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(ICSNS XXXII-2024)

Berlin - 28 February 2024

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(ICSNS XXXII-2024)

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Development entrepreneurship factors and the entrepreneurial spirit at the Moroccan University

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Abstract

Given the positive impact of entrepreneurship on the economy, society and the individual, several studies have emphasized the importance of teaching entrepreneurship: it is the most important step for develop the entrepreneurial potential of young people (Rinne and Koivula, 2005). Thus, Tounès (2001) considers entrepreneurship not only a practice, but also a field of teaching that can influence the attitudes, norms and perceptions of students regarding their career choice, in this vision, Miller (1999) separated the teachable from the non-teachable aspects of entrepreneurship. This debate on the essence of entrepreneurship, art or science, leads us to a dilemma: are we born or do we become entrepreneurs? In his book Creating the Entrepreneurial University (1998), Clark describes entrepreneurship in a positive way and shows that universities break the constraints imposed by restrictive funding regimes or by the conventions arising from the management of higher education by the state. They do this by encouraging innovation in academic behavior, by engaging in broad partnerships with external organizations.
The empirical study was carried out through a questionnaire sent to 230 companies located in different regions of Morocco whose founder is young university graduates. The results show that the, Entrepreneurial spirit, the role of academic entrepreneurs, cognitive agility and family supports are the main determinants of the entrepreneurial success of young graduates.

Keywords: Entrepreneurial education, Entrepreneurial spirit, academic entrepreneurs, openness, cognitive agility and Performance of the support process.

Introduction

In recent years, the promotion of entrepreneurship has represented a fundamental pillar in all economic development policies. In this direction, Several countries have made considerable efforts to encourage the creation and promotion companies see their contribution to the creation of added value and the absorption of unemployment (Perreault D'Amboise, 1989; Audretsch, 2006).
In Morocco, different efforts have been launched to support young entrepreneurs. In this article we will focus on showing the role of entrepreneurship education in the promotion of young entrepreneurs and start-ups. Several authors have called for contributing to the study of the university and entrepreneurship relationship (Schmitt, 2006) through the study of factors that could develop the teaching of entrepreneurship.

The main objective of this article is to identify the factors on which entrepreneurship education is based and which contribute to the success of young entrepreneurs in Morocco.
To analyze this problem, our approach consists of firstly presenting a theoretical and exhaustive classification of the factors of development of the entrepreneurial spirit within universities, Secondly, we will present our model and the main results of our empirical study which will focus on a sample of 230 SMEs established in the Moroccan territory, finally we will try to formulate areas for improvement for the entrepreneurship models taught in Moroccan universities.

Literature review and theoretical framework

According to Kwiek (2001), the transformation of the university seems inevitable both for
developed and developing countries. "The forces governing change being global in nature, are similar, although their current influence is different from one country to another and from one region to another.
The forces of globalization (Tilburg, 2002; Carnoy, 1999; Hallak, 1998; Riddell, 1996), and environmental changes influence the university (increased massification, accentuated diversification, importance of transnational education, pressures from ICT).
With these new changes, the university must play new roles, hence the need to move from a traditional university to another entrepreneurial one and be able to play the role of accelerator of this change (Gibbons, 1998).
The literature review highlighted five determinants:
Entrepreneurial training, Entrepreneurial spirit, Academic entrepreneurs, Openness, Cognitive agility and Performance of the support process.

Entrepreneurial training

Entrepreneurship programs aim to teach students to develop their entrepreneurial mindset and acquire various practical skills (Herry, Hill, & Leitch, 2005) .
Several renowned authors in the field of entrepreneurship, such as Katz (2003) and Kuratko (2005), recognize the importance of active teaching in developing students' entrepreneurial skills[1].
However, the teaching of entrepreneurship within universities is problematic because it is both art and science and therefore teachable and unteachable (Miller, 1999; Anderson and Jack 1999; Billet, 2007), the science part (includes the management, marketing, finance, etc.,) is teachable using the classic teaching approach and the art part is non-teachable because entrepreneurial behaviors and skills cannot be taught (Jack and Anderson, 1998), according to Léger-Jarniou (2001), A little "innateness" does not harm, but the acquisition of knowledge is never superfluous. The content of these programs may include problem solving (Herry, Hill, & Leitch, 2005)

[1] Toutain, O. & Salgado, M. (2014). Quels sont les effets des pédagogies actives dans l'apprentissage de l'entrepreneuriat : Étude des changements de perceptions des élèves ingénieurs et managers à l'issue de la formation MIME (Méthode d'initiation au métier d'entrepreneur). Revue de l'Entrepreneuriat / Review of Entrepreneurship, 13, 55-88. https://doi.org/10.3917/entre.132.0055.

In addition, many experiments have demonstrated that students choose universities to study entrepreneurship, which confirms the idea that entrepreneurship can be taught (Herry, Hill and Leitch, 2005). Likewise, several empirical researches have proven that entrepreneurship can be taught or at least encouraged through entrepreneurial education (Gorman, Hanlon and King, 1997, p 62; Béchard, 1998; Fayolle, 2000a; Senicourt and Verstraete, 2000).

Entrepreneurial spirit

The study by Tounès (2003), following the work of Julien (1994) and Raijman (2001), as well as that of Verzat and Bachelet (2005), highlights the importance of the "primary knowledge network" in the preparation for an entrepreneurial career.
Teachers, groups of friends, as well as professionals met during internships or conferences at school, are also identified as important influences on professional orientations and the desire to become an entrepreneur. Their advice, encouragement, as well as the opportunities they provide for learning and networking, help shape individuals' entrepreneurial aspirations (Verstraete, 2006).
Fayolle (2009), based on the work of Matthews and Moser (1995) as well as Scott and Twomey (1988), confirms this idea.
Borger and Julien (2005) go further by asserting that to support entrepreneurial development, it is necessary not only to have entrepreneurs and organizations, but also a cultural environment conducive to entrepreneurship and innovation.
The work of Bosma and Wennekers (2002) also highlights the close link between culture and entrepreneurial activity. Culture shapes individuals' values, beliefs, and behaviors toward entrepreneurship, which can influence their entrepreneurial decisions and actions.

