets often grapple with the balance between objective reporting and advocating for particular viewpoints. Understanding where media coverage falls on this spectrum is crucial in evaluating its impact on public perceptions.
2. **Framing and Agenda-Setting**: The media has the power to frame the special regime in different ways, emphasizing certain aspects over others. The selection of framing angles and agenda-setting by media outlets can significantly influence how the public perceives the reform.
3. **Access to Information**: Understanding whether media outlets have access to accurate and comprehensive information about the special regime and how they utilize this information in their reporting is essential.
4. **Public Responsiveness**: Examining the degree to which media reporting influences public sentiment, advocacy, or calls for reform and the potential consequences of such public responsiveness.

In the context of this study, the centrality of objectivity in media reporting serves as a critical backdrop against which the research questions are framed. The recognition of objectivity as a fundamental cornerstone of journalism, as emphasized by Mohl (2010)[3], highlights its paramount significance when media outlets report on complex and unfamiliar subjects like the special regime within the Albanian penitentiary system. In addition, the Hutchins Commission's influential 1947 report "A Free and Responsible Press", serves as a foundational framework for understanding the role of media in shaping public perception of the special regime in the Albanian penitentiary system. The Hutchins Commission's report emphasized the central role of journalists in serving the public interest by upholding principles of accuracy, fairness, and a commitment to delivering information without undue external influence.[4]

[2] Goffman, E. (1974). *Frame Analysis: An Essay on the Organization of Experience*. Harvard University Press.
[3] Mohl, R. S. (2010). *Gazetaria*. Natyra, Tiranë.
[4] Hutchins, R. M. (Chair). (1947). A Free and Responsible Press: A General Report on Mass Communication: Newspapers, Radio, Motion Pictures, Magazines, and Books. The University of Chicago Press.

2. Literature Review

The relationship between media and public perception is a well-documented phenomenon. Scholars have explored how media construct narratives, frame issues, and mold public opinion (Chong & Druckman, 2007).[5] Media outlets are not merely passive transmitters of information; they actively select which aspects of an issue to emphasize and employ specific cues to guide the audience's interpretation (Entman, 1993).[6] Framing theory emerges as a fundamental framework for understanding the media's role in shaping public perception. It posits that the way an issue is framed in the media can influence how individuals interpret and understand that issue. The choice of framing angles and agenda-setting by media outlets can significantly influence how the public perceives complex issues like prison reforms (Iyengar, 1991).[7] Studies have shown that media framing can impact public support or opposition to various policies, including prison reforms (Gamson & Modigliani, 1989).[8] For instance, when the media frames prison reforms as necessary for public safety, it can garner greater public support, whereas framing them as leniency may lead to opposition (Dunaway, Branton, & Abrajano, 2010).[9]

In the realm of journalism, agenda-setting theory, coupled with ethical considerations, holds substantial importance, particularly when reporting on sensitive topics that may have far-reaching consequences for human rights, as is the case with prison reforms. The agenda-setting theory underscores the media's influential role in shaping the public's perception.[10] This theory assumes particular significance in the context of comprehending how the media shapes public discourse surrounding prison reforms in Albania. Building upon this foundation, McCombs and Reynolds (2009) further developed the agenda-setting theory by exploring how media outlets' choices in news stories can exert influence over public agendas.[11] This concept assumes paramount importance when closely examining the strategies employed by Albanian media organizations in prioritizing and presenting information concerning the special regime in the penitentiary system. These media dynamics hold the potential to significantly impact public perspectives and policy discussions on specific developments. Objectivity in media reporting is a critical element, as failing to uphold it can lead to the distortion of public perceptions and erode the role of the media as impartial conveyors of information (Kuypers, 2002).[12] This is especially pertinent for Albania, where human rights issues are of utmost concern in the context of its European integration aspirations. Therefore, media outlets should adhere to ethical standards rigorously when addressing subjects such as prison reforms, given

[5] Chong, D., & Druckman, J. N. (2007). Framing theory. *Annual Review of Political Science*, 10, 103-126.

[6] Entman, R. M. (1993). Framing: Toward clarification of a fractured paradigm. *Journal of Communication*, 43(4), 51-58.

[7] Iyengar, S. (1991). *Is anyone responsible? How television frames political issues*. University of Chicago Press.

[8] Gamson, W. A., & Modigliani, A. (1989). Media discourse and public opinion on nuclear power: A constructionist approach. *American Journal of Sociology*, 95(1), 1-37.

[9] Dunaway, J., Branton, R. P., & Abrajano, M. (2010). Agenda setting, public opinion, and the issue of immigration reform. *Social Science Quarterly*, 91(2), 359-378.

[10] McCombs, M. E., & Shaw, D. L. (1972). The agenda-setting function of mass media. *Public Opinion Quarterly*, 36(2), 176-187.

[11] McCombs, M. E., & Reynolds, A. (2009). *How the news shapes our civic agenda. In Information and influence* (pp. 1-16). Transaction Publishers.

[12] Kuypers, J. A. (2002). *Press Bias and Politics: How the Media Frame Controversial Issues*. Greenwood Publishing Group.

their potential impact on human rights and the broader societal landscape (Ward, 2010).[13] By considering these ethical standards, the media can contribute to a more informed public discourse and a deeper understanding of complex issues like prison reforms, aligning with the broader goals of responsible journalism and safeguarding democratic principles. "Media, Crime, and Criminal Justice" by Surette (2017) offers a comprehensive overview of the media's role in shaping public perceptions of crime and criminal justice policies, offering valuable insights for understanding prison reform dynamics.[14]

Furthermore, a substantial body of case studies offers multifaceted perspectives on the interplay between media, public perception, and prison reforms across diverse national contexts. These case studies yield invaluable insights into the complex dynamics that shape public discourse and policy outcomes within the realm of criminal justice. For instance, Zimring and Hawkins' study underscores the importance of understanding how crime and violence are framed and portrayed in the media. In the context of the Albanian study, media framing of the special regime and its impact on crime rates and violence could be a relevant aspect to investigate.[15] Similarly, an examination of Norway's Penal Reforms, characterized by their progressive approach to incarceration and rehabilitation, scrutinizes the portrayal of these reforms in Norwegian media and their consequent impact on garnering public support for a more compassionate prison system.[16] Additionally, a case study revolving around Portugal's Drug Policy Reform explores the nation's decriminalization of drug use and its profound effects on drug policy. It investigates the manner in which media coverage has steered public perceptions of drug-related matters, leading to substantial shifts in both policy and public sentiment.[17] Moreover, an inquiry into sentencing reform in the United Kingdom analyzes the media's role in shaping discussions pertaining to sentencing reform in the UK. It dissects how the media has framed debates concerning criminal justice policies and their far-reaching influence on public attitudes and political decision-making.[18] Brinkmann's study on the Danish prison school system can offer a complementary perspective on the role of education within the correctional system, which may be relevant when considering the impact of media coverage on public perceptions of prison reforms in Albania.[19]

3. Methodology

The methodology employed in this study adopts a comprehensive approach that combines content analysis, primary research, and a literature review to examine the media's influence on public perceptions of the special regime in the Albanian penitentiary system. Central to this methodology is the content analysis of news

[13] Ward, S. J. A. (2010). *Global Journalism Ethics*. McGill-Queen's Press - MQUP.

[14] Surette, R. (2017). *Media, Crime, and Criminal Justice: Images, Realities, and Policies*. Cengage Learning.

[15] Zimring, F. E., & Hawkins, G. (1997). *Crime Is Not the Problem: Lethal Violence in America*. Oxford University Press.

[16] Mathiesen, T. (2006). *Prison on Trial: A Critical Assessment*. Sage Publications.

[17] Hughes, C. E., & Stevens, A. (2010). What Can We Learn from the Portuguese Decriminalization of Illicit Drugs? *British Journal of Criminology*.

[18] Smith, D. J. (2004). Ignored, trivialized, or exaggerated? Media effects on attitudes toward the sentencing of drug offenders. *Criminology & Public Policy*.

[19] Brinkmann, J. (2011). Understanding the "Educational" Prison: A Re-conception of the Danish Prison School. *Journal of Correctional Education*.

articles, which was conducted using the keyword "special regime" within media databases. This analysis encompasses the examination of various key factors, including:

→ *Topics:* This analysis enables us to discern which subjects received significant media coverage concerning the special regime. It helps understand which aspects of the regime garnered the most attention and whether particular topics or individuals were emphasized in media reporting.

→ *Narratives:* This analysis provides insights into how information about the special regime was conveyed to the public. It allows us to understand how media outlets framed the reform, whether through a lens of political controversy, social impact, security implications, or other narrative strategies. Recognizing these framing techniques is pivotal for assessing how the media shape public perceptions.

→ *Discourses:* Exploring the dominant discourses present in media content, as well as any shifts in these discourses, is central to the study. Understanding how media outlets frame issues and debates related to the special regime is crucial. This analysis helps ascertain whether certain discourses prevailed in media reporting and whether these discourses evolved over time. By examining how the media framed discussions about the regime, gain insights into whether public perceptions were influenced and shaped by media discourse.

The primary focus of the analysis was on monitoring media coverage related to the special regime, with an emphasis on assessing the tone and objectivity of news reporting. The study also examined how the media portrayed the implementation and impact of the regime. Furthermore, the research assessed the public's responses and reactions to news articles, particularly through the comment sections provided by media outlets. The monitoring process was conducted in two phases:

→ **Phase One:** This phase involved tracking media coverage on three specific dates: *January 29, 2019* (related to the declaration of the former Minister of Justice and Italian Anti-Mafia Prosecutor); *January 30, 2019* (related to the entry into force of the special regime); and *July 30*, 2020 (related to the implementation of the special regime).

By analyzing media reactions on these significant dates, the study aimed to identify patterns in reporting, differences in tone and objectivity, and the role of the media in setting the agenda for public discussions on the regime.

→ **Phase Two:** This phase included a six-month period from January to June 2022. It aimed to observe whether there was a shift in media discourse regarding the prison regime during this time frame and whether differences emerged in how issues and debates were framed compared to previous reporting.

Additionally, the study monitored public discourse, particularly through comment sections and online discussions, to gain insights into the public's perceptions and sentiments regarding the special regime.

In total, the study examined 250 news stories from both traditional and online media sources and analyzed a total of 468 comments from media audiences to provide a comprehensive understanding of the media's role in shaping public perceptions of the special regime.

4. Results and Discussion

4.1 Media Coverage of the Special Regime

In the context of media coverage regarding the special regime in the Albanian penitentiary system, a prevailing tone of informative reporting was evident. News outlets were primarily dedicated to providing factual information regarding the regime's implementation, refraining from overt expressions of opinion or judgment. Information disseminated to the public often centers on official declarations, particularly those originating from the Minister of Justice. Frequent references to relevant legislation governing prisoner treatment and the special regime were customary, with the headlines of news reports designed to offer readers and viewers descriptive information. However, this informative approach, while valuable, often lacked a critical and investigative tone, potentially hindering the media's ability to scrutinize the reform's effectiveness and identify potential shortcomings. The absence of a more probing stance limited opportunities to provide a comprehensive understanding of the reform's impact.

The special regime received significant media coverage, with national TV channels such as Top Channel[20] and Klan[21] featuring it as the lead story. Both newspapers and online platforms dedicated substantial space to the special regime in their primary news sections. However, the predominant narrative regarding the regime's implementation was characterized by its explanatory and procedural nature. The absence of a diverse range of expert opinions and perspectives could potentially restrict the depth and overall comprehensiveness of the information presented to the public. Esteemed authors like Lippmann (1922),[22] Herman and Chomsky (1988),[23] and Carey (1989)[24] emphasized the significance of sources in shaping media content and public understanding.

Notably, all the monitored news reports followed a similar structure, prominently featuring two key figures: Italian Anti-Mafia Prosecutor Federico De Raho[25] and (former) Albanian Minister of Justice Gjonaj. This structure emphasized the collaboration between Italy and Albania, signifying international support and expertise in the fight against organized crime. Key elements of this narrative include:

- **International Support:** Highlighting the presence and statements of Italian Anti-Mafia Prosecutor Federico De Raho underscores international support for Albania's efforts.
- **Expertise and Authority:** De Raho's endorsement adds an element of expertise

[20] Top Channel Albania, Informative edition, January 30, 2019, 3:00 p.m. https://www.youtube.com/watch?v=5Lzw2UqDO7U
Top Channel Albania, Informative edition, January 29, 2019, 7:30 p.m. https://www.youtube.com/watch?v=ilhyVbuUFV8

[21] Klan TV News Edition January 29, 2019, 3:30 p.m. https://www.youtube.com/watch?v=l_E1M-tZOzo0

[22] Lippmann, W. (1922). *Public Opinion*. New York: Harcourt, Brace and Company.

[23] Herman, E. S. and Chomsky, N. (1988). *Manufacturing Consent: The Political Economy of the Mass Media*. New York: Pantheon Books.

[24] Carey, J. W. (1989). *Communication as Culture: Essays on Media and Society*. Boston: Unwin Hyman.

[25] Italian Anti-Mafia Prosecutor Federico De Raho was strategically invited by the Albanian Minister of Justice to the inaugural conference on the special regime on January 29, 2019.

and authority to the Albanian government's initiatives, implying that the reforms are well-informed and credible.

- **Government Commitment:** Minister Gjonaj's remarks emphasize the government's dedication to addressing organized crime and corruption, portraying it as proactive and determined.
- **Transparency and Accountability:** Mention of upcoming initiatives, such as the anti-crime package and reforms to the Criminal Code, suggests a commitment to transparency and accountability in the justice system.
- **Justice Reform:** The narrative ties the new security regime to broader justice reform efforts, indicating a holistic approach to tackling corruption and organized crime.
- **Cooperation and EU Aspiration:** Strengthening cooperation with international partners, particularly Italy, is presented as a means to align with EU standards and enhance Albania's efforts in addressing various security and corruption issues.

The media's emphasis on phrases such as "*the fight against organized crime*," "*the prevention of money from the world of crime*," "*the fight against terrorism and corruption*," "*criminal charges at the highest levels of politics and public administration*," and "*a standard of isolation and greater security for the heads of organized crime*" collectively sends a strong message to the public. It conveys that Albania is actively engaged in addressing serious issues related to organized crime, corruption, and money laundering. These messages imply that these problems have been pervasive and may have involved high-level officials. So, the media's choice of phrases underscores the gravity of the situation and the government's commitment to addressing these complex issues. Dworznik (2019) emphasizes the significance of media outlets responsibly navigating the fine line between sensationalism and informative reporting, particularly when addressing sensitive issues that can raise public concern.[26]

In the second phase of monitoring, from January to June 2022, there has been a shift in focus and concerns related to the special regime in the Albanian penitentiary system. In the first phase, the media primarily aimed to introduce the special regime, explain its necessity, and emphasize international support and cooperation. The media primarily addressed questions regarding what the special regime was and why it was needed, portraying it as a significant step in the fight against organized crime. However, in the second phase of monitoring, the media narrative evolved to focus on the functioning of the special regime and the experiences of the life prisoners placed within it. This shift was marked by a transition from an explanatory and procedural narrative to one that delved into the regime's practical implications. The media began to address questions related to the regime's functionality and the problems identified through prisoners' complaints. The main figures mediatized in this phase were the life prisoners themselves, their defense lawyers, and the judges responsible for their cases.

The dominant narrative in this phase remained informative, aiming to inform the public about the specific prisoners seeking release from the special regime, the crimes they had committed, and the conditions they were facing. This shift suggests a growing

[26] Dworznik, G. (2019, January 10). Book review: Janet Harris and Kevin Williams, Reporting War and Conflict. *Media, War & Conflict*, *12*(1), 121–122. https://doi.org/10.1177/1750635218820963

interest in understanding the real-world impact of the special regime, especially from the perspective of the prisoners involved. It also underscores the media's role in providing visibility to the issues raised by the prisoners, their legal battles, and the decisions made by the judges. This change in narrative may reflect a broader public interest in the human rights aspects of the special regime as well as concerns about potential inhumane treatment and the legal rights of those affected. Table No. 1 provides an overview of the topics, narratives, and discourses that evolved during the two phases of media monitoring regarding the special regime in the Albanian penitentiary system.

Table 1: Topics, Narratives, and Discourses in Two Phases of Media Monitoring on the Special Regime in the Albanian Penitentiary System

Phase of Monitoring	Topics	Narratives	Discourses
First Phase *January 29, 2019 January 30, 2019 July 30, 2020*	▪ Introduction of a special regime	▪ Explanatory and procedural	▪ Government commitment
	▪ Necessity of the regime	▪ International support	▪ Transparency and accountability
	▪ Collaboration with Italy	▪ Informative reporting	▪ Justice Reform
	▪ Minister of Justice's role	▪ Reference to legal framework	▪ Cooperation and EU aspiration
	▪ Key figures: De Raho, Gjonaj	▪ Descriptive headlines	▪ Seriousness of the issues addressed
Phase of Monitoring	**Topics**	**Narratives**	**Discourses**
Second Phase *January - June 2022*	▪ Functionality of the regime	▪ Shift towards practical implications	▪ Human rights concerns
	▪ Prisoners' experiences	▪ Transition from explanatory to practical	▪ Legal rights of prisoners
	▪ Prisoner complaints	▪ Focus on specific prisoners and their cases	▪ Media as a platform for visibility
	▪ Legal battles	▪ Informativeness with a human rights perspective	▪ Potential inhumane treatment
	▪ Key figures: Prisoners, lawyers, judges	▪ Shift towards individual cases	▪ Public interest in real-world impact

4.2 Public Perception and Key Insights on Albania's Special Prison Regime

The analysis of public reaction to the prison regime revealed that 42% expressed support for bolstering security measures, while 29% voiced doubts regarding the regime's effectiveness. Approximately 13% of commentators praised the efforts of the minister, and 11% discussed the situation of specific prisoners known to be held under the special regime, as reported publicly. Notably, only 5% of the comments showed concern about human rights aspects related to the special regime. The public reaction offers valuable insights into the perception of the special regime, providing several key takeaways:

- **Support for Security Measures**: The fact that 42% of the comments expressed support for bolstering security measures suggests that a significant portion of the public believes in the importance of implementing strict security measures within the special regime. This may indicate a general sentiment that strong security measures are necessary to address specific criminal offenses and ensure public safety.
- **Doubts about Effectiveness**: With 29% of commentators voicing doubts about the regime's effectiveness, it becomes evident that there is a substantial segment of the public that questions the reform's impact and outcomes. This could be due to concerns about the regime's ability to achieve its intended goals or a lack of confidence in its potential benefits.
- **Praise for Ministerial Efforts**: The positive reception seen in 13% of the comments, praising the efforts of the minister, suggests that there is a portion of the public who approves of the government's initiative to introduce the special regime. This positive sentiment may indicate a level of trust in the minister's commitment to addressing criminal issues.
- **Concern for Specific Prisoners**: The fact that 11% of the comments focused on discussing the situation of specific prisoners held under the special regime indicates that there is public interest in understanding how the reform is affecting individual cases. This highlights the importance of transparency and accountability in the implementation of the special regime.
- **Limited Concern about Human Rights**: The data reveals that only 5% of the comments showed concern about human rights aspects related to the special regime. This finding suggests that while some individuals express such concerns, human rights considerations may not be at the forefront of the public discourse about the reform.

Conclusion

This study presented a comprehensive analysis of media coverage and public reactions related to the special prison regime in Albania. The media's portrayal of the regime evolved from an initial focus on its introduction, necessity, and international support to a more detailed examination of its functioning and the experiences of life prisoners within it. Throughout both phases, the media maintained an informative tone but lacked a critical and investigative edge, potentially missing opportunities to scrutinize the reform's effectiveness and human rights implications. Public reactions to the special regime reflected a diverse range of opinions. While 42%

expressed support for enhanced security measures, 29% voiced doubts about the regime's effectiveness. Praise for the efforts of the minister (13%) and discussions about specific prisoners (11%) were also notable. Surprisingly, only 5% of comments expressed concern about human rights aspects related to the regime. These findings highlight the complexity of public perception regarding the special regime. Support for security measures and praise for the minister's efforts indicate a level of trust in the government's initiative. However, doubts about effectiveness underscore the need for transparency and accountability in the implementation of the regime. The focus on specific prisoners emphasizes the importance of individual cases within the broader reform. The limited concern for human rights suggests that this aspect may require more attention and discussion in public discourse.

Overall, this study emphasizes the role of the media in shaping public perception and highlights the need for responsible reporting when addressing complex and sensitive issues like prison reform. It also stresses the importance of public engagement and awareness in discussions about criminal justice reforms and their impact on human rights. The findings provide valuable insights for policymakers, media professionals, and civil society organizations working to improve the Albanian penitentiary system and ensure the protection of human rights.