Academic entrepreneurs

Universities play a crucial role in supporting academic entrepreneurship, but their effectiveness is strongly influenced by the context in which they operate. Several aspects of this specific environment have been identified as having an impact on policies supporting academic entrepreneurship. entrepreneurship within universities (Milot, 2005; Cohendet et al., 2006; Mowery, 1998): Level of regional economic development, National and regional innovation systems Public intellectual property policies, public funding, Importance of R&D, Competition between universities and University Reputation (Audretsch, Stephan, 1996; Powers, McDougall, 2005; Wright et al., 2012; Mailhot, Schaeffer, 2009).
Audretsch (2001) thus emphasizes the "spillover effects" of knowledge scientists to companies that transform them into marketable goods[2].
Openness, Cognitive agility
Cognitive agility is the individual ability to consciously practice openness and focus (Good and Yeganeh, 2012). They use the dynamic decision-making approach to em-

[2] Matt, M. & Schaeffer, V. (2015). Le soutien à l'entrepreneuriat académique dans le modèle d'université hub. Innovations, 48, 13-39. https://doi.org/10.3917/inno.048.0013.

phasize the importance of this skill. For them, cognitive agility [3]is a valuable tool for real-time decision-making at work.

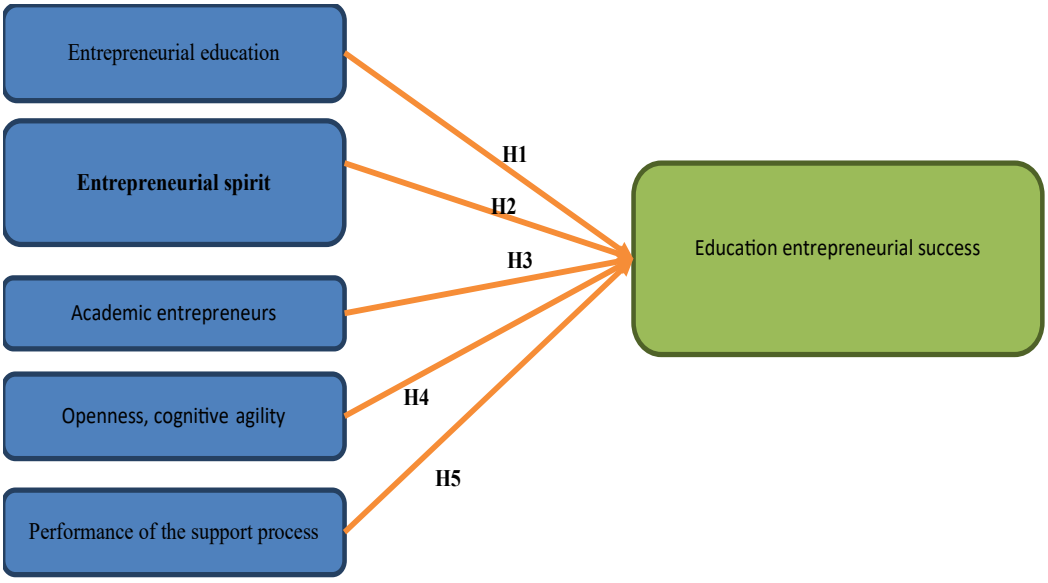
Dibello offers an instrument for measuring expertise that includes this cognitive agility, measured by the ability of individuals to adjust their thinking based on feedback on their company's performance and their own marketing forecasts (Schindehutte and Laforge, 2002), and (Neck and Greene, 2011), This approach aims to assess decision-making expertise, particularly among senior business leaders (Honig, 2004).

For (Dreyfus and Dreyfus, 1986) Expertise is accompanied by an evolution from rule-based thinking to more intuitive thinking, and a development of agility, for (Dibello, 1997) Agility cognitive is the ability to quickly revise one's mental model in response to dynamic feedback.

Performance of the support process.

Entrepreneurial support makes the creator aware of the multiplicity of factors involved in the process of developing and implementing his project. Support for entrepreneurs improves their success rate (Marchesnay and Julien, 1996; Julien 1996). allows you to implement a good differentiation strategy, and helps to overcome financial and administrative constraints to clarify knowledge, know-how and experiences

Figure 1. Conceptual model.



Remarks. H1—The more innovative the entrepreneurship training pedagogy, the greater the performance of entrepreneurial education; H2 – The more the entrepreneurial spirit is spread in society, the greater the probability of success of entrepreneurial education; H3 – The more the status of academic entrepreneurs and the training of trainers is well carried out, the higher the success of entrepreneurial education; H4 – the more the University is open to its environment and integrates cognitive agil-

[3] Bornard, F. & Briest-Breda, C. (2014). Développer l'esprit d'entreprendre, une question d'agilité. Revue de l'Entrepreneuriat / Review of Entrepreneurship, 13, 29-53. https://doi.org/10.3917/entre.132.0029.

ity, the more decision-making is relevant and entrepreneurial education is efficient; H5 – The more the performance of the support process is well adapted, the greater the performance of entrepreneurial education.

Research methodology

At an operational level, the theoretical framework described above justifies the use of a quantitative methodology. The latter leads to a more flexible approach to measuring variables, to ensure their relevance for the validation of their content with professionals and to pre-test the questionnaire with a test sample. The collected data was purified using exploratory factor an Measurement of variables and questionnaire design

The theoretical framework presented above justifies the use of a quantitative methodology. This first leads to choosing the measurement scales of the variables used, ensuring their relevance by validating their content with professionals, and pre-testing the questionnaire with a test sample before collecting it. The collected data were purified using exploratory factor analyses (Hair et al., 2014).

Choice of measures. Due to the wide range of measures developed for the same variable, several criteria governed the choice of items. For this purpose, Social Science Citation Index and Google Scholar were used, the recency of the measures and their psychometric qualities (De Jong, Steenkamp, & Veldkamp, 2009; Richins, 2004), the number of items must be reasonable so as not to Increase the questionnaire and be reflective rather than formative. Finally, items developed in the same field of study were favored. Note that the Anglo-Saxon measures, the translation and reverse translation procedure were applied. First of all, it involves translating the original scale from English to French. Then, the generated elements are translated in the reverse direction. If this second translation allows us to find the original scale, we keep the items if we do not correct it by proceeding by iterations.

Academic entrepreneurs, research and development carried out by universities have been operationalized on the scale of Geyskens and Steenkamp (2000) (Hair, Black, Babin, and Anderson, 2014).

For the measurement of entrepreneurial education, the Doney and Cannon (1997) scale was used. It includes four elements. For the entrepreneurial spirit, four elements were retained. The primary network of knowledge, cultural environment and culture, entrepreneurial, were measured by the scale of Morgan and Hunt (1994), It includes three each. To operationalize the variable Openness, as well as Cognitive Agility, the items developed by Lin and Lee (2006) and Klein and Rai (2009) were used. These include five and four elements respectively.

Performance of the support process, carried out by universities, was operationalized on the Geyskens and Steenkamp (2000) scale. It includes three items.