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Procedural guarantees related to liberty deprivation in the Albanian criminal system

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Abstract

As a country with a totalitarian past, recognizing and guaranteeing human rights has been a challenge for Albanian society. After the democratic changes of the 90s, a series of steps were taken to prevent the arbitrary violation of human rights in Albania. The adoption of the new Constitution of the Republic of Albania was one of the most important ones. The Constitution provides that basic human rights and freedoms are inviolable, inalienable and are the foundation of a democratic legal order.
The right to liberty and security is one of the basic human rights guaranteed in the Constitution of the Republic of Albania. Considering the importance, the Constitution guarantees protection from arbitrary deprivation of this right by providing for cases of restriction and guarantees for persons deprived of their liberty. Although the legal framework enables legal guarantees, there are still many challenges in practical implementation by law enforcement bodies.
The article aims to give an insight into international standards and those of the internal system that grants the right to liberty and security. In a special way, the criminal procedural framework that sanctions the procedural guarantees of liberty deprivation will be analyzed.
Referring to the legislation and the practice of implementation, the article will highlight the positive achievements and changes, but also issues regarding the practice implementation of the criminal procedure and the legal guaranties related the liberty deprivation.

Keywords: Constitution, human right, liberty deprivation, security measures, procedural guarantees.

Introduction

Liberty is one of the basic human rights already recognized as such by a universal consensus. Sanctioning and protecting fundamental rights and freedoms is an essential task for any democratic state. As a country with a totalitarian past, respect for human rights has been and still is a challenge for Albanian society.
During the long period of the dictatorship, some rights were formally granted even at the Constitutional level, but the political interests of the state prevailed over the basic rights. The first constitution of the dictatorship period provided for the right to inviolability of the person.
To guarantee this right, some provisions were sanctioned in the criminal proceedings, such as: not being kept in a state of arrest for longer than three days without a court decision, or not being punished without the law[1]. The Criminal Procedure Code(CPC) of the People's Republic of Albania also provided for procedural guarantees to prevent unlawful deprivation of liberty[2]. Respect for constitutional guarantees often remained formal, especially in the case of political issues. The subsequent constitution, that of 1976, further deepened the political nature of the system.

[1] *Constitution of the People's Republic of Albania*, 1946, Article 22.
[2] Law no. 1650, dated 30.03.1953, *The Code of Criminal Procedure of the People's Republic of Albania*, article 3.

Coming out of the long period of dictatorship, after the 90s the Albanian society undertook a series of legal and institutional reforms to adapt to the democratic standard of developed societies. The work on creating new legislation and adapting it to international standards began precisely with the repeal of the 1976 Constitution[3]. The most important step in this direction was the ratification of the European Convention on Human Rights[4]. The ratification of this Convention makes it part of the domestic legal system. As such it applies directly and takes precedence over the laws of the country that do not agree with it[5].

In the context of the obligation to draft the constitutional legal framework, the albanian state first adopted the Law on Constitutional Rights and Freedoms and then the Constitution of the Republic of Albania in 1998. In an approach with the modern constitutions of developed democratic countries, the Albanian Constitution sanctions principles and standards related to the respect of fundamental rights and freedoms. The limitations of the rights and freedoms provided for in this Constitution cannot in any case exceed the limitations provided for in the European Convention on Human Rights[6].

One of the most important aspects of the protection of human rights in criminal procedure is the constitutional protection of the restriction of personal liberty. The right to liberty means protection from the restriction of physical freedom[7]. International standards require that any restriction of liberty be applied as an exception, in cases where it is objectively necessary and in accordance with legal conditions. International standards refer to the use of measures that limit liberty in criminal proceedings only in exceptional cases and in fulfillment of procedural guarantees. This protection is best reflected in Article 27 of the Constitution of Republic of Albania, which provides for the universal principle on the limitation of personal liberty:

Nobody can be deprived of his liberty, except in the cases and according to the procedures prescribed by law[8].

To avoid any arbitrary restriction of this right, the Constitution also provides a series of principles and guarantees for persons whose freedom has been restricted. Many of them are universal principles such as the principle of presumption of innocence, the principle ne bis in dem, nullum crimen sine lege, nulla poena sine lege neni, etc. To enable practical implementation, the procedural guarantees related to this right are further supplemented by special laws, where the Code of Criminal Procedure occupies a key place. However, in the justice organs practice there are still problems in fully implementing these rights.

The article will address issues related the criminal procedure and the legal guaranties related the deprivation of liberty based on national legislation and international standards. It will highlight the problems of implementation in the practice of the justice bodies and will draw some recommendations on the improvement of

[3] Islami. H, Hoxha. A, Panda. I, *Criminal Procedure, Commentary,* (2003), Morava Editions, Tirana pg 30.

[4] Ratified by Law. no. 8137, dated 31.7.1996.

[5] Law no. 8417, dated. 21.10.1998, *Constitution of Republic of Albania*, article 122/1.

[6] *Constitution*, neni 17/1.

[7] Skëndaj, E. (2018) *Analysis of international standards and local practice for the implementation of detention*, Advocacy 26, publication of the National Chamber of Advocacy, pg 69.

[8] *Constitution*, article 27/1.

the implementation of these measures in accordance with the requirements of international standards.
Through the content, some of the most important issues that refer to the sanctioning of the right to liberty will be referred to and the following questions will be answered:
How is the right to liberty and security guaranteed in international legal acts of human rights?
Have the international standards been accepted by the albanian state and how have they been reflected in the legal framework?
How is the right to freedom and security sanctioned in the criminal procedural system, as well as the special procedural guarantees related to it?
What are the problems in the implementation of internal legislation that have also become the subject of judgment by the European Court of Human Rights in the cases with Albania?

1. The standards defined in the European Convention on Human Rights

As part of fundamental rights and freedoms, the right to liberty and security has a general provision in several international human rights instruments such as: Universal Declaration of Human Rights (Article 9), European Convention on Human Rights (Article 5), International Covenant on Civil and Political Rights (Article 9), etc. The European Convention on Human Rights will serve as the basis of reference in the analysis of the right to liberty and security. As the most important instrument in the field of human rights, the Convention serves as an international guarantee by establishing a minimum standard for these rights and is considered as a guide for domestic legislation in this field. The right to freedom and security is part of the catalog of fundamental rights and freedoms provided for in the European Convention on Human Rights (ECHR).
One of the most important principles sanctioned by the convention is the protection of the right to freedom and security against its restriction in arbitrary forms and contrary to the law. Although this right is not absolute, the Convention provides protection against its arbitrary violation. This right is granted by Article 5 of the ECHR as follows:
Everyone has the right to liberty and personal security. No one shall be deprived of his liberty except in the cases defined in this article and in accordance with the procedure provided by law.
Paragraph 1 of Article 5 of the ECHR indicates that there is a presumption that everyone should enjoy his liberty and that, consequently, a person may be deprived of this liberty only in exceptional circumstances[9]. Any deprivation of liberty must be "in accordance with a procedure provided by law". Legality means that any prohibition must be in accordance with national law and the Convention and must not be arbitrary. When contesting a deprivation of liberty, it is essential for a judge to start from the presumption that the person in question should be released[10]. In any case, it is necessary not only to present the reasons for the restriction of freedom, but also to argue them. This raises the need for reasoned judicial decisions in every case of the implementation of measures that limit freedom.
From an analysis of Article 5 of the ECHR, it can be concluded that this protection is

[9] Monika. M, *The right to liberty and security*, (2002), A Guide to the Implementation of Article 5 of the European Convention on Human Rights, Council of Europe, Strasbourg, pg 8. (https://rm.coe.int/handbook-5/16806fc13e)
[10] *Idem,* pg 9.

enabled in three main directions:

- Sanctioning the principle of non-violation of the right to freedom and security;
- Determining the cases of limitation of this right;
- Provision of guarantees for persons whose freedom is restricted;

Not being an absolute right, the right to freedom can be limited for major interests. Even the Convention itself foresees the possibility of limiting this right in the cases expressly provided for in it. The right to personal freedom is subject to six specific limitations, provided for in the Convention, which are exhaustive.

Paragraph 1 of Article 5, letters a to f, provides for the cases of restriction of a person's freedom and limits this only to these cases without leaving spaces for arbitrary restriction[11].

Deprivation of freedom will be considered legal only if it is related to the cases of restriction of freedom provided for in the Convention.

From the content of Article 5 (1), it can be concluded that this article recognizes several situations in which the deprivation of liberty is legally justified:

When a sentence is issued by a competent court, (paragraph a), when the person has been arrested or detained for non-compliance with a court order or non-fulfillment of an obligation (paragraph b), when there are reasonable grounds to suspect that he has committed an offense, or to prevent his committing an offence or fleeing after having done so. (paragraph c.) to prevent of the spreading of infectious diseases or the treatment of mentally ill persons, alcoholics, drug addicts or vagrands. (paragraph e), the detention of a person following the implementation of a request for his extradition or deportation, (paragraph e).

For the category of minors, their detention is considered legal if it refers to the needs for supervisory education or to be brought before the competent legal authority (paragraph d.). The most typical forms of restriction of liberty in albanian practice are those referred to in paragraphs a and b.

Especially the cases related to the restriction of liberty in form of detention due to the reasonable suspicion of the commission of a criminal offense, the need to prevent such from happening or the possible escape of the suspect constitute the most frequent and controversial grounds for the restriction of liberty. The problems in these cases are mainly related to detention for long periods.

The doctrine expresses the view that: although the need to institute criminal proceedings against someone suspected of having committed a criminal offence, or

[11] Paragraph 1 of Article 5 of the Convention defines the six cases of restriction of a person's freedom as follows:

a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for noncompliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

the need to prevent the commission of such an offence, may justify the initial decision to deprive the suspect of his liberty, this does not constitute a sufficient basis for continued detention after this stage. Continuation of detention must be subject to immediate judicial investigation that must not only examine first whether it is a justified measure, but also whether it is still suitable to continue[12]. Problems in this direction have led to the handling of cases before the European Court of Human Rights ECtHR.

In the "Grori v. Albania" case, the ECtHR concluded that "*...we are dealing with a violation of the appellant's right to freedom and security (Article 5 §1) by the domestic courts which decided to keep the appellant in custody during the recognition of the foreign criminal decision, flagrantly violating the deadlines provided by the domestic legislation* "[13].

In this decision, the court stated that: "*It is essential that the conditions for deprivation of liberty according to domestic law are clearly defined and that the law itself is predictable in order to respect the criterion of legality defined by the Convention*"[14].

In the Delijorgji v. Albania decision, the ECtHR found a violation of Articles 5 § 1 and 5 § 4, due to the length of detention "pending the decision", as well as the lack of reasoning for the decision when the security measure of house arrest was imposed on him.

In order to avoid arbitrariness, the ECHR also provides for some basic guarantees for persons who are in conditions of restriction of liberty[15] .

Article 5/2 contains an essential guarantee against the abuse of power in the restriction of liberty: every person who is arrested must be informed within the shortest possible time, in a language he understands, of the reasons for his arrest and of any charges against him.

Article 5/3 refers to the right of the person to be sent to the judge or other oficer authorized by law to exercise judicial power within a reasonable time or to be released pending trial. In relation to Article 5/3, the ECtHR in the case "Ocalan v. Turkey" considered a violation of Article 5/3 of the ECHR *the long period of 7 days of detention without appearing before a judge*[16].

Article 5/4 guarantees the possibility of the person who has been deprived of his freedom to exercise the right of appeal regarding the legality of the detention or arrest. Given the presumption against deprivation of liberty, Article 5/4 requires that any decision regarding the legality of the detention be made within a short period of time.

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[12] Monika. M, *cited work*, pg 50.

[13] ECtHR, *Case Grori v. Albania*, decision of 7 july 2009.

[14] ECtHR, *Case Delijorgji v. Albania*, decision of28 april 2015.

[15] 2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

[16] ECtHR, *Case Ocalan v. Turkey*, decision of 12 March 2003.

In the Case of Winterwerp v. the Netherlands, the ECtHR found that the applicant was not given the opportunity to review the decision to restrict his liberty. The court noted that "*Article 5/4 requires that the relevant procedures be accompanied by basic guarantees. It is necessary that the isolated individual enjoys the right to address a court as well as the right to be heard by it*" [17]. Through this case, the ECHR establishes an important principle in the framework of the provisions provided for in Article 5 of the Convention, that of the periodic review of the legality of the deprivation of a person's liberty[18].
Article 5 (5) requires that those who have been victims of arrest or detention contrary to the provisions of this article shall have an enforceable right to compensation.
In the case of Yankov v. Bulgaria, the ECtHR found a violation of Article 5/5 of the Convention as the domestic law did not allow the applicant the right to compensation for unlawful detention [19]. In its jurisprudence, the ECHR has dealt Article 5/5 in accordance with article 13 of the Convention, which refers to the right to effective compensation when any of the fundamental rights and freedoms of the individual have been violated.
The rich practice of the ECtHR has made a valuable interpretation of the cases of restriction of the liberty, but also of the rights of the person who are in the conditions of restriction of personal liberty, thus becoming a very good example for the practice of the domestic courts of the countries that have ratified the ECHR.

2. The right to freedom and security in the domestic legal system

2.1 Provision in the Constitution of the Republic of Albania

The right to liberty is considered a fundamental right and is guaranteed also in the Albanian Constitution. The Constitution of the Republic of Albania sanctions a series of general regulations aimed at protecting and guaranteeing basic rights and freedoms. Important in this regard is the principle that human rights and fundamental freedoms are inviolable, inalienable and are the foundation of a democratic legal order[20]. All bodies of public power, in fulfilling their duties, must respect basic human rights and freedoms, as well as contribute to their realization[21].
Limitations of the rights and freedoms provided for in this Constitution can only be established by law. Regarding the reasons for the limitation, the Constitution refers to two reasons, the protection of the public interest or the protection of the rights of others. In any case, the restriction must be proportionate to the situation that dictated it[22].
Of considerable interest is the reference to the standard provided by the Convention regarding the limitation of fundamental rights and freedoms. Restrictions in no case may exceed those provided for in the European Convention on Human Rights[23]. In this way, the Constitution sets the only standard for limiting the fundamental rights and freedoms provided for in the Convention.

[17] ECtHR, *Case Winterwerp v. Netherlands*, decision of 24 October 1979.
[18] Bianku. L, *Jurisprudence of the Strasbourg Court*, (2005), EDLORA Edition, Tirana, fq 218.
[19] ECtHR, *Case Yankov v. Bulgaria*, decision of 11 October 2003.
[20] Constitution of the Republic of Albania, article 15/1.
[21] *Idem*, article 15/2.
[22] *Idem*, article 17/1.
[23] *Idem*, article 17/2.

One of the most important aspects of the protection of human rights at the constitutional level is the constitutional protection of the restriction of personal freedom. This protection is best reflected in Article 27 of the Constitution of Albania, which provides for the general principle that: *The liberty cannot be violated*.

However, the right to liberty and security, not being an absolute right, can be limited to the cases and conditions provided for in the Constitution. This regulation is consistent with international standards that require that any restriction of liberty be applied as an exception, in cases where it is objectively necessary and in accordance with legal conditions. International standards refer to the use of measures that limit liberty only in exceptional cases and in fulfillment of procedural guarantees. The Constitution provides that this right can be limited by law, for the public interest or for the protection of the rights of others. In this way, the arbitrariness of the executive power is avoided.

Similarly, to Article 5 of the Convention, the right to liberty and security is regulated in detail in Articles 27 and 28 of the Constitution of the Republic of Albania. Article 27 of the Constitution taxatively defines the cases of limitation of personal liberty in order not to leave room for the arbitrary limitation of this right by state bodies. The list of cases follows the same regulation as the first paragraph of Article 5 of the Convention[24].

Albanian legislation also provides for a series of procedural guarantees for the person whose freedom has been restricted for one of the reasons provided for in the law. In order to enable a stronger protection, these rights are not only foreseen in the procedural system but are sanctioned at the constitutional level[25].

Article 28 specifies some basic guarantees for the person whose liberty has been restricted [26].

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[24] Article 27 of the Constitution provides :

1. No one can be deprived of liberty except in the cases and according to the procedures provided by law.
2. Freedom of person may not be limited, except in the following cases:

a) when punished with imprisonment by a competent court;

b) for failure to comply with the lawful orders of the court or with an obligation set by law;

c) when there are reasonable suspicions that he has committed a criminal offense or to prevent the commission by him of a criminal offense or his escape after its commission;

ç) for the supervision of a minor for purposes of education or for escorting him to a competent organ;

d) when a person is the carrier of a contagious disease, mentally incompetent and dangerous to society;

dh) for illegal entry at state borders or in cases of deportation or extradition.

3. No one may be deprived of liberty just because of not being able to fulfil a contractual obligation.

[25] *Constitution*, article 28-35.

[26] According to Article 28 of the Constitution:

1. Everyone who has been deprived of liberty has the right to be notified immediately, in a language that he understands, of the reasons for this measure, as well as of the charge made against him. The person who has been deprived of liberty shall be informed that he has no obligation to make a declaration and has the right to communicate immediately with a lawyer, and he shall also be given the possibility to realize his rights.
2. The person who has been deprived of liberty, according to Article 27, paragraph 2, subparagraph c), must be sent within 48 hours before a judge, who shall decide upon his pretrial detention or release not later than 48 hours from the moment he receives the documents for review.
3. A person in pre-trial detention has the right to appeal the judge's decision. He has the right to be tried within a reasonable period of time or to be released on bail pursuant to law.
4. In all other cases, the person who has extra-judicially been deprived of liberty may address a judge at any time, who shall decide within 48 hours regarding the legality of this action.
5. Every person who has been deprived of liberty pursuant to Article 27, has the right to humane treatment and respect for his dignity.

According to this article, every person who has been deprived of his liberty has some basic rights in the criminal process, such as; the right to be notified of the charges against him, the right not to testify against himself, the right to a lawyer, the right to appear before a judge within 48 hours, the right to appeal, as well as the right to humane treatment and respect for dignity.
The Constitution also affirms some of the basic principles of the criminal process, which serve as an additional guarantee for the person whose liberty has been restricted such as: the principle of non-application with retroactive effect of the criminal law (Article 29), the principle of presumption of innocence (Article 30), the principle ne bis in dem, (Article 34), etc.
As the fundamental law, the regulations provided for by the Constitution are a guarantee for the respect of this right. Another important guarantee in the implementation of this right is the European Convention of Human Rights itself. Ratification by Albania has made this Convention part of the internal juridical system, even the only international agreement which in terms of hierarchy is equated with the Constitution. The development of the notion of the right of liberty also comes from the rich jurisprudence of EctHR, where a number of its decisions refer to Article 5 and its interpretation. A rich practice comes from the decisions of this court on Albanian cases, where some cases also refer to the right to liberty and security.
The guarantees provided in the Constitution, are completed in specifies laws when the Criminal Procedure Cod is a crucial one.

2.2 Regulation according to procedural criminal legislation

The right to freedom and security is conceived as a unique right that consists in the physical freedom of the individual from any type of coercion that stops or limits him in movement, or in actions[27]. The Criminal Procedure Cod (CPC), provide special rules to safeguard the rights and the interests of individuals throughout the deprivation of liberty. The most typical cases of restriction of freedom are the arrest and detention. The terms arrest and detention are also used in the content of Article 5 of the Convention, which defines cases of restriction of liberty.
The arrest has been one of the most debatable points regarding the respect of fundamental rights. It is related not only to the limitation of personal liberty, but also other rights such as dignity, personal integrity, the prohibition of torture, etc. In the first stage of the arrest, before the case goes to the prosecutor's office, there are also the biggest claims for violation of rights, such as ill-treatment, beatings, and various abuses, which are not easy to prove that they happened[28]. A guarantee in this case is the right to appear before a court within 48 hours, which decides on the detention or release of the arrested person within 48 hours of taking the case into consideration.
More specifically, the arrest and detention are provided in Chapter III of title V of the CPC, articles 251-259. This chapter contains general procedural aspects of the terms and implementation procedures of arrest and detention. The CPC also provides a series of procedural guarantees that the deprivation of liberty is made in accordance with the international standarts.

[27] Omari. L, Anastasi.A, *Constitutional Law* , (2001), ABC Editions, Tirana, pg 139.
[28] Hoxha.A, *Protection of human rights in the criminal process, and in particular in the setting of security measures*, Human rights, (2002), No. 1, march, Albanian Center for Human Rights Editions,.pg 28.

The person whose freedom has been restricted must be informed about the reasons for the detention or arrest[29]. He has the right to be told not to make any statement because, on the contrary, anything he says can be used against him in the trial[30]. Also, he has the right to defend himself with a lawyer, and he is even given the right to choose up to two attorneies[31]. If there is no financial possibility to choose a defense attorney, a defense attorney will be appointed. The questioning takes place only in the presence of the defense attorney and after the detainee or the arrested person has been informed of his rights[32].

The CPC foresees cases of the mandatory presence of the attorney not only during questioning, but also in other procedural actions such as confrontations, controls, etc. The person whose freedom has been restricted has the right to communicate with his defender at any time.