Finally, the performance of university education is measured by the five-item scale of Cao and Zhang (2013). The response scales are five-point Likert type (from 1 = “Strongly disagree” to 5 = “Strongly agree”). In total, our questionnaire includes 31 items.

To ensure content validity, the list of items was submitted to two leaders. Following

the recommendations of Jolibert and Jourdan (2006), they had to evaluate each of the items as "Very", "Fairly" or "Little" representative of the dimensions to which they were attached. Likewise, officials were asked to comment on the clarity of the proposals. The objective assigned to this stage is to verify the relevance of the measures adopted. Following this step, the wording of certain elements was reformulated because it was considered ambiguous and equivocal. Also, it was proposed to replace "entrepreneurial training" with "entrepreneurial education".

After a test with 13 companies managed by young entrepreneurs graduated from business schools and universities, the final questionnaire was administered by email and via Google Drive to a sample of 230 commercial and industrial companies. After reminders by email and telephone, the responses from 179 questionnaires were used.

Purification of measurements. Purification is an essential prerequisite for hypothesis testing. It is generally done using exploratory factor analysis techniques, the most widely used of which is principal component analysis (Hair et al., 2014).

It consists of studying the importance of items in the formation and explanation of the variables to which they are attached. Three elements are examined: the commonalities or loading, the explained variance of the factors and the internal consistency of the scale measured by Cronbach's alpha. The purification results are provided in Table 1.

Table 1 Results of the Exploratory Factor Analysis

Variables	PCA before removing badly represented items				PCA after removal of misrepresented items			
	Number of items	KMO	Variance explained (%)	Cronbach's alpha	Number items	KMO	Variance explained (%)	Cronbach alpha
Entrepreneurial education	Four	0.709	70.040	0.7957	2	0.767	79.209	0.7350
Entrepreneurial spirit	Twelve	0.692	67.895	0.7634	9	0.686	69.415	0.7212
academic entrepreneurs	Three	0.522	41.568	0.4231	2	0.632	60.040	0.5951
openness, cognitive agility	Nine	0.602	46.877	0.5667	7	0.623	57.885	0.5634
Performance of the support process	Three	0.561	53.654	0.4375	2	0.597	73.685	0.7283
entrepreneurial success	Five	0.810	58.079	0.7945	4	0.778	66.893	0.8906

Results of the Hypothesis Test

To test the research hypotheses, the multiple linear regression method was applied; the results are presented in Table 2.

On reading the results of Table 2, several comments can be made. The explanatory variables help to explain more than 52% of the total variance of the entrepreneurial success (adjusted R2 = 0.524), the Entrepreneurial spirit (Beta = 0.439, t = 10.791, p = 0.000), Performance of the support process (Beta = 0.275 , t = 7.031, p = 0.000), the academic entrepreneurs (Beta = 0.149, t = 3.919, p = 0.000), the Entrepreneurial education (Beta = 0.331, t = 2.948, p = 0.000), and the openness, cognitive agility (Beta = 0.359, t = 2.454, p = 0.000) positively influence the education entrepreneurial success.

Table 2
Multiple Linear Regression Results

Failure	Non-standardized coefficients		Coefficients standardisés (Bêta)	T	Sig.
	B	Erreur standard			
Constant	-3.351E-16	0.028	-	0.000	1.000
Entrepreneurial education	3.709E-01	0.039	0.351	2.948	0.000
Entrepreneurial spirit	0.443	0.041	0.441	10.791	0.000
academic entrepreneurs	0.153	0.043	0.149	3.919	0.000
openness, cognitive agility	0.361	0.091	0.349	2.454	0.000
Performance of the support process	0.275	0.037	0.275	7.031	0.000

It is clear that the risk of failure is very high in the context of universities where entrepreneurial education lacks learning and openness and especially the cumbersomeness of decision-making for change,

These results then lead to the validation of hypotheses H1, H2, H3, H4 and H5. Likewise, Entrepreneurial education and Entrepreneurial spirits have the two elements that most influence entrepreneurial success, the beta coefficient is 0.441 and 0.351 respectively. This result corroborates work already carried out in other countries (Matthews and Moser, 1995) which highlights that the spirit of entrepreneurship is an essential ingredient for effective entrepreneurship education in universities. Several authors (Van Laethem, N, Josset, J-M, 2020) have confirmed the results of educational entrepreneurship and in particular soft skills as a sine qua condition for success.

Also, the lack of cognitive agility practice and the absence of Academic entrepreneur status reflects the absence of partnership between university and production units which explains the failure of young people in understanding the entrepreneurial dynamic their beta coefficient is respectively of 0.441 and 0.351. This result corresponds to our anticipation and is already proven by previous research (St-Pierre, M. & Hanel, P, 2005) the lack of Cognitive agility hinders the ability to quickly revise one's mental model in response to dynamic feedback (Dibello, 1997).

These results seem obvious, the role of the university is to promote "open[4]" science. University research is motivated by the productive competition that exists in the creation of knowledge and the advancement of knowledge (Merton, 1973). (Etzkowitz, 1998; Geiger, 1993; Slaughter and Leslie, 1997) consider the university rather as an academic entrepreneur seeking to attract research funds. According to this theory, it is universities, not companies, that seek out and take the initiative in collaboration with industry. This hypothesis is supported by the results of a major survey of a thousand university-industry Science and Technology Centers in the United States[5].

the performance of the support process positively influences entrepreneurial performance, the Beta coefficient is 0.275 the role of university incubators is important it makes it possible to implement help and overcome financial and administrative constraints and to clarify knowledge, the young company can easily pass the first three to five years if the support is based on cultural shaping (Hernandez 1999; Teece,

[4] R. Merton, The sociology of science, Chicago, University of Chicago, 1973.

[5] W. M. Cohen, R. Florida, L. Randazzese, For Knowledge and Profit: University-Industry R-D Centers in the United States, New York, Oxford University Press, 1998.

Rumelt, Dosi and Winter, 1994) and strategic positioning (Bruyat 1994; Koenig, 1994; Baumard, 1995)[6].
The results highlight two parallel paths in the development of entrepreneurial learning.
The first path is intrinsically linked to the individual's personal journey, including their basic education, professional and family values. This path seems to shape the business creator from the start, as if he or she had a natural predisposition to entrepreneurship.
The second path emerges from the support structures put in place to help entrepreneurs overcome the various challenges they face. These structures aim to fill skills gaps and provide support to help the founder navigate the complex aspects of starting and running a business.
These tips can help avoid errors in management, They also strengthen the skills and experience of the creator, which increases the sustainability and competitiveness of the company.