A new element sanctioned in the CPC with the changes made in the framework of the justice reform is the concept of the "bill of rights". Now the rights of the detained and arrested person are made known to them by the procedural autorities in written form. The prosecutor is obliged to make available to the arrested or detained person the "bill of rights" and clarify his rights before the interrogation[33]. The person detained or arrested has the right to be brought before the judge within 48 hours and it is the latter who evaluates the measure as legal or not. Another legal guarantee is the right to appeal against the court's decision.

Another procedural mechanism that limits liberty are personal precautionary measures. Personal precautionary measures are set to meet the security needs of persons who are prosecuted after there is a reasonable suspicion based on evidence that they have committed a criminal offense[34]. In general, personal security measures are set before the announcement of the charge and are intended to meet the security needs of the person in the proceeding[35].

In accordance with the ECHR, Article 228 of the Code of Criminal Procedure defines the general requirements for the application of precautionary measures: reasonable suspicion based on evidence, the existence of reasons for impunity and the existence of a criminal offense or of the penalty [36].

The special conditions are also foreseen which are: the existence of important causes that put in danger the obtainment or the authenticity of evidence, the escape of the defendant or the risk that he will escape, the risk that he would commit serious criminal offences like the one he is being prosecuted for[37].

The following provisions also provide for the criteria for establishing personal precautionary measures, the conditions for replacement or joining, their duration, or the right to appeal against security measures. The personal precautionary measures that affect the deprivation of liberty are coercive measures. Article 232 specifies the

[29] *CPC*, article 255/2.
[30] *Idem*, article 255/1.
[31] *Idem*, article 255/1, neni 48/ 1.
[32] *Idem*, article 256, 1.
[33] *Idem*, article 256, 2, shtuar me Ligjin nr. 35/2017.
[34] *Idem*, article 228/1.
[35] Summary of unifying decisions of the Supreme Court, 2000-2006, (2006), *United Colleges of the Supreme Court, Unifying Decision, no. 3, dated 27.09.2002* Official Publications Center, Tirana, pg 546.
[36] *CPC*, article 228/1.
[37] *Idem*, article 228/2.

types of coercive measures[38]. The most repressive measure considered as the most significant limitation of freedom is precautionary detention in prison (pre-trial detention) [39].

In accordance with Article 5 of the Convention as well as the jurisprudence of the ECtHR, CPC has determined that the pre-trial detention as the most serious measure can only be imposed if any other measure is inappropriate due to the dangerousness of the offense and the defendant[40]. According to the Human Rights Committee, the restriction of liberty by pre-trial detention had to meet the conditions of legality, reasonableness, and necessity[41].

As it is reflected in the literature, compared to international standards, the extended use of pre-trial detention in our country evidences a poor recognition of these standards by the actors of the criminal justice system, in particular the prosecution and the courts[42].

In practice, this measure has had a frequent application. Also, the court decisions have not always been qualitative in terms of the justification for the implementation of the pre-trial detention measure. Another issue of judicial practice is the long terms of detention. If we refer to the practice of the Supreme Court as the highest instance of judicial review, it has evidenced a lot of shortcomings of the courts of the lower levels, that of the First Instance, as well as that of the Appeal in the implementation of this measure.

By changing these decisions, the Supreme Court has also established some standards that must be implemented by domestic courts. It has consistently emphasized the illegality of the implementation of pre-trial detention in the absence of procedural guarantees such as the right of defense or the argumentation of the existence of legal criteria. In case 00-2008-36, dated 05.03.2008, the Supreme Court changed the decision of the Tirana Court of Appeal and the Court of First Instance Mat. The court expressed the need to comply with the conditions for setting personal precautionary measures as follows:

"*Referring to the content of Article 228/3 of the CPC, it is an obligation for the court to argue the existence of one of the conditions provided by this provision. In their decision, both the Court of First Instance and the Court of Appeal have only mentioned the fulfillment of the conditions mentioned in Article 228 and 229, without analyzing and proving them...*". At the same time, the court emphasized that: "*The existence of reasonable suspicion based on*

[38] According to the article 232 of the CPC:
1. Coercive measures are:
a) prohibition to expatriate;
b) duty to appear at the judicial police;
c) prohibition and duty to reside in a certain place
ç) bail;
d) house arrest;
dh) precautionary detention in prison;
e) temporary hospitalisation in a psychiatric hospital.

[39] Albanian Documentation Center for Human Rights, *The role of the judge in the protection of human rights*, (1995), no. 3, September, pg 33.

[40] *CPC*, article 230/1.

[41] Skëndaj.E, *cited work*, pg 72.

[42] *Idem*, pg 70.

evidence is a very important, but not sufficient, essential element in determining the personal precautionary measures".

A controversial aspect of the judicial practice is also the length of pre-trial detention. Article 5/3 of the Convention requires that deprivation of liberty pending trial shall never exceed a reasonable time limit. With the changes of the Criminal Procedure Code in the framework of of the justice system reform, more detailed regulations were established on the maximum terms of detention both in stage of the proceedings and the trial[43]. However, one of the most important issues in our system continues to remain the long terms of pre-trial detention.

Of considerable importance in this direction are the procedural guarantees that enable the exclusion of some special categories of subjects from the application of the security measure of pre-trial detention.

Article 230 of the CPC excludes subjects such as: a woman who is pregnant or has a child under the age of 3 years living with her, a person being in a particularly serious health state or who is older than seventy years or a drug-addicted or alcoholic person, who is undergoing a therapeutic programme by a special institution. In such cases, the measure of detention can be imposed only where there are reasons of a special importance and for crimes, which are punishable not less than ten years' imprisonment[44]. This is a manifestation of the principle of proportionality, where the legislator excludes these subjects precisely because of the special qualities they have. Minors are not placed in this category. For this category, the CPC provides that minors accused of a criminal misdemeanour may not be arrested.[45]. The criterion of not applying arest in the case of misdemeanors was insufficient. In this way, although Albania has accepted the international standards of juvenile justice, the principle of applying detention as a last measure was not applied in practice. Such a deficiency has also been found by experts during the processes of the juvenile justice system reform[46]. The adoption of the Juvenile Criminal Code as part of justice system reform, brought a lot of innovation in the procedural guarantees related to liberty deprivation for minors. According to the provisions in the Code, the measure of arrest for minors can only be imposed as a last alternative and of the following criteria:

the charge is related to criminal offenses punishable by more than 7 years, or the minor poses a serious risk to him and others that cannot be avoided in other ways, the minor tries to evade justice[47].

Referring to the CPC, a series of procedural guarantees related to the fair trial can also be applied to persons who are deprived of their liberty, both adults and minors. The principle of presumption of innocence, trial by an independent and impartial court, trial within a reasonable time, the right to appeal, guarantee the persons the protection of their interests in the criminal process, becoming one of the pillars on which the regular process is based[48]. These principles underlie the regular process and guarantee the basic rights of the person whose liberty has been restricted. What still remains a challenge is the correct implementation of all the guarantees

[43] CPC, article263, amended with Law no. 35/2017.
[44] *Idem*, article 230/2.
[45] *Idem*, article 230/4.
[46] O, Donnell.D, *Assessment of juvenile justice reform achievements in Albania*, (2009), Unicef, Tirana, pg 9.
[47] Law no. 37/2017 *Juvenile Justice Code*, article 86.
[48] See, article 6 of the *ECHR*, article 42 of *Albanian Constitution*.

provided in the procedural system for subjects deprived of liberty in accordance with international norms and standards.

Conclusion

As part of fundamental rights, the right to liberty and security has a general provision in several international human rights acts where the ECHR takes the main place. As the most important instrument in the field of human rights, the Convention serves as an international guarantee by establishing a minimum standard for this right and is considered as a guide for domestic legislation in the field.

After the democratic changes, Albania reformed its legislation to comply with international requirements and standards. The respect of human rights and the creation of an effective opportunity for the person to enjoy them, are being consolidated day by day in the Albanian legal order in accordance with the international agreements ratified by Albania, where the ECHR occupies a very important place. The right to liberty is considered a fundamental right and is also guaranteed in the Albanian Constitution. Considering the importance, the Constitution guarantees protection from arbitrary deprivation of this right by providing for cases of restriction and guarantees for persons deprived of their liberty. The guarantees provided in the Constitution, are completed in specifies laws when the Criminal Procedure Cod is a crucial one.

As the fundamental law, the regulations provided for by the Constitution are a guarantee for the implementation of the right to liberty in the activity of the judicial bodies. Another important guarantee are the provisions of the European Convention of Human Rights. Ratification by Albania has made this Convention part of the internal legal system, even the only international agreement which in terms of hierarchy is equated with the Constitution.

The development of the notion of the right of liberty also comes from the rich jurisprudence of EctHR, where several decisions refer to Article 5 and its interpretation. Part of practice comes from the decisions of this court on Albanian cases, where some cases also refer to the right to liberty and security.

What remains a challenge is the correct implementation of all the guarantees provided in the procedural system for subjects deprived of liberty in accordance with international norms and standards. Although the legal framework complies with the standards, there are still many challenges in practical implementation by law enforcement bodies.

The extended use of pre-trial detention in our country evidences a poor implementation of international standards by the actors of the criminal justice system, in particular the prosecution and the courts. Of considerable importance in this direction is the correct implementation of procedural guarantees that refer to the duration of detention, the reasoning of decisions in the implementation of coercive measures, etc.

The effectiveness of the implementation of the procedural guarantees related to liberty deprivation cannot be granted simply and only by their legal sanction. A series of institutional and infrastructural measures should continue to be undertaken to implement the rights and procedural guarantees in practice in accordance with international standards.

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Profesional development and evaluation of teachers in Albania after 1990

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Abstract

In the last 30 years, in the framework of the educational reform, the reformation of the teaching profession has also been undertaken. The two main pillars of the reform for the teaching profession have been: designing a framework The results show that the majority of teachers need continuous and sustainable training. Only 22% of teachers and managers possess knowledge at the "Very Satisfactory" level. Most of them (54%) possess knowledge at the level of "Satisfactory, but in need of improvement". Only 24% of teachers and leaders have essential needs for improvement. What is most needed in Albania is a clearly articulated visionary policy and an institutional basis with effective action to improve the status, authority and quality of teachers. From the method of analysis and synthesis, a series of recommendations are given below to influence the improvement of the quality of teachers. The inclusion of the teaching profession in the regulated professions is a positive step that is expected to guarantee a better quality of teachers.

Keywords: Professional development, Teacher evaluation system, Legal framework, Albania.

Introduction

The current context consisting of the still low achievement of students according to the Program for International Student Assessment (PISA), the results of the state matura, the results of the evaluation of teachers and initiatives for further reforming the system of preparation and evaluation of teachers have become the impetus for this assessment. The object of the evaluation is the professional development and evaluation of teachers in Albania. It aims to: present an overview of relevant educational legislation; - to identify the legal aspects that need to be improved in relation to the matter under evaluation; to identify and evaluate policies that do not work; - to present a picture of the professional development and evaluation of teachers; - to present short-term and long-term recommendations for improvements. The paper focuses on three main aspects: the right to exercise the profession; in the teacher qualification system; in the continuous professional development of teachers Knowledge, skills, commitment of teachers, as well as the quality of school management are the most important factors in achieving high results in the educational system. Quality teaching and the ability of teachers to motivate and inspire all students to achieve their best has a positive and lasting impact on the future of children and young people. For this reason, it is essential that teachers not only have appropriate education and high professional training during their initial training, but must ensure high standards of continuous professional development at all levels. On the other hand, this also contributes to increasing the status of this important profession. Like many European and world countries, Albania has also changed the curriculum in the education system, which now has a new approach with a "Learning by doing" focus, which differs from

traditional teaching where teachers transfer their knowledge to all students. Based on instruction no. 1, dated 20.01.2017 of the Minister of Education and Sports "On the operation of the system of continuous professional development of educational employees", ASCAP in cooperation with MASR, organized the work to carry out the identification and collection of the needs for professional development of teachers and managers. In order to make this process as inclusive as possible, all actors present in the school and contributing to the educational system were included.

The teacher evaluation system in Albania

After the 90s, Albania has been involved in education reform, aiming to remodel the education system in order to respond to European standards and global developments in education. The vision of education in Albania is to build and guarantee a modern national education system that supports sustainable economic development, increases competitiveness in the region and consolidates democracy. The educational reform is focused on four main areas: legal and administrative, curriculum, teaching technology and human resources. The legislative and administrative reform aims at drafting a contemporary legal framework aligned with the European one, building a democratic school, supporting the decentralization process and increasing, strengthening ties with the community. Curricular reform is centered on two main approaches: student-centered curriculum and competency-based curriculum. Instructional technology reform aims to modernize teaching and learning through the use of information and communication technology for instructional purposes. The reform of human resources aims to improve the quality of employees of the education sector and in particular of teachers to implement the curricular reform and to realize the process of democratization of education. Teachers play an important role in improving the quality of education. Keeping this consideration in mind, historically in Albania governments have shown commitment to the preparation and qualification of teachers. In the period before the 90s, the preparation of basic education teachers was done at the Higher Pedagogical Institutes, the preparation of teachers for secondary schools was done at the University of Tirana, while the preparation of kindergarten teachers was done at the secondary pedagogical schools. The qualification of teachers after studies was carried out without separation from work in an organized manner by the Ministry of Education periodically every five years in the pedagogical and scientific aspect. [1]The work of teachers was evaluated with the badge "Distinguished Teacher" and the titles "Teacher of the People" and "Merited Teacher" that were given starting from 1950[2] respectively by the Ministry of Education and the Presidium of the People's Assembly. Since 1992 and following, the Albanian government has undertaken reforms for the teaching profession. The two main pillars of the reform for the teaching profession have been: the drafting of a complete legal framework and the implementation of a new policy. Positive achievements have been noted regarding the legal documentation for the status of the teacher, while less work has been done on the strategy of the development of the profession. Currently, teachers of all levels are trained in institutions of higher

[1] Report on Reforming Higher Education and Scientific Research, Tirana 2017.

[2] Shefik Osmani. Dictionary of Pedagogy, Tirana, 1983, pp. 434-436.

education in Bachelor and Master programs and entry into the profession takes place after gaining the right to exercise the teaching profession according to the "Law on Regulated Professions in the Republic of Albania". The policy of the teaching profession includes teacher preparation, continuous professional development as well as teacher qualification. The professional development of teachers is planned by the educational institution, according to the needs of the teachers and in accordance with the central, local and institutional educational policies. The qualification of teachers foresees three categories: the first category: "Master teacher"; second category: "Qualified teacher"; third category: «Specialist teacher»[3]. The increase in the teacher category is based on experience, training and after successfully passing the final exam of the relevant qualification category. The criteria and procedures for the qualification of teachers are determined by the instruction of the Minister of Education. Each qualification category is accompanied by a salary supplement, the amount of which is determined by decision of the Council of Ministers. Despite the reform efforts and the improvements made in the last 30 years, education in Albania continues to face many problems related to: the implementation of legislation; the lack of support mechanisms for the implementation of the undertaken initiatives; decision-making not based on evidence, assessments and research; the unsatisfactory quality of human resources, with poor infrastructure and little financial support.. Ministry of Education and Sports (MAS), Institute of Statistics (INSTAT), National Examinations Agency (AKP), etc. testify to progress in aspects such as: the development of the public and private education system, the development of the curriculum, the implementation of the Bologna process, the regulation of the teaching profession. The evaluation undertaken has as its object the professional development and evaluation of teachers in Albania.

The legal and institutional framework for the status and evaluation of teachers in Albania

A number of laws and by-laws have been approved, which have influenced the development of education and the teaching profession. A set of legal documents regulate the teaching profession:

Law No. 10 171, dated 22.10.2009 "On regulated professions in the Republic of Albania" amended by Law No. 10357, dated 16.12.2010 is the main document for regulated professions, including the teaching profession. The purpose of this law is the determination of the criteria for the exercise of some important professions, which are related to the protection of the public interest

Law No. 69, dated 21.6.2012 "On pre-university education in the Republic of Albania". The purpose of this law is to define the basic principles related to the structure, activity, and direction of the pre-university education system in the Republic of Albania. This law regulates aspects related to the teaching profession, such as: teacher status, training, qualification and professional development.

Law No. 9741, dated 21.5.2007 (amended) "On higher education in the Republic of Albania". This law aims to define the mission, the main objectives of higher education and to regulate aspects of the creation, organization, direction, and provision of

[3] Law No. 69/2012 "On the pre-university education system in the Republic of Albania", article 57, 58, 59.

quality in institutions of higher education, in accordance with European standards Law No. 7961 of 12.07.1995 "Labor Code of the Republic of Albania", amended by Law No. 8085 of 13.03.1996, amended by Law No. 9125, dated 29.07.2003 is the main document that regulates employment issues in Albania. This law also applies to the teaching profession.

Law No. 10247, dated 04.03.2010 "On the Albanian Framework of Qualifications" (KSHK) This law aims to define the structure, objectives, functions and areas where the KSHK extends its jurisdiction, as well as the organization and direction of the KSHK -, in cooperation with relevant ministries, central or local government and non-profit organizations, which operate for the development, provision and use of qualifications. Law No. 8652, dated 31.7.2000 "On the organization and operation of local government", amended by Law no. 9208, dated 18.03.2004 defines, among others, the powers of the local government for pre-university education.

Regulations

In addition to laws, teacher status issues are also regulated through acts such as: Normative Provisions for the Pre-University Educational System, approved by the Ministry of Education and Science. This document contains detailed rules for the learning process and for actors operating in pre-university educational institutions. In this document there are also some points related to the individual evaluation of the teacher. Institutional and regulatory framework for the teaching profession In Albania there are a number of institutions and organizations that act to implement the legislation related to the issues of the teaching profession.

The institutions responsible for teacher training are:

The Ministry of Education and Sports (MAS) defines policies for university programs Higher Education Institutions (HEIs) offer Bachelor's, Master's in Teaching, and Doctorate study programs

The Public Agency for Accreditation of Higher Education (APAAL) is responsible for ensuring the quality of university programs and Higher Education Institutions.

Institutions for granting the right to exercise the profession

The Council of Ministers (CoM), which determines the minimum requirements for training and professional qualifications for regulated professions and the list of specialties for regulated professions. The Ministry of Education and Sports (MAS) as the competent authority for the regulated teaching profession, approves the professional practice programs, ensures and monitors the completion of the practice, forwards to the KPA the list of suitable persons for the state exam. The National Examinations Agency (AKP) is responsible for the organization of the state examination of teachers. Higher Education Institutions (HEIs) that prepare orientation programs for the state exam. Regional Education Directorates/Educational Offices (DAR/ZA) are responsible for the development of professional practice in the schools they cover, organize the mentoring system, equip the trainees with the practice certificate. Public and Private Educational Institutions (IAP/P) follow the activity of mentors and interns in their institutions, evaluate the intern.

For the qualification of teachers according to the institutions responsible are:

The Ministry of Education and Sports (Directorate of Internal Services) is responsible for directing the qualification process and monitoring the development of the exams.

The Pre-University Education Quality Assurance Agency (ASCAP) administers the teacher qualification process and is responsible for the design of the qualification programs, for the design of the question fund of the qualification exam; for the design of the test; for administrative measures for conducting the qualification exam; for determination

The current situation of professional development and evaluation of teachers in Albania

One of the main goals of the assessment is to create a clear picture of the professional development and assessment of teachers in Albania, as an opportunity to make an assessment of the situation for the improvement of the system. The data provide information on the overall number of teachers at the country level, a. The number of teachers in preschool and secondary education has increased, while the number of teachers in basic education has decreased. This is explained by the fact that preschool education and secondary education have had more development in the last 20 years. b. The number of teachers with higher education has increased, as a result of the demands for better quality teachers in schools. c. The number of teachers with higher education is greater in private education. This is explained by the high demands of parents, who pay for their children's education, and the commitment of private schools to meet the required standards. d. The majority of teachers in primary and secondary education are female. Therefore, teaching continues to be a female profession. e. The number of teachers in the village is smaller than in the city, and this is related to the number of students in the village.

General data for teachers in Albania

Below we present a picture of general data about teachers in Albania In the 2017-2018 school year, 650,153 pupils and students participated in formal education, with a decrease of 3.8%, compared to the 2016-2017 school year. Participation in all educational levels is 82.8%.