Conclusion and avenues of research

To analyze the phenomenon of success of entrepreneurship education in universities, research in management sciences is part of a hypothetical deductive approach. The mixed results of this work provided an important theoretical basis in our research.
The results of our work made it possible to establish a hierarchy of factors for the success of entrepreneurial education in order to establish corrective measures that improve success. Thus, the entrepreneurial spirit and education in management subjects, the culture of the company, the primary network of knowledge and the network of experiences prove to be the major determinant of success. Entrepreneurial education and supporting performance helps avoid management errors and implements good practices capable of establishing good commercial and financial performance of the company and therefore organizational performance.
Secondly, the type of university or business school influences the development of entrepreneurship and entrepreneurial spirit which shows the role of the organizational structure nevertheless the role of the head of the university is essential in the development of the entrepreneurial spirit at the university, he is called to become an entrepreneur through the facilitation of meetings and study days by offering innovative financing as well as the reorganization of the classic educational plan and encouraging original and fun pedagogy and those based on ICT and the training of entrepreneurship trainers and the new study plan At the level of teaching entrepreneurship.

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[6] Manfred et Mack, 1995 , Xième Conférence de l'Association Internationale de Management Stratégique, 2001.

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Albanian Rhapsody, the genre of orchestral-symphonic music and its reliance on the musical tradition

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Abstract

The creativity of many composers, representatives of the 20th century, was inspired and oriented by popular music, influencing not only the performance of the national character but, especially, the clarification of their creative individuality. It is well known that many authors consciously relied on this music, choosing this relationship as the most reasonable and appropriate for their creativity. Among them M. Ravel, M. de Falia, B. Bartok, etc.
The well-known Hungarian ethnomusicologist of the first half of the 20th century, Bela Bartok, in addition to relying on popular music in his musical creativity, also theoretically elaborated on the necessity of the relationship between cultivated artistic music and popular music. In this regard, in one of his three articles on the development of contemporary Hungarian music, he underlines: "To create based on folk songs, this is one of the most difficult or otherwise no easier tasks than to create works with an original theme. It is enough to bear in mind that the elaboration of the given theme represents the source of a great difficulty in the elaboration of the popular song or its simple harmonization, such inspiration is also required, as in the creation of the work written on the theme created by the composer"[1].
Starting from the experiences of the achievements in the musical creativity of the composers of the 19th and 20th centuries, the development of our national music was also oriented in this way, from its first steps. The Albanian creative practice of musical direction, step by step, has tried to give an original solution to the aspect of citation. The creative path of many of our composers brings abundant and rich material in this direction, from which valuable conclusions can be drawn, especially for the composers of our younger generation.

Keywords: Albanian rhapsody, folk music, cultivated creativity, Albanian composers.

Introduction

The Albanian composers, as the first step in the development of music with a national face, used the harmonization of the popular song, the creation in the styles of popular music, the processing, as well as the quotation from folklore. There are endless examples of quotations from folk music, both vocal and instrumental-orchestral, of all Albanian territories, which have been included as main, secondary, and illustrative thematic material in musical creations of all genres and forms of our vocal music, vocal-concert, instrumental, orchestral-symphonic, chamber stage, etc.
Among them, according to the periods, the following can be singled out: "Rhapsody on Albanian folk song"[2], by Martin Gjoka[3], whose composition dates back to 1922, in which quotes from the folk music of the North of the country are included; "Rhapsody

[1] B. Bartok," Three lectures on Hungarian music", "Uj zenei szenie" magazine, 1954, no. 7-8 (Quoted by Ç. Zadeja, work cited, p. 32 - 33).

[2] Rhapsody is the genre of simultaneous orchestral, vocal-orchestral and instrumental-orchestral music.

[3] M. Gjoka (1880-1940), Franciscan cleric, teacher & composer. He is known as the first composer of professionally cultivated music in Albania. Author of the melodramas "Judas Maccabe", and "Albanian Citizen" "Two flowers on the grave of Skanderbeg", of many vocal works, sacral and secular, gender-bending.

No. 2", by Kristo Kono, where, in addition to themes with a popular character, the sound of the orchestra also shows the timbre of traditional folk instruments, such as the drum, the fiddle, the dulcimer, etc. Since this period, cultivated Albanian music had begun to project genres and large orchestral, vocal, and symphonic forms, with a popular spirit and national tendency.

In later periods, especially in the one after the 50s, the 20th century, orientation through folklore gradually finds wide expression in the entire musical creativity of Albanian composers, such as Jakova, Zadeja, Daija, Zoraqi, Gaci, Harapi, Gjoni, Dizdari, Ibrahimi, Gaqi, Laro, Peçi, Zaharian, Shupo, etc. On this new development in professional Albanian music of this period, the outstanding composer, prof. Zadeja writes: "... the music of our composers, since the beginning of its "professional" formation, synthesizes popular art phenomena related to the progressive art of the 20th century at that professional height as it happened in Europe"[4].

The social, political, and cultural transformations of the post-World War II period were also reflected in the musical creativity of this period, which focused on its support of the popular artistic heritage. The music created in this period became the spokesperson for Albanian societal developments. On this trend, musicologist Fatmir Hysi writes: "...even Albanian music, through its popular orientation, aims to realize the main goal of becoming a spokesperson for the era it reflects"[5].

The use of popular music themes, generally those quoted, constitute the basic subject in cultivated Albanian musical creativity, especially that of the second half of the last century. They tend to create a deeper, wider, and more tangible emotional atmosphere, unlike their sound in the source state. Orientation and support in them have made it possible for a large part of the musical creativity of Albanian composers of this period to emphasize the popular spirit and national character, which is outlined through the vivid colors of melo-rhythmics, intonations, modes, timbres, and other specific components contained in our traditional folk music itself.

The orientation from popular music and, in particular, the citation of the source material, can be seen from the first serious steps of the cultivation of the great cultivated vocal, instrumental, and orchestral genres of music, of which there was a wider reflection in the genre of rhapsody, vocal and orchestral, since before the 40s of the last century. This fact comes from the musical creativity of the composer Kristo Kono, who is the first professional who worked seriously and successfully, professionally, and artistically, on this genre. He composed five rhapsodies. Thus, the Albanian music that started in this period projects the great musical genres with a popular spirit and democratic and national character. During this period, in the center of professional musical interests, folk music, with all its morphological, syntactical, and expressive arsenal, gradually began to grow, a process similar to the direction that all European national musical schools had during the romanticism of the 20th century. On this tendency of Albanian music, the researcher Fatmir Hysi writes: ".... the characteristic melodies and cadences of popular music and its melo-rhythmic figures and harmonic parts create a climate of originality cultivated with sense and national sensibility"[6].

Rhapsody, as a genre of great orchestral-symphonic music, was placed at the center of the creative work of many of our composers, especially in the period after the 60s

[4] C. Zadeja, work cited, p. 45.

[5] F. Hysi, work cited, p. 58.

[6] F. Hysi, work cited, p. 55.

of the last century, when this genre began to be widely cultivated, especially by the second generation of Albanian composers. Among the rhapsodies created during this period, those of Ibrahimi, Laro, Gaqi, Peçi, Kushta etc. stand out the most. These composers not only cultivated this genre, but with their creations they also brought new qualitative developments in its cultivation, both popular and democratic, as well as national in terms of vocation. Most of the creations of the composers of this period in the type of orchestral rhapsody contain whole pages where several popular songs and dances are quoted from the most representative and widespread of our folk music tradition.

Not infrequently, various composers, prone to using folklore, have not been able to build proper professional relationships with popular music, and, as a result, their work has fallen into folklorism, a harmful phenomenon that does not enrich cultivated creativity, but it dulls her emotionally and limits and impoverishes her creative process. This phenomenon has come because of insufficient and superficial knowledge of popular music not having the appropriate level of musical expressive means and compositional techniques and insufficient professional and artistic efforts in general. These problems have appeared and have been present, not only in the genre of rhapsody for orchestra, but also in other simultaneous forms, such as symphonic poem, symphonic dance, fantasy for orchestra, or that for different instruments, created before the 90s - of. In this regard, it must be said that the vocal or orchestral rhapsody was not uncontaminated by them.

Given that the genre of rhapsody for orchestra, as well as symphonic dance or fantasy, has justified the use of folklore in a more direct and wider way than other orchestral-symphonic and instrumental-symphonic genres of serious professional music, in its developmental path, in addition to achievements, it encountered a series of harmful phenomena, which we mentioned above. Since these genres have in concept the use and direct support in folklore, even from citation, the attention of composers, in order not to fall into folklorism, must be sharp and great. The importance of the first hand is how it was possible to orientate the cultivation of these genres, especially that of rhapsody, by popular music in general and especially by its quotations.

It has been professionally worked with the citation of the popular in the musical work, activating the appropriate musical tools of compositional techniques, starting as a process, from the simple harmonizing and processing methods of the popular material, without affecting the substances that determine the originality and authenticity of his, up to the synchronization, the use of alternating harmonies, contrapuntal techniques and, finally, the presentation in the orchestral score. Despite the indisputable importance of quoting popular music in rhapsody, it can be said that it should not become an end, with the reasoning that through its use, as a relationship, the work will have a national physiognomy.

Citing folklore as a copy, included in the cultivated musical work, in addition to giving birth to folklorism and emotional poverty, also affects the non-formation of the creative individuality of the composer. The formal copying of a popular melody, or a segment from popular instrumental music, without undergoing processing, through compositional techniques, is an expression of primitivism and creative poverty and, in this way, it negatively affects the performance of our art with a national face. Based on this reasoning, Paparisto, in his article, emphasizes: "As far as quoting without meaning or copying popular themes of melodies, phrases, this can be called the most primi-

tive form of expressing the popular spirit, which does not evoke creative individuality of the composer and does not enrich the art"[7].

Most of the Albanian composers closely connected their creativity with popular music, which found the right expression in their works. To realize nationalism in music, the use of folklore became an aspiration that led to new and qualitative developments in our national music. For progressive results, as a model, the creativity of Cesk Zadeja stands out as the one, which influenced and generally oriented the creativity of many other composers, especially those of the second generation. Zadeja's achievements, in terms of the quality of his creative relations with folklore, came through a long research, and cognitive work.

As an attentive observer and researcher of the processes of popular music in general and its components in particular, he managed to make the musical work created by him the best and most complete example of national music in Albanian music. About Zadeja's personality, the Kosovo composer and musicologist, Akil Koci, writes: "Professor Zadeja is a composer who represents the greatest creative figure in our national universe and belongs to the first generation of our educated composers, who laid the foundations of classical music of large dimensions, both from the aspect of handling the musical subject and the artistic form, as well as from the aspect of the melody, the rhythm and the style"[8].

In evaluating the trends and new developments that the rhapsody genre received during this period, in the text "History of Albanian Music", among others, it is read: "In this period, rhapsody tries to unite the magnificent epic of the formed folk characters and expressed in various forms and nuances, enthusiastic lyrical, hymnic, poetic, dancing, etc...[9]"

Regarding the popular spirit and national character in the genre of rhapsody, it is also marked the name "Rhapsody" from the concept of this genre. In addition, the conception of the rhapsodies that will be treated throughout this paper, and their naming, generally simply "Albanian", their orientation and support in the authentic popular musical tradition, through the use of quotations, processing and re-creation of the source musical material, which in most of them are characterized by epics, lyricism or festivity, has factored their appearance with a national face. In addition to the above, the use of broken popular meters, interspersed with simple, compound, and mixed meters, as well as the orientation of harmonic structures from different modes of popular music, widely used professionally and creatively, are an irrefutable reality of the national sound, manifested, more than anywhere else, in the rhapsodies composed in the period between the 70s and 90s of the last centuries.

In continuation of the reasons that we presented above, below we present some summarized analyses from the genre of orchestral rhapsody, where quotations from popular music in the authentic state find wider creative use, preserving the syntactic, melodic, timbral, and tonal-modal features. In these analyses, only the cases where different Albanian composers quote authentic folkloric songs and dances, or their segments, from different regions of the country, some of which, through the creative process, have been included as thematic material in the rhapsodies for orchestra.

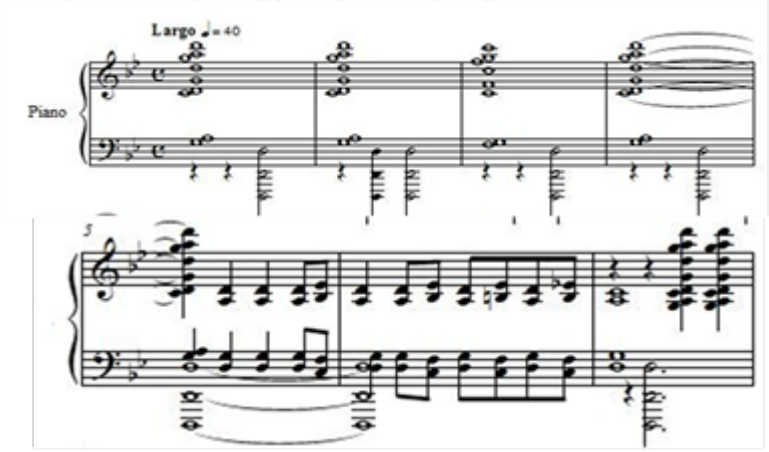
[7] F. Hysi, work cited, p.79.