Pre-university education

In the 2017-2018 school year, 520,759 students and children participated in pre-university education,

marked a decrease of 2.9%, compared to the 2016-2017 school year. The decrease in the number of students in value absolute, follows the decline of the population of the age group belonging to pre-university education. In the 2017-2018 school year, a total of 81,026 children participated in preschool education. 80.3% of the population of this age group participated in this educational level, marking a decrease of 1.2 percentage points, compared to the previous year. The Net Enrollment Ratio (the total number of students by theoretical age group for a given level of education registered at that level, expressed as a percentage of the population in that age group) for children in kindergartens is 76.3%. In the 2018-2019 school year, 319,671 students participated in 9-year education, marking a decrease of 2.5%, in both cycles of 9-year education. Participation at this level, with a gross registration indicator of 100.7%, shows an increase of 0.3 percentage points compared to the previous year. Enrollees in the 6-14

age group make up 96.5% of those enrolled in 9-year education, with an increase of 4.2 percentage points from the 2016-2017 school year

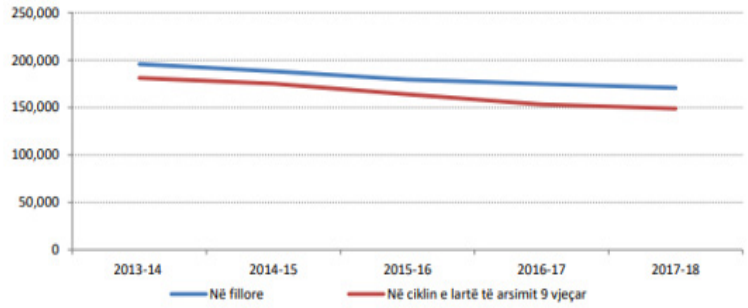

Image : Enrolled in 9-year education

In the 2017-2018 school year, 92.7% of 9-year education students were enrolled in public education institutions and 7.3% in private ones. Among students enrolled in 9-year education, girls account for 47.4%. The gender equality index is 0.97 and shows that the participation between girls and boys at this level is unequal

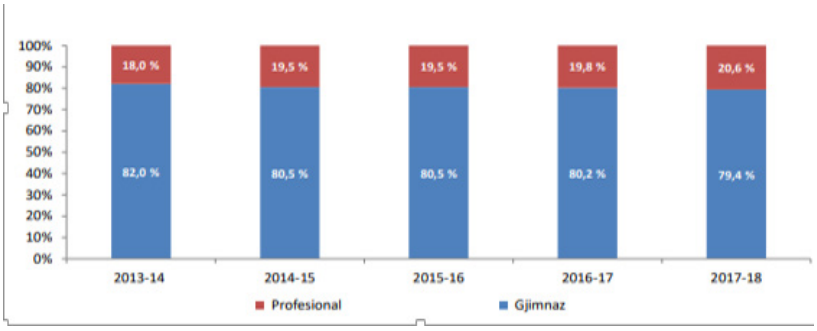

Figure: Recorded secondary education

In the year 2018-2019, the participation of students in secondary education is 93.9%, marking an increase of 0.8 percentage points compared to the previous year. The majority of students in secondary education are high school students of 79.4%. In the 2017-2018 school year, public education includes 88.4% of secondary education students in total. In the 2017-2018 school year, there are 24,790 9-year-old education teachers, among whom 73.9% are women. The pupil-teacher ratio in public primary education is 17.8 and in private primary education is 15.0. While in the higher cycle of 9-year education, the ratio of students to one teacher in public is 10.1 and in private 7.7. The number of teachers in secondary education is 8,941 of which 66.2% are women. The pupil to teacher ratio in secondary education is 13.8 in public education and 8.7 in private education.

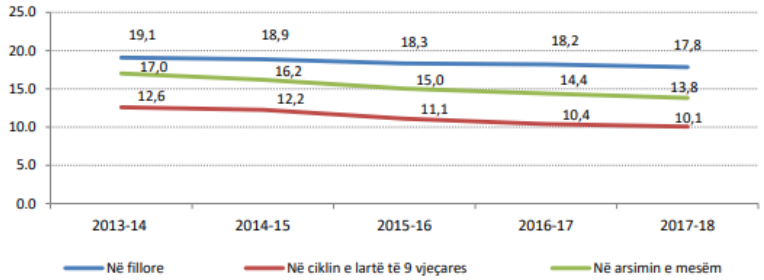

Figure: Student-teacher ratio in public education

Higher education In the academic year 2017-2018, 129,394 students continue their studies in all higher education programs, marking a decrease of 7.3% compared to 2016-2017. In all higher education programs, in the 2017-2018 academic year, 77,899 female students participated, or 60.2% of the total number of students in higher education. For the same period, they attended higher education in bachelor programs 85,234 students. It is estimated that during the academic year 2017-2018, about 25 thousand Albanian students study in different countries of the world. Students who participated in public higher education make up 81.9% of the total number of students. For this year, the gross enrollment ratio in higher education is 54.0%, marking a decrease of 2.0 percentage points compared to 2016-2017.

Practices related to the right to exercise the profession

All teachers of the pre-university system are subject to qualification. Qualification is done through the personal portfolio of professional development and relevant exams. Continuing qualification takes place in two stages: First stage: Preparation of the teacher's Professional Portfolio, which contains CV, documents and certificates acquired during the period in question as well as the part of professional documents, such as: an annual lesson plan for a subject and certain class; a chapter test; student achievement objectives for a chapter at three levels in a given subject and class; a daily planning according to a complete structure, which also includes the methods of realizing the objectives of the lesson; a plan of the curricular project together with the description of its realization.[4] The portfolio is evaluated by a commission set up at the DAR/ZA where the teacher works. Second stage: Teacher testing. Teachers who have submitted their portfolios and have been evaluated above a minimum number of points go to this stage. Teachers are examined on the basis of a test. The exams are carried out on the basis of qualification programs for teachers in pre-university education, teachers in 9-year education general test; teachers of professional culture in artistic schools: general test, teachers of professional culture in special schools: general test. The final grade is based on accumulated credits and test scores. Through this system, teachers' salary is differentiated according to professional merit. The largest number of teachers belongs to the third degree qualification. This type of assessment

[4] Ministry of Education Order No. 336, dated 14.07.2011 "On the organization and development of professional practices for the regulated teaching profession". P.45-67.

is mainly the competence of school leaders. Schools do not have performance evaluation statistics. Performance evaluation results for improvement are kept by school leaders and are rarely found in teachers' personal files. Regarding this type of evaluation, there is no data at the national level.

Problems for the professional development and evaluation of teachers

1. There is a lack of a comprehensive visionary policy for the development of the teaching profession.
2. Teacher evaluation systems in Albania lack a theoretical basis. They lack support in theoretical models, best practices, subject standards and competencies on the basis of which measurement and evaluation seem to take place.
3. The state is still very involved in the teacher evaluation system.
4. The teacher training system is not based on any national document.
5. Documents of competences and professional standards according to teacher categories are missing.

Annual evaluation is the only way to ensure that all teachers - regardless of their skills or years of experience - receive recognition for their performance. All professions need such assessment. This perspective takes into account that teacher effectiveness and developmental needs may change over the years, and this perspective conveys to school leaders the message that they must be responsible for helping all their teachers to grow professionally. Rating levels for schools provide them with information needed to make hiring decisions. Assessment should be characterized by clear and rigorous expectations. Teachers should be evaluated against clear and rigorous performance expectations based primarily on data about student learning. School leaders should be responsible not only for the accurate evaluation of teachers to help teachers improve over the years.

Conclusions

The creation of a supportive legislation for the teaching profession has helped the development of the teaching profession. supporting changes in the education system The inclusion of the teaching profession in the regulated professions is a positive step that is expected to guarantee a better quality of teachers.

The training scheme for teachers has already been changed, defining the programs, criteria, required credits and liberalizing the training market. The increase in the number of teachers with higher education is a positive trend for a higher quality of teachers. A comprehensive visionary policy for the development of the teaching profession and evaluation systems is missing. The state is still very involved in the teacher evaluation system. The policies undertaken so far by the Ministry of Education have reformed the teacher training system by changing the curricular structure, but the alignment of the curricula of the Higher Education Institutions was not achieved, due to the different approaches they have chosen. The number of teachers in preschool and secondary education has increased, while the number of teachers in basic education has decreased. It is noted that there is a lack of gender balance in the personnel employed in the educational system. The relationship between universities and schools during the period of professional practice is not regulated through any

regulatory document.

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Possible challenges in the Albanian criminal justice system during Covid-19

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Abstract

The Covid-19 pandemic has created significant challenges for law enforcement in a number of countries, including the function of courts during states of emergency and restrictions made in the context of protecting the health of citizens. However, the courts and their activity remain vital in a democratic system, in particular in such extraordinary situations to ensure the legality of emergency measures taken by legislative bodies and to effectively prevent these measures from being overridden in individual cases. Continuity of court activity is a general public need to ensure justice in general. Courts in different states have had different approaches during this time, some have been completely closed, others remain partially open, and all have implemented electronic platforms and electronic means of communication to guarantee justice.

In an unprecedented situation, policy makers, legislators, courts, judicial councils and other self-governing bodies were faced with problems that required solutions. The state of the pandemic changes rapidly and repeatedly, depending on where countries are and their geopolitical location.

The purpose of this paper is to examine the legal framework in Albania during the period of the global Covid-19 pandemic, stopping in some aspects, in the international aspect, the procedural guarantees that were put at risk, how the regular judicial process was affected under the influence of normative acts, the impact of Covid-19 on the institutions of execution of criminal decisions and possible challenges.

Keywords: court, citizens, emergency measures, restriction, global pandemic.

Introduction

The World Health Organization on March 11, 2020 characterized Covid-19 as a global pandemic. The first case of Covid-19 was discovered on the territory of Albania on March 9, 2020, therefore measures were taken to protect public health. The Republic of Albania announced the state of the epidemic from the Covid-19 infection through order no. 156/2 dated March 11, 2020[1], in order to protect the health of the population from the infection caused by Covid-19. The Council of Ministers approved normative act no. 3 "On taking special administrative measures during the period of infection caused by Covid-19"[2]. The purpose of this normative act was to determine the special measures that would be taken against Albanian or foreign physical/legal persons or individuals, regardless of their residence, who violated the rules, decisions, orders and instructions issued by the competent bodies. On March 24, 2020, the Council of Ministers of the Republic of Albania declared a state of natural disaster in order to prevent the spread of the Covid-19 virus throughout the territory. The approved

[1] Published in the Official Gazette no. 64, publication date 10.04.2020. http://qbz.gov.al/eli/urdhër/2020/03/11/156-2.

[2] Published in Official Gazette no. 37, publication date 15.03.2020. http://qbz.gov.al/eli/akt-normativ/2020/03/15/3.

measures included, among others, the gradual restriction of air, land and sea traffic, the suspension of the educational process, the establishment of quarantine and self-isolation procedures, the limitation of mass gatherings, demonstrations and special regulation for the provision of public services and procedures administrative.
One of the important by-laws during this period is normative act no. 9 dated March 25, 2020 "On taking special measures in the field of judicial activity, during the duration of the epidemic situation caused by Covid-19"[3]. The object of this sub-legal act is the determination of special rules for the development of judicial and prosecution activity during the duration of the epidemic situation.
The challenges of the judiciary during the pandemic have been numerous, financial crises, ineffective procedures and the inability to deliver justice in a reasonable time frame remained some of these challenges. During the pandemic, some states have observed a transfer of power from the judicial and legislative to the executive, with the concern that this may become a "normal" and permanent thing. In some jurisdictions the lack of a functional Constitutional Court and Supreme Court prevented effective oversight of legislation passed during the emergency period. In turn, the pandemic has created an incentive for governments to review and reform justice systems. The discussion focused on the use of electronic tools and the possibility of providing remote participation and documentation exchange, etc.

1. Who has a role in decision-making?

Who has the authority to decide how the judicial system should respond to the pandemic at different stages has been an ongoing issue, with different approaches adopted depending on the case and the jurisdiction? In some jurisdictions, decisions about how courts would be managed during and after the pandemic have been made by executive authorities, with or without consultation from the judiciary. In some countries the measures are defined by law, while others are defined by judicial authorities such as judicial councils or by the judge himself. In Poland, the Presidents of the Courts made a decision regarding the continuation of the court proceedings, although the recommendations were prepared by the Ministry of Justice[4]. Similarly, the Judicial Councils of Lithuania and Albania gave instructions to the judiciary on how they would organize their activity and the protocols to be adopted throughout the pandemic.
In Germany, each judge must decide independently within the existing legal provisions, whether it is appropriate to hold a hearing or to postpone it. In a general way, a summary of the legal framework that offered the alternatives for holding sessions in the presence of the parties was made available to the judges. However, during the height of the pandemic, most courts (including the Federal Court of Justice and the Federal Constitutional Court) decided to continue the trials with the minimum possible number of the public.
Experience shows that a balance must be found between the requirement for clarity

[3] Published in the Official Gazette no. 50, publication date 25.03.2020. http://qbz.gov.al/eli/akt-normativ/2020/03/25/9.
[4] OSCE, The role of courts during the Covid-19 pandemic, October 2020. https://www.osce.org/files/f/documents/5/5/469170.pdf.

and transparency of the procedures and decision-making of the courts on the one hand and the discretionary character of the courts to decide case by case on the other hand. The first is invaluable to prevent arbitrary and unilateral decisions of the participants in the trial in accordance with the principle of legal certainty, while the second preserves judicial discretion and gives freedom to the court to decide taking into account the special characteristics of the case, such as location, type and workload of the court.

2. Disproportionate impact on certain vulnerable groups

It is clear that in many countries it has had a disproportionate impact on certain groups, in particular the vulnerable groups of society. The right of access to justice of vulnerable groups must be taken into account, determining urgent solutions with the most effective means. Support for these individuals must continue throughout the pandemic and will need to adapt as the court system emerges from the pandemic. Vulnerable communities (due to socio-economic status) are unlikely to be able to access court hearings held by electronic means and this risks being at a disadvantage in terms of access to justice and equality of the parties. If individuals have a visual or hearing disability, or have an intellectual disability, this may affect their ability to participate fully in any remote hearing.

Damages may not be immediately apparent, but they can still be a reason to undermine the parties' effective participation in the process. Special considerations are also required when parties or witnesses require confidentiality, privacy and protection from possible threats in cases of giving evidence, for example in cases of domestic violence, where abusive partners could easily be in a position to intimidate victims during a virtual session.

Violence and isolation increased the exposure of trafficking victims as a result of the pandemic. Changes in procedures, delays and adjournments in criminal cases as a result of emergency measures negatively affected victims' and survivors' access to justice.

3. Determination of the emergency nature of court cases

Under the partial or full closure of courts in many countries during the height of the pandemic, the capacity of the courts to handle cases was reduced, raising the question of which cases will be suspended, which will continue and which will be considered urgent. The definition of what constitutes a pressing matter varies from state to state and across different types of courts, however some common points can be found.

Some general guidelines on the determination of urgency in the form of laws, regulations or recommendations are useful to avoid arbitrariness and to ensure fairness, transparency and consistency, if at the same time balanced with flexibility to decide on a case-by-case basis. The International Commission of Jury (ICJ) and several other organizations have provided assistance in determining the "emergency case".

The main criteria should include the requirements of international law and the

necessity to prevent irreparable damage. Therefore, the urgent case should involve issues related to the violation of rights, for which delayed remedial action is likely to be ineffective. This is possible when individuals of special or vulnerable groups are at risk of physical or mental harm. It has been widely reported that women found themselves at increased risk of domestic violence during solitary confinement situations[5]. Children, the elderly and the disabled were also more vulnerable to violence and neglect in times of emergency.

Indeed the United Nations Subcommittee on the Prevention of Torture (SPT) has called on States in the context of the pandemic to review all cases of detention in order to determine whether it is strictly necessary under the prevailing public health emergency. Canada various issues were identified as urgent, such as those related to public health and safety, protection of minors, etc. The courts also relied on criteria such as the urgency of the matter, seriousness (if the delay would significantly affect the health, safety or economic-social well-being of one of the parties) and if there is evidence that supports the claim that the case is urgent (medical evidence or the health issue is serious).

Laws passed at the height of the pandemic in Italy, Portugal and Slovenia ensured that urgent cases in which fundamental rights were at risk could proceed despite confinement, such as proceedings where minors are at risk, emergency custody and domestic violence cases. The Dutch judiciary adopted a general regulation for dealing with cases which included among urgent cases some plenary sessions and family cases such as child protection. In North Macedonia, the Judicial Council Decision[6] included a recommended list of urgent cases for ordinary courts.

Other procedures dealing with potentially unjustified detention should also be addressed as a priority, bearing in mind the risk of infection in the usually harsh conditions in prisons. OBSH has emphasized that persons deprived of their liberty face greater difficulties due to being in closed spaces and limited access to hygiene and health services[7]. Indeed, the UN Working Group on Arbitrary Detention has called on states to review existing cases of deprivation of liberty in all detention settings to determine whether the detention is still justified as necessary and proportionate in the prevailing context of the Covid-19 pandemic.

Moreover, national courts must remain competent and capable of assessing and, if necessary, annulling any unlawful imposition or unjustified extension of emergency measures.

4. Video conferences and the use of technological tools in the criminal procedure

The most discussed aspect of the impact of Covid-19 on the judicial system may be the rapid increase in the use of technology to manage the workload of the courts and to maintain some functions during the lockdown and afterwards. Such technological solutions include audiovisual platforms to ensure the participation of parties in remote proceedings, systems to enable the filing, distribution and communication

[5] "Covid-19 and ending violence against women and girls", UN Women, Brief, 2020.

[6] VKGJ NR.02-606/1,73 date 17.03.2020.

[7] OSCE, The function of courts during the Covid-19 pandemic, October 2020. https://www.osce.org/files/f/documents/5/5/469170.pdf Pg.18.

of documents, digital case management and electronic signatures. The use of such technology requires an element of security in data storage and user access to computers, cameras, etc.

While the reluctance among judges to adapt to technological solutions and Internet access has been observed as a thing of the past. The pandemic swept the judiciary into the age of technology. Some electronic tools have been absorbed by judges with ease, bypassing the parties' inability to access them as well as concerns related to fair trial. As a result of the pandemic, many countries introduced electronic tools for the exchange of court documents. For cases to be handled remotely, individuals must be able to prove their identity if they are not physically present in court. For this purpose, some states have allowed the use of electronic signature by changing the Code of Criminal and Civil Procedure. Judges must also be able to prove their identity and ensure the authenticity of decisions if hearings are held remotely. Some states have allowed an option through which the use of electronic signature is allowed. In Norway, the legislation was amended to allow the adoption of decisions, if there is a scanned copy of the signature of the president of the trial body and the judge's confirmation if the other judges have agreed with the decision.

The rapid adaptation to a variety of technologies inevitably generated a variety of problems depending on the type of court and hearing. Proceedings involving witnesses, children or individuals in custody required specific considerations. In many countries, prompted by the adaptation that had to be made within the pandemic, technologies were introduced or their use expanded, without an appropriate legal basis. Concerns have been raised about the legality of judges who have used videoconferencing technology for hearings based on a recommendation or decree.

Due to the speed of introduction and the lack of general instructions for judges, there was also a lack of consistency in the use of solutions, including teleconference hearings, some judges used it, others did not and many more judges used it that differently. Problems included poor internet connectivity, lack of necessary user equipment, systems that did not have the necessary features to cope with unexpected demands, inadequate protection of personal data, lack of handling in the use of new technology and lack of IT assistance when difficulties arise.

A variety of different platforms have been used by courts, sometimes on an experimental basis. The cost implications of the available software mean that, when courts do not purchase the necessary licenses, judges may be forced to use applications free of charge that do not offer unlimited length and other features needed for an online broadcast of court hearings. Virtual hearings have been held in some courts while some other courts draw lessons from their experiences.

Countries where videoconferencing has been used in criminal proceedings include Austria, Croatia, France (where hearings were also held by telephone), Ireland, Portugal, Serbia, Slovenia and the United Kingdom. In Ukraine, the Judicial Administration decided to allow the use of different applications for video conferencing, avoiding the reliance of the entire judiciary on a single electronic system in order to avoid the many defects that could come as a result of overload. Participants had to register in advance with a digital signature or password[8] details. In North Macedonia, remote hearings were enabled by Government Directive during

[8] OSCE Ministerial Council, decision no. 5/06.

the state of emergency. In Greece, there was no regulatory framework that allowed remote hearings, only remote discussion of cases among judges, while all trials were postponed to a later date[9].

The ability of courts to hold hearings remotely depends on the existence of a legal basis. In some countries, this option was available even before the Covid-19 pandemic, although only for certain types of procedures. In Croatia, in criminal proceedings, it has been possible to hold hearings remotely since September 2019[10]. In Italy, the legislation was changed in response to the needs dictated by the pandemic in April 2020, allowing videoconferencing in any mediation procedure, always subject to the consent of all parties to the proceeding. This option has extended its application even after the end of the period of public emergency[11].

Replacing hearings with videoconferencing or other means of information technology requires that appropriate technical solutions exist for all parties involved such as judges, lawyers, prosecutors, parties, witnesses, interpreters (when applicable) with sufficient reliability and capacity to continuous audio and video. Technical support should be made available to the parties in order to ensure their effective participation and sessions should be terminated if the connection is interrupted. Documents and materials must also be shared electronically securely.

Final decisions may need to be made on a case-by-case basis, but they should be based on predictable general rules and take into account the general principle of the right to be heard by an independent and impartial tribunal. In criminal jurisdictions, fair trials speak in favor of a face-to-face séance, especially in the context of taking evidence from defendants.

The fundamental concern is the violation of the principle of fair trial that may be jeopardized by hearings that take place by video conference. For individuals who are arrested or detained, article 9 (3) of the ICCPR and article 5 (3) of the ECHR include a clear obligation to bring them immediately before a judge or other competent legal authority. Effective and confidential communication between the parties and their lawyers during the hearing is also challenging, where possible. Consideration should also be given to allowing room sharing on electronic platforms to enable the provision of attorney/client discussions, although there is much room for discussion as these rooms cannot truly remain confidential. Online hearings can also cause difficulties with interpreters and confidential communications between parties and their lawyers.

Other difficulties arise in how to verify the identity of parties and witnesses, how to record and inspect evidence, how to prevent witnesses or litigants from looking at "cheat sheets", being influenced by receiving signals from third parties during testimony, and how to facilitate proper interviewing and a defendant's right to be present when a witness is being questioned. The European Court of Human Rights has ruled that it is difficult to see how the right of an individual accused of a criminal offense to defend himself personally, to cross-examine witnesses and to have the assistance of an interpreter, if necessary, can be exercised without being physically

[9] OSCE Ministerial Council, decision no. 12/05.

[10] Article 115 of the Criminal Procedure Act.

[11] OSCE, The function of courts during the Covid-19 pandemic, October 2020. https://www.osce.org/files/f/documents/5/5/469170.pdf Pg.24.

present.
The security of the environment from which the individual will access the session virtually must also be taken into account. An individual may not be able to give evidence for a virtual hearing safely from home for example, in domestic violence cases. Obtaining the testimony of vulnerable witnesses or individuals (such as children) from a location where they are not directly exposed to a suspected perpetrator of violence has been used as a means of protecting vulnerable witnesses before the pandemic. Doubts have also been raised about the possible deliberate misuse of remote hearings/videoconferencing as a means of persecution. The first situations arose when the defendants and their lawyers were not in a position to question the witnesses, and the identity of the witnesses remained completely unclear in a video conference session.

5. Changes in the types of criminal offenses and sanctions given during the pandemic

Other types of criminal offences, challenges to emergency legislation and sanctions for breaches of isolation or quarantine emerged during the Covid-19 pandemic. The courts, in particular the Constitutional Court, have played a very important role in reviewing the legislation drafted during the Covid-19 emergency. Some of the laws passed in the context of Covid-19 created concerns because they were passed without the usual parliamentary procedure. Other laws have been criticized for lacking necessity or proportionality because they are incompletely drafted, causing legal uncertainty in many cases, resulting in inconsistent application by police, prosecutors and judges.
In all participating states, sanctions were imposed for the violation of measures to prevent the spread of Covid-19, including fines, arrests and detentions, most of them based on administrative offenses or newly created criminal offenses and other legislation already existing. People turned to the courts to challenge them, in particular the fines that were excessive compared to the country's average wages, as well as arrests and detentions sometimes for relatively minor offenses such as not wearing a mask in public. In Slovenia, offenses under existing law were applied to sanction violations of emergency measures such as not wearing a face mask and not keeping social distance. Poland created new sanctions for violations of pandemic-related measures, including exposing large numbers of people to contagious diseases and not following staffing instructions.
The Republic of Albania, in addition to the imposed[12] administrative measures, the Criminal Code of the Republic of Albania, changed some definitions of existing criminal offenses and provided for new criminal offenses within the framework of protection against the spread of the Covid-19 pandemic.
The legal provisions of article 130/a "Domestic violence" will undergo changes. Also, criminal offenses were added, such as the provision of Article 242/a "Failure to implement the measures of state authorities during a state of emergency or during an epidemic", and the criminal offense provided for under the provision of Article 89/b

[12] Law no. 35/2020 "On some additions and changes to law no. 7895, dated 27.01.1995".

"Spread of infectious diseases".
It is difficult, or at least premature, to reach a final decision on whether the changes approved in the Criminal Code by law no. 35/2020 are or are not necessary. Although changes in codes during an extraordinary period are not prohibited, it is always very delicate to make changes in acts with a permanent normative character during such a period.
In the context of administrative and criminal sanctions, courts will also be faced with considerations of the risk of infection as an aggravating or mitigating factor in sentencing. For example, criminal offenses related to the transmission of the virus such as coughing into the law, defying officers dealing with the implementation of preventive protocols for the spread of Covid-19 can be treated as an aggravating factor in such offenses, the imposition of a prison sentence at a time when the risk of transmission of Covid-19 is higher and prison isolation greater than usual can be considered a mitigating factor.
In a Court of Appeal case in England[13], the chief prosecutor noted that it was appropriate to take into account the additional impact that a prison sentence would have during the pandemic. In considering whether to suspend the prison sentence, he pointed out that the current conditions in the prisons represent a factor that can be properly taken into account in this case, deciding to suspend the sentence. In the Netherlands, courts reported handing out prison sentences to individuals who had coughed or spat on people, including public servants. A court in Limburg sentenced a 19-year-old man to eight weeks in prison and awarded compensation to the victim, for saying he was infected with Covid and spitting on the bus driver. The court argued that, "The court takes into consideration the fact that we live in a strange and violent time where the impact of behavior is greater than under normal circumstances"[14].

Recommendations and conclusions

Regarding measures of a general nature:
- Courts should consider developing exit strategies, adaptable over time, for those produced by the restrictions imposed by the pandemic.
- Courts must ensure that due process requirements are respected during states of emergency and not subject to measures that would circumvent inalienable rights.
- The Judiciary must identify ways to share practices that respond to the pandemic, across different courts, different regions of the country and different jurisdictions.
- When drafting protocols and their responsibilities to the pandemic, courts must take into account the needs of persons from vulnerable groups and the impact on their rights to a fair trial and access to justice.
- Measures and protocols must be communicated to all users, quickly and regularly and in accessible ways that take vulnerabilities into account. Those attending the courts should be provided with detailed instructions.
- Alternative means of communication with court users should be considered in order to reduce the number of people attending the court in person.

[13] The "Manning" case.
[14] OSCE, The function of courts during the Covid-19 pandemic, October 2020. https://www.osce.org/files/f/documents/5/5/469170.pdf Pg.43.

- The safe and confidential transmission of data must be guaranteed using any technology accepted by the courts.

Regarding the emergency nature of the issues:
- Clear criteria should be created, preferably by law, for defining an "emergency case".
- Criteria should be transparent and available for others to consult.
- Courts must maintain flexibility to adapt to the pandemic. A case-by-case determination of what is urgent may be appropriate as a way to ensure judicial discretion and independence.
- In determining what is urgent, it should be taken into account those cases where the defendants are in custody, cases where immediate protection is required by women or other groups affected by domestic violence (especially during quarantine), other family and cases related to the violation of measures related to Covid-19 that mean irreparable damage.
- Other procedures should be made available to deal with potentially unjustified detention, especially taking into account the risk of infection in the conditions of institutions of deprivation of liberty.
- The court must take into account the impact of the pandemic on other actors outside the judiciary.
- It should be possible to submit and review requests for legal aid online.

Regarding the use of technological tools:
- The right to a fair trial should not be compromised by any technological means during the pandemic.
- Courts should adopt criteria to identify those cases that are suitable for virtual hearings and those that are not.
- The decision whether to hold a remote hearing should be at the discretion of the court, consistent with the need to respect the right to a fair trial.
- Appropriate solutions and technical support must exist for all parties involved such as judges, lawyers, prosecutors, parties, witnesses, interpreters when applicable.
- The physical presence of the parties in court hearings must remain the rule and remote procedures must constitute an exception.
- Management of participants in virtual sessions requires a reconsideration of court etiquette, management and engagement of individuals.
- Observation of trials and monitoring of trials in videoconference sessions should continue.
Regarding the new types of criminal offences:
- Existing criminal offenses must be implemented in a way that is consistent not only with international standards but also with current practices.
- New acts and laws must meet the principles of legal certainty, proportionality, necessity and non-discrimination.
- There should be consistent application of factors related to the pandemic when determining the penalty.

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Overview of the parameters serving for recognition, conservation and regeneration of Shkodra Lake

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Abstract

Data on the use of three parameters for the recognition and management of preserved natural values of the Lake of Shkodra, are given in this article. The high potential of the biodiversity is expressed in the usual richness parameter of 2818 species of the living community. Rare species living in Shkodra Lake are given, as a common parameter, which expresses preserved natural values, but which requires serious programs for further conservation.
Ecosystem maturity is the essential parameter for preserving values through regeneration of the ecosystem and its stability. Species that indicate problems in the environment and ecosystem health are given, such as some keystone fish species, *Escherichia coli, Euglena gracilis, Tubifex* worms, Ephemeroptera and many Insecta orders with aquatic and benthic larvae, Amphibia (particularly Anura) etc, which can be used successfully by specialists for the Lake of Shkodra. Main species are an important component for the Shkodra lake stability. Every change in their population health could serve as an indicator of environmental stresses in this ecosystem. In this article it is presented a general overview about the species richness, with respective comments

Keywords: Natural values, richness of species, rare species, ecosystem maturity, indicator species, keystone species, ecosystem regeneration, Lake of Shkodra.

Introduction

The parameter term could be understood also as an evaluation characteristic or criterion.
The richness of species and rare species are two common parameters that indicate stored natural values. (http3)
The species richness is the biodiversity in the basic taxonomic level and is presented with the total number of species in a community or area.
The rare species are small populations. The organisms of rare species are not common, a few, that are met rare. They belong to the endangered categories VU and EN, when are indicated by negative factors. But, they could belong to these categories and could not be rare. This happens if the population is large and scattered. However, in general, the rare species are considered endangered.
The ecosystem maturity, the third parameter, very essential, contribute to the main criterion for conservation of the values (Christensen 1995), to the regeneration of the ecosystem and restoration of stability.
The indicator species are organisms, their presence, absence or abundance reflects a specific environmental condition. They could signal a change in the ecological conditions of an ecosystem and could be used to diagnose its health. For this, the scientists monitor measure, age structure, density, and growth and reproduction rate of the indicator species population. They can discover also the appearance of stress

at indicator species because of indications by pollution, habitat loss, climate changes, etc., even can predict also the future changes in their environments. (Coesel 2001, McDonough *et al*. 2012, Biodiversity A-Z. UN. WCMC 2019).
In this article are presented data on the use of three parameters serving for recognition, conservation and regeneration of Shkodra Lake ecosystem. It is presented a general overview about the species richness, with respective comments. In the article is written about the rare species in the lake, with supplementary data for them. At the end, there are given some examples from indicator species, related with phenomenon that indicate them.

Material and methods

The number of species of living things in Shkodra Lake is referred mainly to Dhora & Rakaj (2010), Rakaj, Alushi, Dhora (2006), Dhora et al. (2016), Group Authors - Editor Pešić *et al*. (2018). The data on Ohrid and Prespa lakes have been taken from Dhora (2017).
The list of rare plant species in Shkodra Lake have been taken from Rakaj & Kashta (2010).
The list of rare animal species has been received by Dhora (RCRD, 2012) and Pešić (2018) for Mollusca, by Dhora, L. (2021) and Marić (2018) for Pisces, Dhora (RCRD, 2012) for Amphibia, Aves and Mammalia.
The indicator species and different explanations are based on http1, 2 and other materials referred in this article.

Results and discussion

Species richness
In total there are 2818 species.
Protista 1188 species:
Protophyta with Euglenozoa 956, Protozoa without Euglenozoa 232
Water Plantae 251 species:
Charophyta 25 (Blaženčić et al. 2018), Bryophyta 1, Pteridophyta 8, Nymphaceae 3, Mesangiospermae 103, Monocotyledoneae 111.
Animmalia 1379 species:
Invertebrata 1193: Porifera 1, Cnidaria 2, Rotifera 116, Acanthocephala 11, Mollusca ≈ 60, Annelida 50, Acari 72, Microcrustacea 355, Malacostraca 34, Water Insecta 367 (Ephemeroptera 34, Odonata 60, Coleoptera 21, Hemiptera 10, Chironomidae-Diptera ≈ 120, Plecoptera 59, Trichoptera 63), Bryozoa 2, Parasites 123.
Vertebrata 186: Agnatha 3, Pisces 55, Amphibia 15, Reptilia 4, Aves 106, Mammalia 3.
In Shkodra Lake have been found in total 2818 species. This is considered a large number of species.
In Shkodra Lake are known 1630 water plant and animal species, while in Ohrid Lake are known in total 1500 species of living things and similar to this number also in Prespa Lake.
Only Mollusca in Shkodra Lake have been found ≈ 60 species, in Ohrid Lake 97 species from which 81 are Gastropoda, while in both lakes of Prespa 39 specie.
From Pisces, in Shkodra lake are known 55 species, in Ohrid Lake 28, in Large Prespa

Lake 31 species.
From Aves in Shkodra Lake are count 106 water species. In the entire lake basin are known 282 species, in the entire Ohrid Lake basin 270, while in both two Prespa lakes ≈ 261.

Rare species

Rare plant species

Anacamptis palustris	EN
Butomus umbelatus	VU
Caldesia parnassifolia	VU
Hippuris vulgaris	VU
Hydrocharis morsus-ranae	VU
Hydrocotyle vulgaris	VU
Marsilea quadrifolia	EN
Nuphar lutea	VU
Nymphea alba	VU
Nymphoides peltata	VU
Oenanthe tenuifolia	VU
Quercus robur	VU
Ranunculus lingua	VU
Sagittaria sagittifolia	VU
Salix triandra	VU
Trapa natans	EN

17 plant species are considered rare because of their habitat reduction. Three species from them, *Trapa natans*, *Marsilea quadrifolia* and *Caldesia parnassifolia* are globally and European threatened, while locally even worse. *Quercus robur* too is a threatened species. It does not create forest, but is found as a lonely tree in this area.

Animal rare species

Mollusca

Microcondylaea bonellii	EN
Unio crassus	EN

These two species are getting rare in the lake, perhaps because of the damage and pollution of the costs by people, and also their collection for decorative purposes.
15 new species found in the lake, or found in the springs time ago, are considered by Pešić (2018) as threatened, may be because there are few findings available.

Pisces

There are considered rare and threatened species, market species (assessed with fishing), that their populations are reduced because of overfishing, damages of reproduction environments, physical barriers in the migration ways, etc.

Acipenser sturio	CR
Alburnus scoranza	EN
Alosa fallax	VU
Anguilla anguilla	VU
Chondrostoma nasus	EN
Cyprinus carpio	VU
Dicentrarchus labrax	CR
Platichthys flesus	CR

6 populations of species *Ctenopharyngodon idella, Hypophthalmichthys molitrix, Hypophthalmichthys nobilis, Megalobrama terminalis, Mylopharyngodon piceus, Parabramis pekinensis,* introduced in the lake, actually are extremely rare and are considered endangered EN, because the artificial introduction has decades that are stopped and they could not be reproduced in the natural environment of the lake. Rare species are also the threatened species with CR status: *Sander lucioperca, Ameiurus nebulosus.*

Amphibia

As typically rare species could be mentioned *Salamandra atra,* in high areas of water basin, and also *Pelophylax shqipericus.*

Aves

From water birds, 48 species are threatened or near endangered and many of them are rare or have not been observed.

Mammalia

Lutra lutra is observed rare in the rivers connected with the lake, but in the lake is very rare.

Indicator species

Main species are an important component for the lake stability. Every change in their population health could serve as an indicator of environmental stresses. So we can mention *Alburnus scoranza, Cyprinus carpio,* market fish species, that for different reasons, as overfishing, pollution, habitat loss, climate changes, etc., their populations move as the threatened categories and those are signals of the situation, or predictions for the future of the populations and ecosystem.

Escherichia coli indicate pollution of water environment by faeces (Hussain 2019). For Shkodra Lake it has been ascertained by Bushati (2013), the presence of this microbe in the water in 6 study stations in the lake, especially during summer and most problem is the station in Buna River near the lake, where the city sewage discharge. This presence cautions the danger for infections of people, which needs to undertake measures for the construction of sewage treatment plant and continuous monitoring of the areas where people come for relax and swim, and especially the installation of tables for information for danger areas.

Euglena gracilis is movable flagella photosynthetic in the lake water. *Euglena* reacts fast against environmental stresses as heavy metals or inorganic and organic compounds. The typical answers are movement inhibition and change of orientation parameters. *Euglena gracilis* could be cultivated easy and to be used for eco-toxicological assessments. A feature of this organism is the gravitational orientation, which is very sensitive to the pollutions. As it is written in Dhora *et al*. (2009), for the first time *Euglena gracilis* has been cultivated successfully in the zoology laboratory of Shkodra University, in room conditions, in autumn. It is realized the description and are given the measures, successions, chemical-physical data, density of *Euglena gracilis*, and are explained the observed phenomenon, especially gatherings and laziness in movement.

The worms *Tubifex* indicate the oxygen poor water and also stagnant and non drinking waters.

Copepods and other small water crustaceans which are present in the lake could be monitored for physiological or behavior changes, which is related with problems inside the ecosystem.

Ephemeroptera are macro-invertebrate insects. The larvae live exclusively in water. The adults live on the ground or in the air, but return in the water to lay eggs. They are used by the researchers as indicators for the water ecosystems health, because of their dependence from the water and intolerance to the pollution, especially of the benthos, which cause the decrease of the population, while the presence of these larvae show that the water has no pollution or just a little.
Amphibians, especially anurans are used very much as bio-indicators of the polluter accumulation. They absorb the toxic chemicals through the skin and gill membranes of the larvae and are sensitive to them. They have a weak ability to detoxify the pesticides, which accumulate in the organs and cause the decrease of their populations, morphological deformations, etc. For all of them, amphibians are used as bio-indicators of the habitat changes and also for toxicological studies.

Conclusions

The richness of 2818 species in Shkodra Lake is considered as high. Rare and threatened species should be protected as natural values. The maturity of ecosystem should lead to renewal of the populations and ecosystem.
The control of polluted water discharges in the lake, as for sewage, detergents, pesticides, etc., control for illegal fishing, different damages, etc., should be continuous and effective.
For the diagnose of the lake's problems should be used indicator species, chemical and microbiological analyses, data about the resources use, etc. These data serve to determine the measures for the solution of the problems, renewal of the populations and stabilization of the ecosystem.
In the Regional Administration of Protected Areas Shkoder should work the permanent unit for the monitoring of Shkodra Lake, which should have cooperation with Study Center for Shkodra Region Waters, in University of Shkodra, and also qualified other institutions.

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The free movement of lawyers in the perspective of EU enlargement

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Abstract

Among the community freedoms of the European Single Market, with a crucial impact on EU economy, is the free movement to provide services, an integral part of which is the service of lawyers. The right of freedom to provide services by lawyers from another Member State, can be exercised on occasional or permanent basis.
According to EU law, the professional title of lawyer in a host Member State can be recognized in two different routes: the first route relates to the general regime of Directive 2005/36/EC (Professional Qualifications Directive), while the second route relates to the implementation of Directive 98/5/EC (Lawyers Establishment Directive), which aims to facilitate practice of the profession of lawyers on a permanent basis in a Member State other than that in which the qualification was obtained. Both Directives are subject to be implemented through national legislation by all European countries.
In this paper, attention will be paid to EU law, as a dynamic and evolving law, with a special emphasis on the free movement of services in the perspective of the integration processes of EU enlargement, which constitute expansion of the European Single Market itself. The object of this paper is also related to Albania, when we refer to the integration in EU, or the harmonization of internal law with EU law, regarding the free movement of lawyers.

Keywords: lawyers, directives, free movement of services, Single Market, Member State.

Introduction

The European Union is considered as a supra-national organization *sui generis*, whose focus is the creation of a Common Market to stimulate and favor the expansion of the cooperation circle between its members. Another essential objective of this entity is to increase the opportunities for citizens to move freely within the space of this market, to import and export goods freely, to circulate capital freely, as well as to offer and receive services through self-employment and free establishment. Seen from this point of view, the European Single Market represents both an ideological choice and the most eloquent sign of the liberal inspiration that characterizes the community system as a whole (Tesauro, 2003, 372).
Today, after its existence in three decades, the European Commission confirm the Single Market underpins Europe's ability to tackle key challenges. High representatives of the EU are optimistic about the central role exercised by the Common Market in improving the life of European citizens and in helping EU businesses to grow and expand, emphasizing at the same time the need to continue efforts to guarantee its proper functioning in the future. On this issue, Margrethe Vestager, Executive Vice-President for a Europe Fit for the Digital Age, articulates that "The Single Market has brought countless benefits to European business, consumers and citizens. It has guaranteed prosperity and peace. Still, more needs to be done to ensure its proper functioning, to preserve the level playing field and unleash its untapped potential to benefit both people and businesses." (European Commission Single Market Report, 2023).

But, regardless of its thirty-year success, in a macro assessment it is judged that the Member States still have work to do under the aim of improving the results and expectations of the Single Market, and specifically when it comes to the free movement of services, their effective guarantee for EU citizens. Thierry Breton, Commissioner for Internal Market, is in the same line of thought, when he states that "We will continue to work with Member States to ensure that they apply EU law properly and their administrations do not draw up new barriers in particular in the area of services"[1].