[8] A. Koci, "Vibrations of the Albanian soul", vol. I, Bucharest, 2008, p. 30.

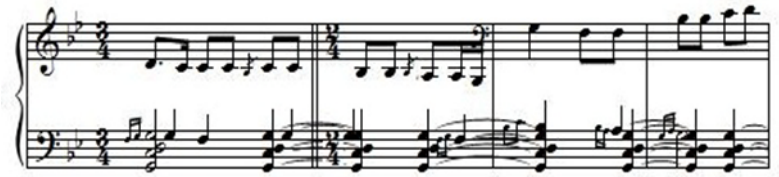
[9] "History of Albanian music", vol. 2, ILA, SHBLSH, 1985, p. 417.

Feim Ibrahimi [10]
"Albanian Rhapsody No. 2."
(For symphonic orchestral formation).

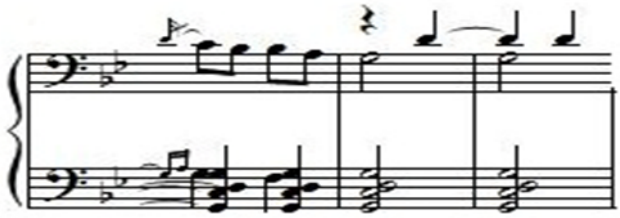
"Albanian Rhapsody no. 2 ", by Feim Ibrahimi, was composed in 1975 and this year it was put on the stage of the May concerts, which were held every year in Tirana. The work spans 291 measures and is structured as a major tripartite, with the scheme A-B-A1 and Coda. In the orchestral score, the constructional structure of the work is handled freely. Before the release of the thematic material of the first part, "A", there is the introduction, which, spread over 15 measures, moves slowly to "Largo", set intonatively in the key of "g" moll (sol-). It is characterized by dissonant consonances, supported in the low register by the pedal above the prime of the dominant "D" (Re).
Example 1: The opening part of the rhapsody, with dissonant consonants.



In the three blocks of the work, A, B, and A1, there are parts quoted from popular music, which the composer, through the creative process, uses in the work as thematic material. In the first block, "A", its thematic material is based on the well-known popular song,
"Vrana the first Count in Kruja". It is first performed by cornet[11] and, in its repetition, by the entire symphonic orchestral formation.
Example 2: Thematic material of the 1st block, „A ".

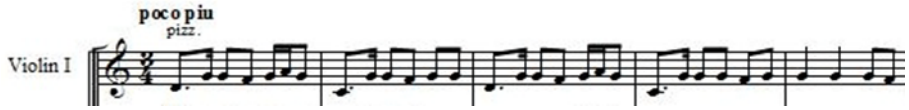


[10] Ibrahimi (1935-1997), "People's Artist", composer, lecturer, and social activist. Author of 2 "Symphonies", 2 "Concertos for piano and orchestra", the ballet "Tenth Wound of Gjergj Elez Alisa", 2 "Orchestral Rhapsodes", "Symphonic Poems", "Concertos" for v/cello, and oboe, and many vocal works, such as cantatas, vocal romances, songs, etc. He has created many works of chamber music, film scores, parts of instrumental miniatures, the magnetic band "De Profundis" etc. His music has been awarded many prizes in competitions and national events, as well as in the Decades of May and the RTSH song festival. For more, see S. Shupo, op.cit., p. 110-111.
[11] Cornet is a wind instrument made of metal.

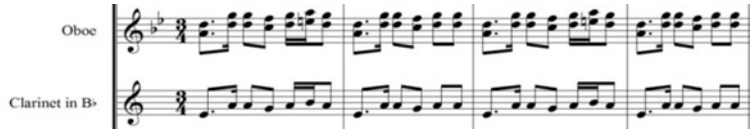


Next, the connecting part appears, which contains popular material, reminiscent of the game of couplets. The material of the connecting part is built on a familiar pentatone of our popular music, ef, g, a, c, d (fa, sol, la, do, re).
Example 3: Link material, built on pentatonic.

a) The connecting part, followed by the first violins, in pizzicato.

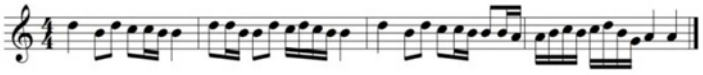


b) Connecting part, followed by oboes 1, 2, and clarinet, with interval setting in fourths.

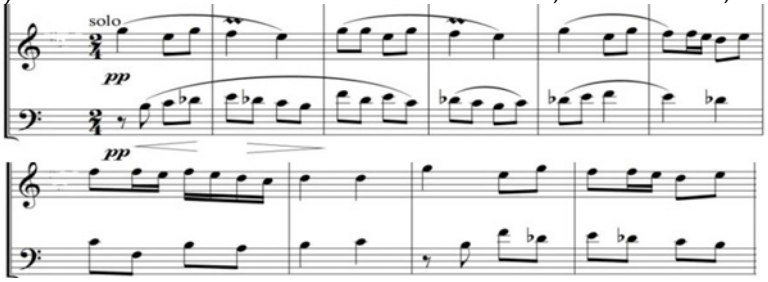


Block II, "B", which represents the middle of the tripartite, is intonatively placed in "B" major (Bb+). As the thematic material of the midi, the composer quotes the sung dance of Tropojas, "Kërce, moj çike", which, in terms of the character and mobility it conveys, creates an emotionally tangible atmosphere.

Example 4: Tropoja's authentic sung dance, "Kërce moj cike".



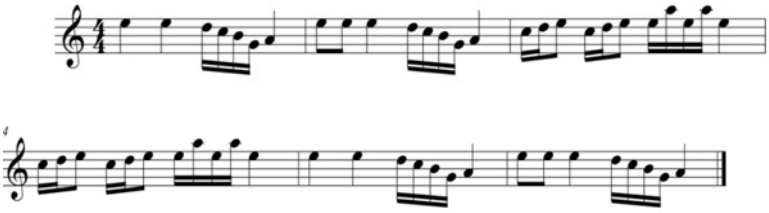
a) The first thematic material of the II-th block, intermediate, "B".