1. Evolution of the free movement of services concept

The free movement of services is the community freedom that has had an evolution of the *acquis communautaire* in adaptation to the needs and the reality of the development and evolution of the Single Market, where the largest percentage of employment and income of the EU have as their key point of support precisely the services. Today, with the changes brought by the Lisbon Treaty, the free movement of services is regulated by the Treaty on the Functioning of the European Union (TFEU)[2] in the articles on services and establishment[3] which provide a series of provisions regarding receiving and providing services, the characteristics of services, the types of activities that are considered services and the entities that have the right to benefit from this freedom, without leaving aside the aspects of restrictions and their justification in order not to impede free circulation of services or right of establishment.

If we go back to the retrospective of the Single Market development, it can be observed that the services are regulated by treaties in the transitional phase with the aim of removing barriers from national markets, to then continue with the enrichment and detailing of the legislation with regulations and directives, up to the much-discussed *Bolkestein* directive[4], with the aim of prohibiting restrictions or discriminatory measures from national markets in the free movement of services and the approach of developing equal treatment with locals for community citizens wherever they provide services in the Single Market, as well as respecting mutual recognition by EU countries. It is worth noting that the Services Directive 2006/123, as a horizontal directive, has not only created a series of facilities in the exercise of the right of establishment, but

[1] See further: Single Market turns 30, on https://ec.europa.eu/commission/presscorner/detail/en/ip_23_466.

[2] The Treaty on the Functioning of the European Union (TFEU), as a result of the Lisbon Treaty, was developed from the Treaty establishing the European Community (EC Treaty), as put in place by the Treaty of Maastricht. The EC Treaty itself was based on the Treaty establishing the European Economic Community (TEEC), signed in Rome on 25 March 1957. The creation of the European Union by means of the Treaty of Maastricht (7 February 1992) marked a further step along the path to the political unification of Europe.

The TFEU is one of 2 primary treaties of the EU, alongside the Treaty on European Union (TEU). It forms the detailed basis of EU law by defining the principles and objectives of the EU and the scope for action within its policy areas. It also sets out organisational and functional details of the EU institutions.

[3] TFEU, Part 3, Title IV, Free Movement of Persons, Services and Capital, Chapter 2 - Right of Establishment (articles 49-55) and Chapter 3 - Services (articles 56-62).

[4] The Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, establishes general provisions facilitating the exercise of the freedom of establishment for service providers and the free movement of services, while maintaining a high quality of services.

it does not lag behind as the most compressed community act in the provisions for the freedom to provide cross-border services and the free movement of professionals, as its legal framework with the aim of liberalizing services by creating an integrated market of services, has brought a positive impact more than expected or contested at the time of its proposals. All this due to the fact that the directive removes the heavy financial and administrative burden of creating companies, or branches and subsidiaries in different Single Market Member States, since years ago was required to go through many studies and legal consultancy to settle in another country and go through many legal formalities until their establishment and constitution, while now the directive has reduced these costs to a minimum, making the Single Market more attractive for foreign investments. Another benefit of the directive is related to the ability to exercise multidisciplinary activities. The directive obliges Member States to allow their operators to carry out certain activities jointly or in partnership, especially in the field of regulated professions, without being necessary to create two or more separate companies.[5]

Free movement of services guarantees the provision and receipt of services in the Single Market (Daniele L., 2012, 1-3), and as such constitutes a fundamental freedom from its importance for the Single Market and the EU itself. It must be effectively guaranteed by all member states, however, not infrequently national legal provisions conflict with the principles of the *acquis communautaire* on the free movement of services, where the fundamental axis of the *acquis* regulations is the provision of services based on regulation by EU law, without the intervention of internal legal norms. Restrictions on the free movement of services are appealed to the European Court of Justice (ECJ) by interested parties, even the initiative to sue Member States that violate the freedom to provide services can be undertaken by the European Commission itself, due to its mission as an institution guaranteeing the supervision and maintenance of the implementation of community law.

The ECJ, with its numerous cases of judgment, has contributed to the improvement of the regulatory legal norms with the aim of fulfilling the priority towards the liberalization of the freedom of services in the Single Market. The development of the ECJ jurisprudence is based on the precedents for similar issues of free movement of services and establishment, without leaving aside the fact that new developments in the service sectors bring the need for Court interpretation, in order to avoid obstacles to the free movement of services that often derive from national measures (Blumann, Dubouis, 2004, 78-79). In addition, the ECJ has defined several activities that qualify as services within the meaning of Article 56 and 57 of the TFEU, such as industrial activities, commercial activities, artisan activities, professional activities, which also include the activities of lawyers. In the jurisprudence of the ECJ, it is clearly deduced that the free movement of services has horizontal and vertical application. In particular, in the *van Gend en Loos's* case, the Court announced that the community constitutes a new legal order of international law, whose subjects include not only the member states but also their citizens (ECJ, Case 26-62, 1963). Regardless the legislation of the member states, Community law imposes obligations on individuals. From the provisions of the treaty and even more clearly from the jurisprudence

[5] Thus, for example, after the implementation of the services directive, in Poland it is possible to carry out joint activities of the lawyer, the patent lawyer and the tax advisor; in Spain, travel agencies no longer need to exclusively carry out their activities, but can also sell sports equipment, etc.

of the ECJ, it emerges that temporality and impermanence distinguish service from establishment and on this basis also the provisions that should be applied in the respective cases. But despite the contribution that the ECJ constantly makes in the interpretation of cases that have clauses of the two freedoms (services and establishment) that interfere with each other, in the practice of their application in the Single Market, there are still gaps and ambiguities that stem mainly from the similar elements that these freedoms have with each other. These rights arise not only where they are expressly guaranteed by the treaty, but also because of obligations, which the treaty clearly imposes on individuals as well as on Member States and community institutions. However, Karl Roemer, the first German's General Advocate has pointed out that, "a large part of the treaty clearly contains only the obligations of the Member States". This makes it clear that the level of treaty obligations will depend to some extent on whether they are classified as public or private. Irena Pelikanova, former judge at the General Court notes that, "the issue of the dualism of private and public law does not seem to be of great importance, especially for lawyers. This issue is even more important, considering that private and public law coexist within the scope of EU law" (Craig, De Burca, 2011, 767-768).

It can be concluded that today, in these 30 years of Single Market existence, the services, although have been clarified, modified and helped by the developments of the decisions of the ECJ and the enrichment of the legislation in specific fields of services, have not managed to function completely and as it would better serve the prosperity of the economic development of the EU. In the European Commission's Communication for 2023 regarding the study carried out in the Member States on the implementation of the services directive, it results that the services sector is the engine of economic growth in the EU as it represents about 70% of the gross domestic product (GDP) and EU employment, being the key instrument at the European level for promoting structural reforms in the services sector that covers. The implementation of the Services Directive has resulted in a major step forward in removing barriers and moving towards a truly integrated internal market for services. Hundreds of national laws have been modernized and thousands of discriminatory, unjustified, or disproportionate requirements have been eliminated across the EU, bringing the Union an extra GDP. However, the Directive is not yet at the appropriate stage of implementation as it would affect further economic growth, since if member states would remove all national barriers and consumers and businesses would freely offer and receive services in the Single Market, then the economic profit would be three times greater than what is currently achieved.[6] In order to achieve this, the Commission asks the states to take measures to adapt the national legislation fully in accordance with the services directive by removing any barriers that limit its implementation, otherwise the tolerance towards states violating the directive will be zero. The Commission is determined to use all available tools to continue to remove barriers for companies looking to offer cross-border services and to make it easier for them to do business.

[6] Recent studies estimate the long-term potential benefits of removing obstacles to the intra-EU services market at between €279 billion and €457 billions of additional yearly GDP. Similarly, the recently published Annual Single Market Report underlines how a genuinely integrated Single Market is a precondition for Europe to address current geopolitical challenges and develop a resilient and globally competitive European economy.

2. Free movement of lawyers' services in the European Union

The free movement of lawyers' services, although it is not expressly regulated in the text of the Treaty, consists of the right of entry, exit and residence in terms of the provision of services and the prohibition of discrimination because of nationality. The right of entry, exit and residence towards the provision of services is defined in Council Directive 2004/38 on the right of EU citizens and their family members to move and reside freely within the territory of the Member States. The prohibition of discrimination on the basis of citizenship is materialized in articles 56[7], 57[8] and 61[9] the TFEU, in the so-called "anti-discrimination" articles, that sanction and guarantee the right of community citizens to be treated equally with locals in relation to the provision of services, without being discriminated because of their citizenship, and also define the obligation of compliance with the articles in question by all Member States through the prohibition of restrictions on the provision of services to EU citizens, thus respecting the principle of national treatment (Bano F., 2008, 69-75). The principle of equal treatment with natives, in the first analysis, gives us the intention of the community legislator to protect the service provider by equating his treatment with that of the service provider in the host state. Secondly, this principle is given by the rules of the EU and cannot be conditioned by the issuance of any public act by Member States, as was also opposed by the ECJ in the *Cowan* case[10]. In the *Van Binsbergen* case, the ECJ stated that, since the freedom of movement of lawyers' services is one of the fundamental freedoms of the EU, and articles 56 and 57 have direct effect and can be evaluated by national judges, at least in the part that obliges the removal of all forms of discrimination that affect the provider of a service for reasons of citizenship or residence in a Member State other than that in which the service is provided, can be used by community citizens to complain in cases of their violation by Member States (Mattera, 2009, 224-225). Thus, the Court with *Van Binsbergen* forced the cancellation of all discrimination by Member States, based on nationality or residence, offering nationals of Member States to freely move services without being discriminated in the host state openly or covertly, ie directly or indirectly (Zahiti, 2003, 158-162). In general, the ECJ with its extended jurisdiction has had a very large impact on the development of provisions and on the liberalization of

[7] Article 56 of the TFEU, paragraph 1, does not prohibit discrimination based on nationality, but in general, it prohibits restrictions on the freedom of movement of services within the Union (...) restrictions on the freedom to provide services within the Union related to nationals of member states, who are established in a Member State which is different from that of the person for whom the services are provided.

[8] Article 57 of the TFEU, the last paragraph defines that: "The person who provides services, in order to do so, can pursue his activity temporarily in the member state where the service is provided, under the same conditions as those that this state decides for its citizens".

[9] Article 61 of the TFEU, determines that, as long as the restrictions on the freedom to provide services have not been removed, "Each member state applies these restrictions, without making distinctions, according to citizenship or main residence for all persons who provide services within the meaning of first paragraph of article 56".

[10] Ian William Cowan v Trésor public, Judgment of the Court of 2 February 1989. Tourists as recipients of services - Right to compensation following an assault. Case 186/87. In point 11 of this decision, it is determined that: "It should also be emphasized that the right to equal treatment is conferred directly by Community law and may not therefore be made subject to the issue of a certificate to that effect by the authorities of the relevant Member State".

lawyer services, taking the role of a guide also regarding the need or demand of the services market for harmonization.

As for the difference between the free movement of services and the freedom of establishment of lawyers, which are evaluated as freedom of communication with each other, we can first rely on the general provisions of the TFEU that regulate each of the two freedoms. According to Article 49, the right of establishment refers to the case of a lawyer who aims to permanently exercise his independent activity in a Member State in which he was not established before; while according to Article 56, the freedom to provide services refers to the possibility for a lawyer to offer his activity in a Member State other than the one in which he is established, without being located in the country of delivery. The provisions of the TFEU governing each of the two freedoms coincide with each other with regard to the prohibition of discrimination and the principle of national treatment, but differ significantly with regard to the conditions for entry and access to the exercise of activities that a Member State may impose on a lawyer established in that State, unlike the conditions which may not be imposed on a lawyer practicing in that State under the free movement of services. This is because the activity carried out within the freedom of establishment is regulated by the laws of the Member State of establishment, while the activity within the provision of services is regulated by the law of the country of origin of the lawyer service provider and not of the host Member State. Also, the difference between the two freedoms lies in the temporary or continuous character of the independent economic activity. Specifically, directive 2006/123 defines the definition of establishment as, *"the effective exercise of an economic activity according to Article 49 of the TFUE, with an indefinite period on the part of the provider, with a stable infrastructure from which the activity of providing services is effectively exercised"*. While the freedom of movement of lawyers' services requires the provider to move to another Member State in order to exercise the independent activity temporarily (Daniele, 2012, 160-162). In conclusion, it can be said that the temporary or non-temporary character of the lawyer's independent activity, for the purpose of applying article 49 or 56 of the TFUE, can be proven by the type of headquarters or infrastructure with which the lawyer is equipped in the Member State of the service, where in order to be proof of the services provision, it must be in proportion to the activity of a temporary nature, i.e. to be limited.

Thus, based on the general provisions of the TFUE, lawyers have the right to move to exercise their professional activity in another EU country other than their country of origin, temporarily or continuously. EU lawyers have, uniquely among the liberal professions in Europe, a distinct regime governing the free movement of lawyers in the EU, including their own sectoral Directives (Guidelines for Bars & Law Societies on Free Movement of Lawyers within the EU, 2021, 5). When lawyers provide cross-border legal services temporarity, they can do it under their professional home title, covered principally by the Services Directive for lawyers (77/249/EEC). In this case, lawyers are not members of a bar or law society in the host State. The lack of registration of lawyers who offer temporary services in the host state makes it impossible to obtain official statistics on the number of lawyers who offer such services. However, secondary sources show that there is a large market for temporary legal cross-border services and they are often provided at a distance, for example by e-mail or telephone.

While the possibility of lawyers to offer their services continuously, is closely related to the recognition of the lawyer's title in the host state. The professional title of lawyer in a host Member State can be recognized in two different routes. The first route relates to the general regime of the Professional Qualifications Directive (2005/36/EC), in the content of which it is foreseen that passing an "adaptation period", or an "aptitude test", is in the will of the host Member State and not of the applicant lawyer.[11] In other words, in the case of lawyers this recognition is not automatic, aiming to fill in the gaps of difference between the legal knowledge and skills already acquired through possession of the home title, and those required for acquisition of the new title. In this respect, all Member States other than Denmark have chosen to require applicant lawyers to undertake an aptitude test (Guidelines for Bars & Law Societies on Free Movement of Lawyers within the EU, 2021, 36). The second route relates to the Establishment Directive for lawyers (98/5/EC), which aims to facilitate practice of the profession of lawyers on a permanent basis in a Member State other than that in which the qualification was obtained. The content of Directive 98/5/EC is assessed as a harmonious interweaving of the conditions for the right to establish of lawyers, which means that a Member State cannot impose other conditions in the area where it has jurisdiction and extends the legal effects the Directive[12]. In order to take advantage of the Establishment Directive, the professional title of the home Member State must be valid, and the established lawyer must register with the competent authority in the host State, after having fulfilled the criteria of the directive itself (Guidelines for Bars & Law Societies on Free Movement of Lawyers within the EU, 2021, 19). A lawyer relocated in this way can provide legal advice on both laws, of the home Member State and the host Member State, as well as on EU law and international law. Also, the lawyer acquires the right to permanently practice the profession in the host country and with the title of lawyer of this country, after having practiced his activity effectively and continuously for 3 years in the host member state. Even in this case, it is not necessary for the lawyer to fulfill the conditions of the "aptitude test", according to the provisions of Directive 2005/36.[13]

According to the statistics, it appears that European lawyers have made maximum use of the implementation of their Establishment directive (98/5/EC), as this directive is effectively implemented by Member States without restrictions, which has facilitated their migration into the market of community lawyer's services. Also, Directive 2005/36/EC has helped a lot in the movement and migration of lawyers through the facilities of qualifications recognition.

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[11] For more details, see: the decision of the ECJ in the case C-118/09, Robert Koller v Rechtsanwaltsprüfungskommission beim Oberlandesgericht Graz, regarding the Recognition of diplomas for Lawyer - Entry on the professional roll of a Member State other than that in which the diploma was recognised as equivalent.

[12] This is clearly stated in the case Graham J. Wilson v Conseil de l'ordre des Avocats du Barreau de Luxembourg, Lawyers in Europe - ECJ Case C-506/04 - 11.5.06

[13] For more details, refer to the decision of ECJ in the Case C-313/01, Christine Morgenbesser v Consiglio dell'Ordine degli avvocati di Genova, regarding the mobility of trainee lawyers. The judgment, in essence, extends the right of mobility to those still in training and not yet fully-qualified lawyers. Competent authorities have a duty to take into account all the qualifications of such EU nationals seeking entry into their professions.

3. The free movement of services in the perspective of EU enlargement

The EU is a union of 27 states that has not set the final limits of its expansion yet with any treaty, and therefore not even those of the Single Market. Its enlargement with other aspirant states for the upcoming membership creates a larger Single Market that should be covered as best as possible by the legal provisions on services, which are the most profitable sector and guiding compass of the prosperity of this market, which also represents the future challenge of the EU in harmonizing the legislation on services and expanding the limits of its application to bring the effects foreseen in the intention of the community legislator, opportunities for self-employment and entrepreneurial initiatives at the community level of an internal market without obstacles and restrictions and with legal guarantees of the EU right to freedom of services provision. The EU had its last enlargement with the accession of Croatia on 1 July 2013 and is in the perspective of future enlargement with the countries of the Western Balkans, without leaving aside Turkey, although in different status positions from the Balkan countries, and recently also the duo of Ukraine and Moldova. In this context, the Internal Market is a market that will be enlarged in the geographical, economic and legal context, and where the freedom of movement of lawyers' services essential for national markets on the path of their integration into the EU, will cover a larger market space (Kaczorowska, 2011).

In particular, the Western Balkans countries are involved in a partnership for the stabilization of the region and the creation of a free trade area, that defines the common political and economic goals, even though the progress assessment is based on the merits of the countries themselves according to the reports made by the European Commission throughout the process of monitoring and supervising the fulfillment of the obligations of the agreements with them, which precede the long path for EU membership. Based on the Commission's reports regarding the progress of these countries in approaching and harmonizing the provisions of free movement of services and freedom of establishment that constitute a separate chapter (chapter 3) of the 35 chapters of the *acquis*, as well as their implementation by scanning the positive and negative sides of this realization, it can be concluded that North Macedonia, Serbia, Bosnia & Herzegovina, Montenegro, Albania and Kosovo have differences in their evolution for the implementation of the free movement of services and in these conditions have been mobilized in the form of national actions of transposition and approach of primary and secondary legislation for different services. These provisions of the *acquis* on the freedom to provide services are not applied properly, but with restrictions, with discrimination or other discriminatory measures, or with violations of the relevant provisions as a result of an interpretation not according to the spirit of the Community law, but according to needs of national legislation in states aspiring to membership. This framework of partial implementation of the provisions by a state that is on the way to become a member of EU and Single Market, or for a transitional period, indirectly constitutes a restriction of the freedom to provide services. The progress of the Association Stabilization Process of the Member States shows us that the services market is in an expansion that has fluctuations in terms of the approach of the legislation with the *acquis* for the freedom to provide services and fluctuations in terms of the harmonization of this legislation, due to the lack of which

there are also violations or deficiencies in the proper implementation of community law or the lack of mutual recognition. These fluctuations and the non-harmonized implementation by the states waiting for membership, which of course cause legal and administrative deadlocks of the provisions for the freedom to provide services, constitute an impossibility to freely exercise self-employment activities, according to articles 49 and 56 of the TFEU and the provisions of the directives, for citizens of EU/ Single Market countries. Even with regard to the temporary provision of services, the countries of the Western Balkans fail to fully guarantee for EU citizens an exercise according to the regulation of the *acquis*.

The analysis of the prospective countries to be members of the Single Market, leads us to the conclusion that from the Western Balkan countries, in the forefront with the approach progress and harmonization of the *acquis* of the free movement of services are Montenegro and Serbia, followed from North Macedonia and Albania, while Bosnia and Herzegovina has many obstacles and shortcomings, to finish with Kosovo, which has not yet gained the status of a candidate country. These countries have many differences compared to the current EU/Single Market countries, which indicate that they need changes and an obligation from the EU to facilitate the provision of services and the right of establishment, as well as to recognize the possibility of the community professionals movement. However, the market opening by these countries constitutes the beginning of the process of expanding the borders of the Single Market for the provision of services and the possibility and opportunities of new markets for self-employment, despite the barriers in the process until their elimination with the EU membership. Among the most positive aspects of the services market future, we can mention the creation of facilities and the simplification of administrative procedures dictated by the directive on services, which through the obligation it has imposed on the countries to create contact points in each Member State, has encouraged foreign direct investments, influencing the increase in employment and the opening of new job through the creation of companies, branches or subsidiaries, as well as the removal of unnecessary bureaucracies for cases of temporary provision of services, in particular the lawyer's services.

3.1 **Aproximation of Albanian legislation with the *acquis* in terms of free movement of services for lawyers**

Albania's performance to implement the approach to the *acquis* of the Albanian legislation in terms of the free movement of services, has recognized continuous progress in certain sectors and fields, especially from 2012 onwards. Receiving the status as a candidate country from the EU in June 2014, has increased Albania's responsibility to face the challenges in the main problematic sectors of the *acquis*, where an important place is occupied by the sector of free movement of services. The latest progress - report of the European Commission for 2022 offers a general overview of Albania's progress so far in terms of the free movement of services. Based on this report, it turns out that Albania is moderately prepared in the right of establishment and freedom to provide services. The report underlines that Albania demonstrated good progress in the alignment with the general framework set out in the EC Services Directive. Among the most positive aspects of this progress, it is worth mentioning that: postal services are open to competition since 2017; there are rules

on mutual recognition of qualifications for certain regulated professions; the screening exercise of the legislation to be aligned with the Services Directive continued and its scope was widened; the e-Albania.al governmental portal serves as a single contact point for electronic public services and almost 95% of services are offered online. At the same time, the report draws Albania's attention to the fact that, no progress was made on aligning the professional qualifications framework with the EU *acquis* on the mutual recognition of professional qualifications. For this purpose, a roadmap on professional qualifications is yet to be finalized, and institutional capacity in this area still needs to be strengthened (European Commission annual report on Albania, 2022).

But what is worth emphasizing here is the fact that Albania has managed to make progress in aligning the legal sector with the EU *acquis*, with the approval of the Law on the legal profession, although the report points out that restrictions still exist for public notaries and private bailiffs. As for the free profession of lawyers, in the framework of the improvements that were made in the provisions of the lawyer's law in 2018, the appropriate legal basis was drawn up to create a favorable environment that allows lawyers to move and practice their profession in the EU space. Specifically, the lawyer's law recognizes even to foreign lawyers the right to practice the profession of lawyer in Albania. According to the provisions of this law, the term "foreign lawyer" means any Albanian or foreign citizen who has obtained the title of lawyer in one of the European Union countries and has signed a cooperation contract with a law firm that practices in Albania in accordance with the lawyer's law and the statute of the Chamber of Lawyers (Law on the profession of lawyers, 2018, article 23). After practicing regularly for a period of three years the profession of lawyer at a law firm in Albania, the foreign lawyer has the right to request to practice the profession individually in an independent way.[14]

In general, the Albanian law on the free profession of lawyer is based on the best legal practices applied in EU countries and is in full compliance with the strategic documents of the Council of Bars and Legal Associations of Europe (CCBE), and the recommendations of the Council of Europe for the lawyer's profession.[15] The approximation of the European legislation in the profession of lawyer, is an undeniable proof of Albania's commitment to continue on its path towards the European Union and the Single Market, showing persistence in pursuing difficult reforms in the interest of the Albanian people and businesses.

Conclusion

The future of the services market to be an integrated market according to the aspiration of the EU still has some difficulties, which with the expansion with other

[14] The request of the foreign lawyer to practice the profession of lawyer in Albania is directed to the Governing Committee of the Chamber of Lawyers, accompanied by the relevant documentation that verifies the legal status of the lawyer and the reasons why he wants to practice the profession in Albania. The Governing Committee decides within two months from the submission of the request based on the agreements between the respective states.

[15] The Albanian Bar Association, in the quality of Observer Member of the Council of Bars and Law Societies of Europe (CCBE), has the task of regulating and directing the profession of lawyers in accordance with the legal instruments of the CCBE.

aspiring states for the upcoming membership, will probably be increased, or even can be eased if their further process will be progressively efficient. However, if the EU would really aim to achieve the goal of turning the Single Market into a competitive market for the free movement of services and employment, it should coordinate efforts with Member States and aspirants to harmonize and unify the *acquis* on services and establishment, stimulating implementation of the Single Market strategy and its effect on national economies. The services sector deserves particular attention in the efforts to strengthen the EU's recovery and resilience.

In the future perspective of membership and implementation of the Single Market clauses, the approach to the clauses of the freedom to provide services plays an important role in the progress of the *acquis* criterion, because an essential part of the economic sectors are related to services, and as such they balance the progress in other community freedoms. But as long as we are talking about a dynamic and evolutionary process, such as the Single Market itself in its activity, the future perspective is open. In this context, the unknown of the future requires permanent commitment by all aspiring countries to create the certainty of success and to achieve the missing standards in the field of freedom of services provision, an integral part of which is the free movement of lawyer's services.

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Internet addiction and related psychological factors in students Case of Albania

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Abstract

Internet addiction is now a phenomenon, and its consequences are very compatible with the lives of the youths not only in Albania but worldwide. In the rush of life, it is often difficult to set some limits and boundaries, which sometimes can lead to psychological and mental health problems. The aim of this study is to examine the relationship between internet addiction and related psychological factors, such as depression, anxiety, and stress in students aged 18-21 years old in Albania. In this study, we used the Internet Addiction Scale (Young, 1998) to measure the level of Internet addiction in students and the short-form version of the Depression Anxiety Stress Scales (DASS-21) to measure psychological-related factors such as depression, anxiety, and stress. The sample of this study consists of 268 students from three Higher Education Institutions in Albania. The statistical analyses found a positive relationship between internet addiction and related psychological factors such as depression, anxiety, and stress in students in Albania. Students with internet addiction tend to show more depression, anxiety, and stress symptoms than students without internet addiction.

Keywords: Internet Addiction, depression, anxiety, stress, Albania.

Introduction

In a global world, Internet Addiction is now a new phenomenon. Nowadays, the impact of the internet on everyone's life is very crucial. People around the world can't live without it, because it is a medium that helps to get a lot of services in real-time, to get an education, to connect with other people around the world, to be up to date with all the pieces of news, to get entertainment and so to an easy life. But, sometimes the overuse of the internet can bring a lot of psychological consequences, especially in children and young people who are the most vulnerable age. The boost of internet use has grown even more rapidly, especially after the lockdown in 2020. That's why any study on this issue is very important to help people be aware of the consequences of the overuse of the internet that can lead to addiction to it, which is seen as a growing challenge for everyone's health (https://wbc-rti.info/object/news/21597). As cited in Diotauiti et., al., (2022) lot of studies show a relationship between internet addiction and various health problems that affect individuals and the way they interact with other people in the world, and especially critical is the link between internet addiction and depression or depressive symptoms. In this way, internet addiction affects their user's psychological health and well-being.

Internet addiction and its relation to psychological factors, depression, anxiety, and stress.

Griffiths et., al. (2014) define addictive behavior as any type of behavior with several typical features, among which are salience, mood swings, tolerance, withdrawal

symptoms, conflict, and relapse. According to them, any behavior that contains these 6 elements meets the criteria for being addictive behavior (Agaj, 2016, 2022, 2023).
According to Young, (2011) despite the fact that Internet addiction does not cause the same physical problems as substance addiction, it is attracting the attention of many experts in the field of mental health due to the similarity in social consequences. (Agaj, 2016, 2022, 2023).
When we talk about internet addiction, we talk about the lack of control a person has over his internet use (Bozoglan, et.al., 2013), leading to some psychological and health problems.
According to Yedemie (2021), Internet addiction is a common problem among students and has negative effects on cognitive functioning, leading to poor academic performance and leading to anxiety and stress.
Researchers also found that there are a lot of psychological factors that could be linked to internet addiction among students, and the most dominant of them are depression, anxiety, and stress (Akin & Iskender, 2011; Gholamain et., al., 2017; Mustafa, et., al., 2019; Saika, et., al., 2019; Hasmujaj, 2021; Agaj, 2022; Novonil & Poulami, 2022; Piko, et.al, 2022; Stankovic & Nesic, 2022; Servidio, 2022; Zhang, et., al., 2022, Shek, 2023).
When speaking about depression we refer to an abnormal state of the organism manifested by signs and symptoms such as low subjective mood, pessimistic and nihilistic attitudes, loss of spontaneity, and specific vegetative signs. When speaking about anxiety we refer to an emotional state of subjective worry, along with heightened arousal of the autonomic nervous system, and when speaking about stress we refer to an emotional state of bodily or mental tension resulting from factors that tend to alter an existent equilibrium (Mustafa, et., al., 2019).
A study conducted at McMaster University in Ontario and presented at the 29th European College of Neuropsychopharmacology (ECNP) Congress in Vienna found that adults who spend the majority of their wakeful hours online may be at higher risk for depression, anxiety, or other mental health problems. (https://www.additudemag.com/internet-addiction-could-point-to-depression-or-anxiety/).
According to Servidio (2022), people who have experienced emotional problems are more likely to spend an amount of time online, mainly because of the anonymous nature of the Internet. As shown by Sayed, et. al., (2022), students with internet addiction are more depressed, stressed, and anxious than those without internet addiction. So, the three variables of the DASS 21 score were significantly linked with internet addiction.

Aim of the study

The aim of this study is to examine the relationship between internet addiction and related psychological factors such as depression, anxiety, and stress among students aged 18-21 in Albania.

The hypothesis of the study

Internet addiction is positively related to depression, anxiety, and stress.

Objectives and research questions

Objective 1: To study the relationship between Internet addiction and related psychological factors such as depression, anxiety, and stress.

Research question 1.1: What is the relationship between Internet addiction and related psychological factors such as depression, anxiety, and stress?
Objective 2: To study the differences in depression, anxiety, and stress between students aged 18-21 with and without Internet addiction.
Research question 2.1: Are there differences in depression, anxiety, and stress levels between individuals with and without Internet addiction?

Methodology

Champion: The champion of this study consists of 268 students, randomly selected from three Higher Education Institutions in Albania. 178 of the sample are girls and 90 are boys. Analyses were carried out with SPSS and tend to find out the relationship between internet addiction and related psychological factors such as depression, anxiety, and stress in students aged 18-21 years old in Albania.
Instruments: Instruments used in this study are The Internet Addiction Scale (IAS) of Kimberly Young (1998), which consisted of 20 statements. IAS was used to measure the level of Internet addiction. The reliability coefficient was Alpha Cronbach = 0.904 (Agaj, 2016). To measure related psychological factors of internet addiction such as depression, anxiety, and stress is used the Depression Anxiety Stress Scales (DASS-21), which consists of 21 items. Seven items measure depression, seven items measure anxiety, and seven items measure stress. This scale is translated and adapted into the Albanian language by an English Professor and psychologists. Cronbach Alpha for depression resulted in 0.899, for anxiety resulted in 0.88, and for stress resulted in 0.89.
***Data analyses*:** SPSS and Excel programs are used to perform data analyses. First, the reliability coefficient of the instrument is calculated, and then are realized correlations, and t-tests, to see the relationship between IA and related psychological factors as well as differences in psychological factors between students with and without internet addiction.

Data analyses

Below there are shown some descriptive data about the level of internet addiction in the sample part of this study, and also the level of depression, anxiety, and stress among students. As seen in table no.1, 33% of the students had high levels of internet addiction, and 77% were without internet addiction. 2% of the students had symptoms of depression, 22% of the students had anxiety symptoms and 32% of them had high levels of stress.

Table no. 1: *Descriptive data*

	Groups	No.	%	X	SD	(n)
Internet addiction	With internet addiction	89	33	36.44	19.08	268
	Without internet addiction	179	77			268

Depression	With depression	6	2	9.22	8.01	268
	Without depression	262	98			268
Anxiety	With anxiety	59	22	12.06	10.89	268
	Without anxiety	209	78			268
Stress	With stress	86	32	11.32	9.05	268
	Without stress	182	68			268

The analyses of the correlation coefficient of Kendal show a positive significant relationship between internet addiction, depression (r=0.146), anxiety (r=0.169), and stress (r=0.101), among students in Albania. (table no. 2)

Table no. 2: *Correlations between Internet Addiction and Depression, Anxiety, and Stress*

Relationship between IA and depression, anxiety, and stress			
Variables	**r***	**No.**	**p**
Depression	0.146	268	<0.001
Ankthi Social	0.169	268	<0.001
Stress	0.101	268	<0.001
*Kendal correlation coefficient			

T-test analyses show us that are changes related to depression, anxiety, and stress between students addicted to the internet and those not addicted to the internet. Levin test value was 1.451>0.05 (t=3.548, df=817 Sig (2-tailed) = 0.00<0.05 for depression; 1.273>0.05 (t=2.978, df=767 Sig (2-tailed) = 0.00<0.05 for anxiety; 0.852>0.05 (t=3.897, df=832 Sig (2-tailed) = 0.00<0.05 for stress.

Students with internet addiction show more depression symptoms (m=22.68, sd 15.02) than students without internet addiction (m=18.09, sd=12.16).

Students with internet addiction show more anxiety symptoms (m=24.16, sd 7.02) than students without internet addiction (m=28.09, sd=6.25).

Students with internet addiction show more stress symptoms (m=53.14, sd 11.69) than students without internet addiction (m=50.38, sd=11.26).

Table no. 3*: Data for the assessment of related psychological factors in relation to internet addiction*

Internet addiction		Number	Mean	Standard deviation
Depression	With symptoms	4	22.68	15.02
	Without symptoms	264	18.09	12.16
Anxiety	With symptoms	34	24.16	7.02
	Without symptoms	234	28.12	6.25
Stress	With symptoms	63	53.14	11.69
	Without symptoms	205	50.38	11.26

Conclusions and recommendations

This study shows that there exists a positive relationship between internet addiction and related psychological factors such as depression, anxiety, and stress. This result is in line with previous studies in Albania and with studies in other countries in the world on internet addiction and its relationship with related psychological factors such as depression, anxiety, and stress. (Akin & Iskender, 2011; Gholamain et., al., 2017; Mustafa, et., al., 2019; Saika, et., al., 2019; Hasmujaj, 2021; Agaj, 2022; Novonil & Poulami, 2022; Stankovic & Nesic, 2022; Servidio, 2022, Shek, 2023).

Also, this study revealed that students with internet addiction tend to express more depression, anxiety, and stress symptoms than students without internet addiction. This evidence is also in line with other studies that show that students who spend most of their time online tend to have more symptoms of depression, anxiety, and stress (Young, 1998; Akin & Iskender, 2011; AlAmer, et.,al., 2020; Servidio, et, al. 2021).

In addition, taking into consideration the results of this study and other similar studies in the world it is necessary to plan the first phase of interventions for students with internet addiction. (Gholamain et., al., 2017; Namiranian, et. Al., 2020). The challenge is to educate students to use the internet only for benefits and good purposes, avoiding overuse of it. Education with optimal use of the Internet can help students prevent the addiction to internet.

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The Challenges of Implementing the Special Regime in the Albanian Penitentiary System

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Abstract

The Albanian penitentiary system has embarked on a new phase in its efforts to combat organized crime and criminal activity within prisons. By introducing a special regime as a more severe form of punishment, the system has sparked extensive discussions on the legal and practical aspects of its implementation. This study aims to investigate and analyze the challenges associated with the introduction of the special regime in the Albanian penitentiary system and law enforcement institutions.

The study provides a comprehensive analysis of the law's implementation and the practical challenges for the daily operation of the special regime. The primary methodology used in the study involves exploring three key elements: analyzing legal frameworks and relevant legislation; examining court decisions along with People's Advocate reports; and conducting a comparative analysis with the Italian penitentiary system. Qualitative interviews conducted with representatives from judicial institutions, the general directorate of prisons, and legal experts will provide a broad perspective on the practical challenges and potential solutions for improving the implementation of the special regime.

By uncovering the findings of this study, it is aimed to enhance the understanding of the intricate legal complexities involved in implementing the special regime in Albania.

Keywords: Legal challenges, Special regime, Penitentiary system, Legal frameworks, Court decisions.

I. Introduction

On January 30, 2019, the Albanian penitentiary system witnessed the entry into force of the special regime law, known as 41 bis, which was considered a successful model borrowed from the Italian system in the fight against organized crime. The Minister of Justice at that time, along with the Italian Anti-Mafia prosecutor Federico Cafiero De Raho, emphasized the efficiency of the special regime in combating crime and limiting communication opportunities for members of criminal organizations, even while they are in prison (Shqiptarja.Com, January 29, 2019). Subsequently, on July 30, 2020, the special regime was officially applied, and the first list of seven convicts for serious crimes was selected to be placed under this regime. The criteria for determining which prisoners could be included in the special regime, the offenses that qualified for entry, and the conditions resulting from being placed in this regime were defined in Article 13/1 of Law No. 8328, dated April 16, 1998, "On the rights and treatment of those sentenced to imprisonment and pre-trial detention". However, this law was repealed, and a new law, No. 81/2020, "On the rights and treatment of those sentenced to imprisonment and pre-trial detainees," was enacted. Article 17 of the new law introduces certain changes to the operation of the special regime. These changes included the role of the People's Advocate in monitoring the rights of pris-

oners under the special regime, the inclusion of prisoners considered high-risk due to their connections with criminal organizations or terrorist groups, regulations concerning family meetings and telephone conversations with non-family members, and the procedures for submitting appeals. Table 1 provides a summary of the modifications and additions made between the repealed law, No. 8328, dated April 16, 1998, and the current law in force, No. 81/2020, regarding the special regime.

Despite the former Minister of Justice publicly stating in 2019[1] that approximately 270 prisoners would be isolated under the Special Regime due to their strong criminal connections outside prison walls, the data provided by the General Directorate of Prisons (2023) show a different picture. The statistics reveal the following:

- In 2020, only 5 prisoners were accommodated in the Special Regime.
- In 2021, the number decreased to 3 prisoners under the Special Regime.
- In 2022, the figure slightly increased to 4 prisoners within the Special Regime.
- As of the beginning of 2023 until 22 of May 2023, there have been a total of 2 prisoners who were released from the Special Regime on 20.05.2023 after completing a one-year term, as mandated by the Minister of Justice's Order.

To enhance the treatment of prisoners in the Special Regime, additional legal measures have been taken and approved by Decision No. 209, dated June 4, 2022. These include:

- Allowing one monthly meeting, lasting up to 30 minutes, with family members or individuals other than family members, subject to the prosecutor's approval.
- Granting the right to make one monthly phone call to family members, limited to a maximum of 10 minutes.
- Equipping the detainees with a television featuring a limited selection of channels and restricted viewing hours monitored by the General Directorate of Prisons.

Regarding detainees in the Special Regime, the main issue arises from their request to receive food from family members (General Directorate of Prisons, 2023). However, Article 62 of Decision No. 209, dated 04.06.2022, which approves the general regulation of prisons, prohibits the intake of food or drinks from family members. Instead, prisoners in the Special Regime are provided with three meals per day according to the institution's schedule.

Table 1. Comparison of Special Regime Provisions: Repealed Law vs. Existing Law

Law No. 8328, dated April 16, 1998, "On the rights and treatment of those sentenced to imprisonment and pre-trial detention" *(Repealed)*	Law No. 81/2020 "On the rights and treatment of those sentenced to imprisonment and pre-trial detention" *(Existing)*

[1] The former Minister of Justice, Etilda Gjonaj, announced that 270 convicts and pre-trial detainees will be placed under the special regime due to suspicions of maintaining connections with criminal networks abroad. The minister made this declaration following a conference held in Tirana that focused on combating crime and isolating crime leaders. Italian Prosecutor Federico Cafiero De Raho was also in attendance at the conference. See Shqiptarja.Com. 29 Janar 2019. https://shqiptarja.com/lajm/neser-futet-ne-fuqi-regjimi-i-posacem-ne-burgje-ministrja-e-drejtesise-do-izolohen-270-te-denuar.

1. Mentions the involvement of specialized bodies in the fight against organized crime and terrorism. 2. The process of family meetings and telephone conversations with individuals other than family members is handled differently. In this law, it was required to have the approval of the director of the institution (for convicts) or the prosecutor (for pre-trial detainees).	1. Does not specify the involvement of these bodies. 2. Specifies the approval of the General Director of Prisons (for convicts) and the prosecutor (for pre-trial detainees). 3. Adds an additional provision that allows the special regime to be applied to prisoners who are considered high-risk due to their connections with criminal organizations or terrorist groups. 4. Introduces the role of the People's Advocate in monitoring the rights of prisoners placed in the special regime. 5. The appeal request should be filed in the Court of First Instance against Corruption and Organized Crime, according to Article 471 of the Code of Criminal Procedure.

1.1 Application and operation of the special regime

Law No. 81/2020 establishes the framework for the application and operation of a special regime in high-security prisons. The special regime aims to maintain order and security and prevent communication between the convicts or detainees and their criminal organizations or other relevant organizations (Article 17/4). This regime is designed to address the unique circumstances of convicts and detainees involved in specific criminal offenses, particularly those related to organized crime, terrorism, and participation in criminal groups. Additionally, include individuals convicted of murder under specific circumstances, such as killing public officials or State Police employees (Article 17/1-2). The Minister of Justice is responsible for deciding whether a convict or detainee should be placed in the special regime within a high-security prison. This decision is made after receiving a reasoned request from the Head of the Special Prosecution, who consults with the Minister of the Interior (Kraja, 2023). It is based on data and information provided by various authorities, including the General Director of the State Police, the State Information Service, the General Director of Prisons, and specialized bodies involved in combating organized crime and terrorism, each within their specific areas of responsibility. Article 17/5-8 of Law 81/2020 defines the components of the special regime for prisoners' rights as prescribed below:

→ **Controlled family meetings**: Monthly meetings between prisoners and their family members in controlled environments, with recordings and restrictions on entry by others. Meetings with individuals outside the immediate family require approval from the institution's director and the General Director of Prisons.