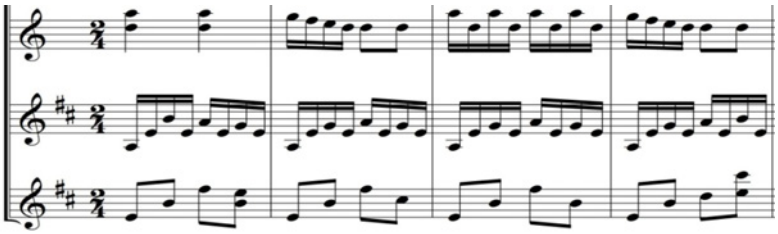
In block II, "B", the citation of the well-known folk dance, such as that of Rrajca e Librazhdi, attracts attention. The quote appears as a new material, coming intonatively set in "C" major (Do+). The thematic material of the midi, in the segment that quotes Rajca's dance, gains mobility and festivity. The release of this material, which is con-

veyed by the entire orchestra, has influenced the creation of developing climaxes, as well as the emotional growth of the work. Example 5: Thematic material of Rajce's dance, cited in block II, between "B".

a) The authentic Rrajca dance from the Librazhd district.



b) The quotation of Rajca's dance recreated in block II - between (B).



Block III "A1", which represents the reprise of the triptych, comes dynamized and at an accelerated tempo. In this segment of the triparted construction, the one-time quotation of the authentic folk song "Vrana Konti i prin ne Krujë" appeared first as thematic material in the first "A" block of the rhapsody after the introduction.

In Ibrahimi's rhapsody no. 2, the thematic materials of example no. 1 from the folk song "Vrana Konti i prin ne Krujë" are quoted and recreated, example no. 3 (a,b) from the instrumental music of the north with couplets, example no. 4 from the sung dance of Tropoja "Kërce moj çike" and example no. 5 (a,b) quoted from the well-known folk dance of the Rajce of the Librazhd district.

Kujtim Laro[12]
"Albanian rhapsody no. 2."- "The people sing to the heroes."
(For symphonic orchestral formation)

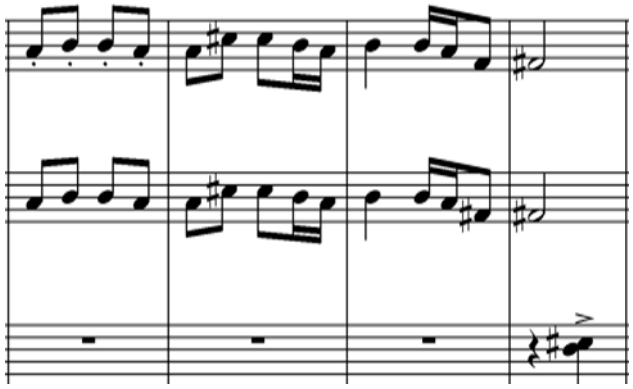
"Albanian Rhapsody no. 2", by the composer Kujtim Laro, was created in 1975. It was performed this year at the May concerts in Tirana. The work spans 218 measures. The creative opus of the composer, part of which is "Rhapsody no. 2", stands out for the rich melodies, which come oriented and supported mainly in the folkloric music of the South of the country and, especially, in that of the territories of Labëria.

Laros's Rhapsody is a work where the close relations of the author with the popular musical tradition appear logically. This work is structured in a free form, where several themes are arranged one after the other. It comes conceived in three large blocks,

[12] K. Laro (1947-2004), "Merited Artist", composer and teacher. He has worked on almost all vocal, instrumental, orchestral-symphonic, chamber, stage genres and film music. Among them are 5 "Symphonic Poems", 4 "Orchestral Rhapsody", 2 "Concertos for violin & orchestra", 16 choreographic tables, 27 soundtracks for films. He is the author of many vocal works, especially songs, genre of chamber music, etc. Winner of awards at song festivals in RTSH, in the decades of May, and important national competitions. For more, see S. Shupo, work cited, p. 173 – 175.

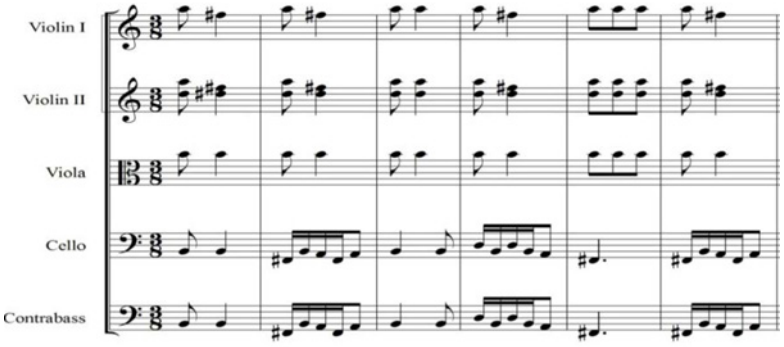
with the scheme A, B, and C, with a short introduction of the Coda, at its conclusion. From the introductory part, which is elaborated in the meter 2/4, the composer quotes thematic material from the polyphonic song of the province of Zagoria, "Kurrë nuk do marësh rrugen e kurbeteve", which was performed for the first time on the stage of FFK-Gjirokastër. 1973. The source folk song is intonatively placed in the fifth pentatonic mode, with the composition: si, re, mi, fa#, la (h, d, e, fis. a), which originates from the first pentatonic mode re, mi, fa#, la, si (d, e, fis, a, h). The thematic material of the introduction moves to the "Andante sostenuto" tempo and is accompanied by the cornet. In this part of the construction, the composer leaves intact the melodic structure of the folk song.

Example 1: Introduction thematic material, forwarded by cornet.



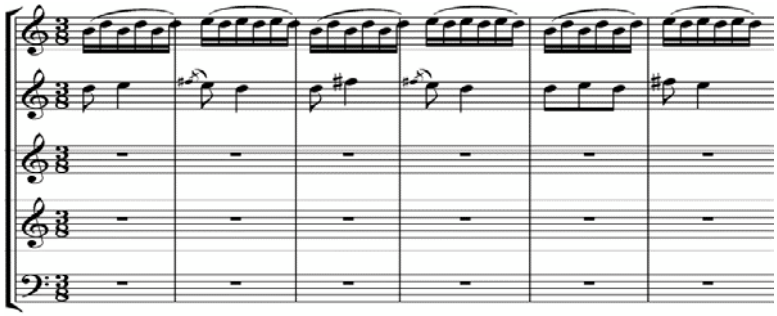
After the introduction, the main thematic material of the 1st block, "A", moves to the dynamics of "Larghetto" and then to "Lento", in the 3/8 meter. This part of the first block (section a) is an authentic quotation of the refrain of the folk song, "Kurrë do nuk marësh rrugen e kurbeteve", which follows on the pentatonic bed, laid out at the beginning, with an iambic rhythm.