→ **Limited telephone conversations**: Prisoners are granted one monthly telephone conversation, limited to ten minutes and recorded. Authorization from the

General Director of Prisons or the prosecutor is required, except for conversations with the People's Advocate and human rights organizations.

→ **Prohibition on monetary values and items from abroad**: The use of money, items, and objects received from abroad is prohibited, according to the institution's internal regulations.

→ **Controlled correspondence**: There are controls on correspondence, except for communication with specific subjects and international organizations focused on human rights.

→ **Reduced outdoor ventilation time**: Prisoners in the special regime have limited outdoor ventilation time, typically 1-2 hours per day.

→ **Exclusion from representative bodies**: Prisoners in the special regime are excluded from representative bodies.

→ **Monitoring by the People's Advocate**: The People's Advocate ensures adherence to these rights.

→ **Duration and extension:** The special regime initially lasts for one year, with the possibility of extension for additional one-year periods based on factors such as the prisoner's criminal profile, involvement in criminal organizations, new charges, behavior, and family circumstances.

→ **Appeal Process**: Convicts, detainees, or defense lawyers can submit an appeal request within 20 days of receiving notification of the Minister of Justice's decision. The appeal is filed in the Court of First Instance against Corruption and Organized Crime.

II. Literature Review

2.1 Theoretical Perspective

Theoretical perspectives offer distinct frameworks through which to analyze and comprehend the implications and effectiveness of the special regime implemented within penitentiary institutions. These perspectives provide different lenses to examine the various facets of such a regime. However, it is important to recognize that the applicability of these perspectives can vary depending on the specific context and objectives of the regime. Each perspective offers unique insights and considerations, allowing for a comprehensive assessment of the special regime's outcomes and impacts. By embracing multiple theoretical lenses, policymakers can gain a deeper understanding of the complex dynamics at play and make informed decisions tailored to the specific needs and goals of the regime in question. In the context of the special regime, Becker's economic perspective can offer valuable insights into the effectiveness and efficiency of the regime's measures in deterring criminal activities, particularly within organized crime. By considering the economic incentives and rational choices made by individuals subjected to the special regime, policymakers and researchers can better understand its impact on reducing recidivism and promoting public safety (Becker 1968). Also, the special regime is seen as a means of exerting greater control over inmates and reducing their ability to carry out criminal activities (Hirschi 1969).

According to Andrews and Bonta (2010), the special regime is seen as a means to support the rehabilitation and reintegration of inmates involved in organized crime. The

focus is on targeted interventions, specialized programs, and intensive supervision to address the root causes of criminal behavior and foster positive transformation. Examining institutional theory provides insight into the wider institutional consequences of implementing a special regime. This perspective delves into the ways in which the regime's implementation influences the dynamics of organizations, power structures, and policies within penitentiary institutions. Additionally, it explores the intricate interactions that occur between the special regime and other elements of the criminal justice system (DiMaggio and Powell 1983; Meyer and Rowan 1977)).

Human Rights Theory centers around evaluating the alignment of the special regime with fundamental principles of human rights. It scrutinizes whether the measures and practices implemented within the regime adhere to international standards, protect the dignity and welfare of inmates, and prevent any potential human rights abuses or violations. (Donnelly 2003; Shelton 2011). This theory will form the foundation for studying and analyzing the legislative measures introduced within the Albanian special regime.

2.2 Insights from Various Studies and Relevant Institutions

The special regime bis 41, commonly associated with Italy, has been implemented in Albania following a similar model. Consequently, studies and investigations in this field have predominantly focused on the Italian model, with Italian scholars making significant contributions. The transfer of knowledge and experiences from Italy to Albania has played a crucial role in shaping the understanding and implementation of the special regime *bis* 41 in the Albanian context. Italian expertise and research have served as a valuable resource, providing insights and informing the development of policies and practices within the Albanian special regime. Meloni and Fabi's (2018) study investigates the extent to which the conditions of detention, as stipulated in Article 41-bis, facilitate or impede prisoners' prospects of successful reintegration and reducing recidivism. Regrettably, these authors claim that the measures often fall short of meeting international standards and occasionally lack proportionality in relation to the intended objectives. In addition, Cifaldi and Scardaccioneb (2018) consider the introduction of the hard prison regime as a regression in the execution of sentences, deviating from European principles of punishment humanization and social reintegration. The penitentiary system's focus on reflection, responsibility, and reparation is hindered by the limitations imposed by the different enforcement systems, including Article 41 bis. However, the regime is justified by the need to combat pervasive criminal phenomena and control organized crime. The fundamental problem lies in the moral consequences of excluding prisoners from treatment opportunities rather than constitutional principles.

A study examining the 41-bis prison regime in Italy in light of the COVID-19 pandemic revealed various challenges in key areas, including healthcare access, mental health support, communication limitations, social isolation, and human rights concerns. In terms of human rights, the study highlighted issues such as disproportionate restrictions, a lack of transparency, and the crucial necessity of upholding prisoners' rights to health and dignity. These findings underscore the importance of addressing these challenges to ensure the well-being and rights of individuals within the 41-bis regime (International Journal of Prisoner Health 2020).

The decisions rendered by the European Court of Human Rights concerning specific appeals from Italian prisoners who were convicted or accused of mafia activities and held in the Special Regime serve as a benchmark for interpreting and implementing these measures in accordance with the European Convention on Human Rights. These decisions provide guidance and establish a standard for the state and law enforcement authorities in Albania, ensuring compliance with international human rights standards.
In addition, the publicly available reports of the Albanian Peoples Advocate present a valuable resource that can offer significant insights and serve as a foundational basis for this study. These reports, being official documents, provide authoritative information and analysis regarding the implementation and impact of the special regime in Albania.

III. Methodology

This study aims to provide a comprehensive understanding of the special regime in Albania, focusing on its legal framework, implementation challenges, and potential avenues for improvement. To achieve this, the study employs a multidimensional approach by utilizing various methodologies that complement each other and contribute to a comprehensive analysis of the topic.
The primary methodology employed in this study involves three key elements: analyzing legal frameworks and relevant legislation, examining case law of the European Court of Human Rights along with People's Advocate reports; and conducting a comparative analysis with the Italian penitentiary system. This methodological choice is crucial as it allows for a thorough examination of the existing legal provisions related to the special regime. By analyzing legal frameworks, the study seeks to identify gaps, inconsistencies, and potential areas for improvement in the existing legislation governing the special regime. The examination of court decisions and People's Advocate reports provides valuable insights into real-life cases and experiences, shedding light on the practical challenges faced by prisoners and highlighting potential human rights concerns.
In addition to the aforementioned methodologies, qualitative interviews have been conducted with representatives from judicial institutions, prison staff, and legal experts. These interviews will offer a broad perspective on the challenges associated with the special regime and potential solutions for enhancing its implementation. By engaging with key stakeholders involved in the operation of the special regime, the study aims to capture diverse viewpoints and gather firsthand information about the practical aspects and complexities of the regime.
By employing a multidimensional approach, this study strives to provide a comprehensive analysis of the special regime in Albania. It recognizes the importance of legal analysis in understanding the legislative framework, the significance of court decisions and People's Advocate reports in assessing real-world implications, and the value of qualitative interviews in capturing the experiences and perspectives of relevant stakeholders. The findings of this study are expected to contribute to a significant understanding of the special regime, identify areas for improvement, and inform policy discussions aimed at enhancing the rights and treatment of individuals subjected to the regime.

IV. Results and Discussions

4.1 Analyzing the Case Law of the European Court of Human Rights: Safeguarding Human Rights through Jurisprudence

In order to evaluate the compatibility of 41 bis with international standards of human rights protection, it is crucial to analyze the case law of the European Court of Human Rights (ECHR). The jurisprudence of the ECHR regarding Article 41-bis primarily concerns compliance with Article 3 of the ECHR, particularly in cases involving long-term stability in special regimes characterized by highly restrictive forms of isolation (similar in essence to 41-bis). These cases have established the principle that a stringent prison regime involving some form of isolation, even if relative, cannot be imposed indefinitely due to the potential adverse effects on the physical and mental health of the prisoner. Interpreting this principle, it becomes apparent that the duration of such special prison regimes has acquired significant importance in assessing their compatibility with Article 3 of the ECHR. The ECHR has emphasized the potential harm that prolonged isolation can cause to an individual's well-being. Therefore, the time factor plays a decisive role in determining whether special prison regimes, like 41 bis, adhere to the requirements of Article 3 of the ECHR (Gjika, 2023). In the case of Marcello Viola v. Italy, the European Court of Human Rights recognized a violation of Article 3 of the European Convention on Human Rights. The Court acknowledged that:

"*It would be contrary to human dignity, which is fundamental within the Convention system, to deprive individuals of their liberty without making efforts to rehabilitate them and without providing them with the opportunity to regain their freedom at a later stage. At the same time, the ECHR recognized that Contracting States have a broad margin of appreciation in determining the appropriate length of prison sentences. It acknowledged that the imposition of a sentence that effectively amounts to life imprisonment does not necessarily mean that it is inescapable in practice. Consequently, the possibility of reviewing life sentences allows convicted individuals to apply for release, although it does not guarantee their release if they continue to pose a danger to society*."

The Court acknowledged that the offenses for which Mr. Viola was convicted constituted a particularly dangerous phenomenon for society. However, the efforts to address such offenses could not justify departing from the provisions of Article 3 of the Convention, which strictly prohibits inhuman or degrading treatment (Application No. 77633/16).

Within the context of modern prisons, the ECHR has emphasized the importance of valuing the integration of individuals into society rather than solely focusing on punishment for the committed offense. This principle is clearly expressed in the wording of the judgment, which states that the personality of a convicted prisoner is not fixed at the time of the crime. Instead, it can undergo transformation during the course of their sentence, particularly through the process of resocialization. This process enables individuals to critically review their criminal past and reconstruct their personalities, indicating the Court's recognition of the potential for personal growth and rehabilitation even after committing a crime.

In the case of *Asciutto v. Italy*, the European Court of Human Rights recognized a violation of Articles 6 § 1 and 8 of the European Convention on Human Rights. The pe-

titioner's complaint in this case included various restrictions on outside contact, such as the requirement to testify in court proceedings via video link. The petitioner also raised concerns about delays in the consideration of his appeals against decisions made by the ministries and the violation of his right to the respect of his correspondence (Application No. 35795/02). Similarly, in the case of *Enea v. Italy*, although the Grand Chamber dismissed the complaint under Article 3 of the Convention, it found a violation of Articles 6 § 1 and 8. The specific nature of the violation in this case is not mentioned, but it again highlights the infringement of the right to a fair trial and the right to respect for private and family life (Application No. 74912/01). In the well-known case of *Provenzano v. Italy*, which involved a convicted Cosa Nostra boss, who ultimately died in prison while under the 41-bis regime, the Court ruled that he had been subjected to inhumane treatment. The judgment indicates that the treatment and medical care provided to the prisoner were inadequate, resulting in a violation of his rights under the European Convention on Human Rights (Application No. 55080/13). In the case of Messina v. Italy, the European Court of Human Rights found a violation of Article 8 of the European Convention on Human Rights, which protects the right to correspondence. The violation occurred due to the monitoring of the applicant's correspondence, which was authorized by a court order based on Article 18 of Law No. 354 of 1975. The Court observed that this particular provision lacked clarity regarding the duration of censorship of prisoners' correspondence and the grounds on which such censorship could be imposed. As a result, it was uncertain to what extent the relevant authorities had discretion in this area and how it should be exercised. Since subsequent provisions clarifying this issue were lacking, the interference with the applicant's right to correspondence could not be considered as to be in accordance with the law. Furthermore, the Court noted that the systematic failure to adhere to the ten-day time limit for reviewing the Minister's decrees significantly undermined the effectiveness of the court's oversight. As a result, the applicant had been subjected to restrictions for a longer period than necessary due to delays in the decision-making process. Consequently, the Court concluded that seeking relief from the court responsible for executing sentences did not constitute an effective legal remedy in this case (Application No. 2-25498/94). These cases demonstrate instances where the ECHR identified violations of the right to a fair trial, the right to respect for private and family life, and the prohibition of inhuman treatment within the context of the 41-bis regime in Italy.

The existence, functioning, and continuous expansion of such violations pose a significant threat to the rule of law, democratic institutions, and civil society. This represents a serious "*vulnus*"[2] or impingement on the rights and principles enshrined in the foundational Charter. Consequently, there is a clear imperative and obligation to take comprehensive action that extends beyond mere criminal repression. As stated by Zunino (2016), this action should address the issue at cultural, social, economic, and political levels, aiming to tackle the root causes and mitigate the negative consequences of such violations.

[2] In the legal context of the Italian system, the term "vulnus" refers to the violation of a right, which is an essential element of a crime. In everyday language, it is commonly understood as an insult or injury inflicted on someone.

4.2 The Ombudsman's Reports: Assessing Excessive Stringency of Albanian Special Regime

The Ombudsman, through both reports and direct communication with the Ministry of Justice, has raised concerns regarding the implementation of the 41-bis measures in Albania. It is evident that the Albanian legislator has surpassed the strictness of measures adopted in the Italian system, from which these measures were borrowed, as well as other international standards (Ombudsman Report, June 2022). The Ombudsman arrived at this conclusion after conducting independent inspections of the special regimes, prompted by complaints from legal defenders and the families of prisoners subjected to such regimes.[3] A particularly noteworthy case that reached the Constitutional Court involved the sentenced individual Emiljano Shullazi, who was held in solitary confinement on two consecutive occasions within this regime. The constitutional judges ruled that certain provisions pertaining to the examination of evidence by special judges had been violated, as the Special Anti-Corruption Structure had claimed that the information was classified.

This specific case has also become a pivotal point of reference for other issues related to the special regime and the restrictions imposed on individuals subjected to it. Constitutional aspects related to a fair legal process within these cells include concerns regarding physical, hygienic, and sanitary conditions, the availability of adequate food products, access to ventilation facilities, opportunities for meetings with family members and legal defenders, the right to be informed through various channels, and physical and mental healthcare, among others. Several issues raised in the aforementioned aspects of the Ombudsman Report, June 2022, include the following:

→ First, the lack of access to natural light in the cells due to the positioning of windows and the presence of shutters within the building's structure.

→ Second, inadequate ventilation in certain rooms, particularly those situated on the ground floors, leading to increased moisture levels.

→ Third, concerns regarding the nutritional value of the food provided to prisoners in the special regime. The restriction on receiving food from family members and the reliance on prison food have adversely affected the prisoners' health.

→ Other issues raised in the complaint pertain to the prisoners' right to be informed through access to television or radio at specific times.

→ Additionally, limitations on the number of books permitted in the cells hinder educational and social reintegration efforts, prompting a call for a more flexible approach in this regard. Problems related to the cleanliness of common areas have also been addressed, as the special regime areas do not permit the entry of additional personnel responsible for cleaning.

→ In terms of healthcare, the complaint emphasizes the necessity for regular medical visits by both institutional health staff and specialized doctors to address the demands and health conditions of the convicts and prisoners.

→ Furthermore, there is a recurring request to expand the circle of individuals allowed to meet with the prisoners, extending beyond immediate family members to include other relatives.

[3] Cases of the complaint lodged by the legal representative of the life sentenced prisoner Emiljano Shullazi, Vladimir Meçe, and the family members of Arbjon Alikos, who was convicted and sentenced to life imprisonment for his involvement in the murder of Ibrahim Basha, an officer of the FNSH (National Special Forces), which occurred in Lazarat. Additionally, the complaint includes Genc Ballës, a radical imam.

These concerns highlight the need for improvements in various aspects of the prison facility and the treatment of prisoners in the special regime, as outlined in the complaint submitted to the people's advocate. Furthermore, Alliaj and Basha (2023) express their concern regarding the highly restrictive nature of the special regime, which renders every prisoner uniform and practically hinders their ability to file complaints with the court or receive timely responses to their grievances. The prisoners perceive that seeking recourse through the People's Advocate and relying on legal defenders for their requests is the only viable solution (Kasapi, 2020).

4.3 Navigating Restrictions and Overcoming Hurdles in the Albanian Penitentiary System

Compared to the stringent regulations governing the special regime within Italian prisons, a noticeable easing of restrictions can be observed in the Albanian system. Detainees are granted two hours of outdoor time, which is determined by the director of the Institution for the Execution of Penal Decisions. Any movement within the facility is meticulously monitored and permitted solely for specific reasons, such as family visits or appointments with medical professionals, counselors, or educators. This level of control over detainees' movements allows for enhanced supervision. Moreover, the cells must be kept tidy, and apart from television, the possession of electronic devices is strictly prohibited. Television is state-owned and subject to censorship, similar to newspapers and personal letters. In summary, it can be asserted that the intensification of restrictions imposed on detainees, in accordance with Article 41-bis, should be implemented cautiously, as it may not necessarily represent the optimal solution to the challenges posed by criminal organizations. Considering the challenges Italy has encountered in combating such criminal organizations, the 41-bis prison regime certainly serves as a valuable tool in their arsenal (Indelicato, 2019).

The first category of restrictions pertains to meetings, telephone calls, and correspondence. Under the special regime, significant limitations are imposed not only on the frequency of meetings with family members but also on the permissible circle of visitors and the manner in which the meetings are conducted (Abrija, 2023). In the case of prisoners under the 41-bis regime, they are only allowed one hour-long meeting per month with family members. Regarding the modalities of the meetings, there are distinct differences between the standard regime and the 41-bis regime. In the standard regime, meetings take place under visual supervision by detention staff without any physical separation devices, ensuring privacy. However, for prisoners under the 41-bis regime, meetings are conducted in specially designated rooms equipped with full-height glass barriers to prevent the passage of any objects. Additionally, these meetings are subject to audio control and video recording, except in cases where judicial authorization is required for audio recording. The strictness of these provisions is somewhat relaxed when the prisoner is in the presence of children or grandchildren under the age of twelve, allowing for conversations without the use of glass dividers, even if for a short duration (Dado, 2023).

In essence, this particular prison regime can be characterized as a form of isolation, raising concerns about its compatibility with legislative discipline and constitutional principles safeguarding fundamental rights. Specifically, there are doubts regarding

its compliance with constitutional principles regarding the protection of an individual's fundamental rights, such as the right to health and the prohibition of inhumane or degrading treatment, particularly in cases of prolonged application over time (Della Bella, 2018).

A crucial aspect of the special regime's operation is the selection and training of special police officers through specialized programs and curricula. These officers are entitled to dignified treatment, including the provision of the necessary facilities to effectively carry out their assigned tasks and appropriate recognition for their service under highly demanding conditions. However, several findings have emerged that shed light on the challenges faced by these officers. In Albania, the implementation of the 41 bis regime differs significantly from the Italian model, leading to unique challenges for police officers. The compensation provided to officers does not adequately reflect the stress and threats they face. The head of the prison union has expressed concerns about the socio-economic difficulties experienced by prison police officers, including transportation rights, suitable food diets, and recognition based on merit (Macaj, 2023). Additionally, unlike in Italy, Albanian officers in the regime are easily identifiable, making them vulnerable to potential blackmail and threats from criminals (Albanian Center for Quality Journalism, 2022).

Conclusion

The implementation of the special regime in Albania has encountered practical and legal challenges, some of which may be seen as a violation of Article 3 of the European Court of Human Rights. As a novel approach aimed at preventing criminal activities within prisons, it is crucial to adopt a regime that respects the principles and fundamental rights of individuals deprived of their liberty. While isolation serves as a security measure, it should be balanced with rehabilitative measures, which are an inherent right for incarcerated individuals. The absence of any prisoners in this regime until May 2023 raises concerns about the purpose and feasibility of its application in the Albanian prison system, particularly its compliance with European human rights conventions. The reports from the People's Advocate, the sole authority permitted to inspect the special regime in Albania and issue public reports, have highlighted numerous problems within the system. These issues encompass the institutions' fragility in terms of managing and administering the regime, including the restrictions imposed on detainees, health and sanitary conditions, professionalism of staff, and overall operational practices.

Furthermore, the findings from media analysis and public reactions indicate that the special regime has been a prominent topic in public discourse. While there is support for strengthening security measures, doubts about their effectiveness and concerns about human rights aspects have also been expressed. The media's role in reporting on the special regime has primarily been neutral and informative, with limited critical and investigative tones.

The combination of practical challenges, potential legal concerns, and public reactions underscores the significance of carefully evaluating and adjusting the special regime to ensure its effectiveness, adherence to human rights principles, and public acceptance. Continuous monitoring and open dialogue with various stakeholders are essential for addressing the identified issues and improving the special regime's implementation in the Albanian penitentiary system.

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