Example *2: The main thematic material of the 1st block "A".*



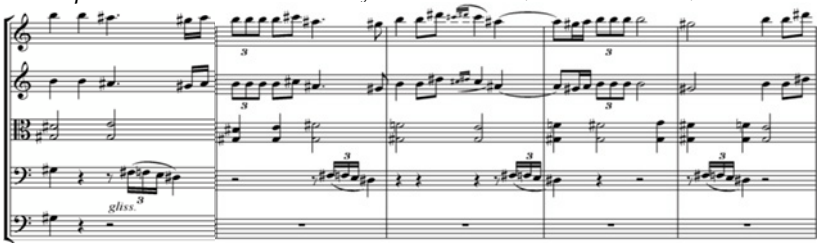
Next, the 2nd section of the main thematic material of the first block, "A", moves in the "Lento" dynamic, which in this presentation is seen to have acquired nuances with a pastoral character. When listening to this section, one feels the imitation of flutes by the flute, which, in dialogue with the oboe, which underlines the thematic material of the first section, "a", but varied, creates an idyllic, deeply emotional fusionality.

Example 3: Flute-oboe dialogue in section II, "b".



Block II, te middle part (B), takes the thematic material through the quotation of the folk song from Central Albania, "Këngë për Kajo Karafilin". The middle part is placed intonatively in gis"moll (sol#-), in 4/4 meter, and moves to the "Adagio molto cantabile" dynamic. In this part of the construction, the composer recreates the folk song quote in an original way and, through rich compositional techniques, develops and enhances it emotionally. The thematic material of the middle, "B", stands out for its clear sound and is permeated throughout its course by lyrical-dramatic colors, which stand out in the melodic line, which has influenced its melody and the deep emotionality that characterizes it. The composer also used this material for the soundtrack in the feature film, "War Paths."

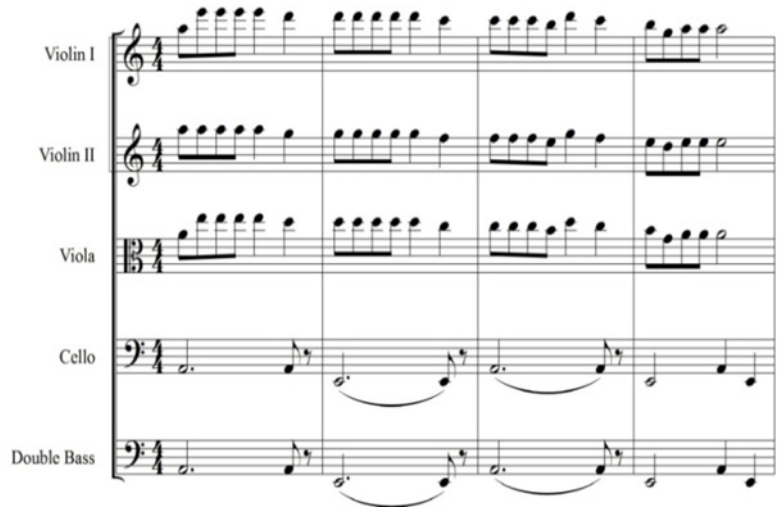
E*xample 4: Thematic material of the 2nd block, intermediates, "B".*



Block III of the tripartite "C" moves in the "Comodo" dynamic and consists of a group of dances, with intonations from the North of Albania, arranged one after the other. The block is intonatively placed in the Aeolian mode, "a" (la). The logical use of Northern dances in this block has brought a significant emotional contrast, compared to the first two blocks.

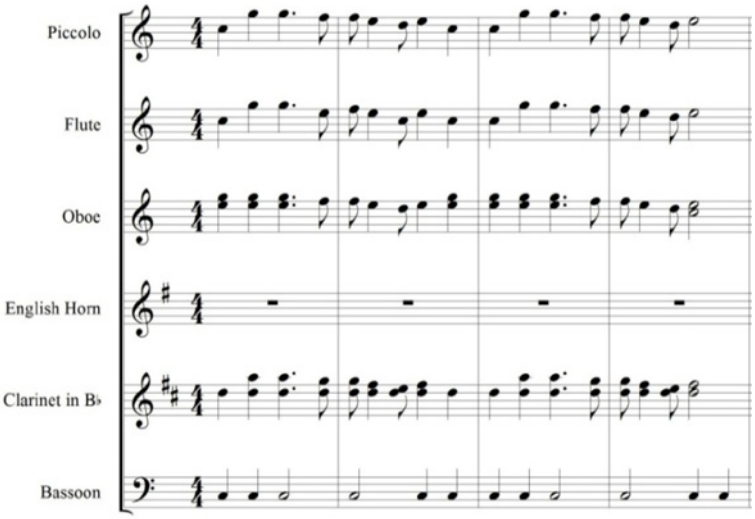
In the whole sounding of the rhapsody, block III, "C", represents the most culminating development. The rational use of rich compositional techniques and, especially, the masterful presentation of the thematic material in the orchestral score, have influenced the conception of this block, as a hymnal finalization, full of bright popular colors.

Example 5: Thematic material of the first dance of block III, "C".



The second dance of block III, "C", which follows the first, consists of two sections, which are closer to two symmetrical sentences, of which, the first, is located in "C" major (Do+) and the second in "a" minor (la-). The second section of the second dance of the "C" block, compared to the first section, is presented with lively nuances, full of scherzo, through which a festive atmosphere is outlined, with an optimistic emphasis.

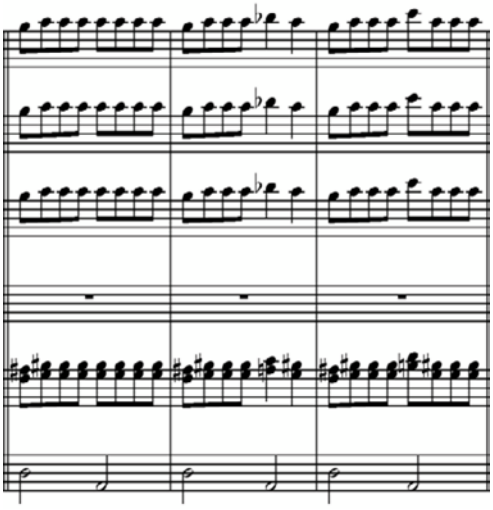
Example *6: Thematic material of the first section of the second dance of block III, "C".*



After the second dance, in continuation of block III, "C", appears the third dance, which, as a dimension, can be considered as a section, since it extends only to four four-part measures (4/4). The dance generally has a masculine character and powerful emotional expressions, which are enhanced by the occasional accentuation of the prime, "a" (la), of "a", the apple (la-) and activation and of gr. II, seated, "B" (Sib) and

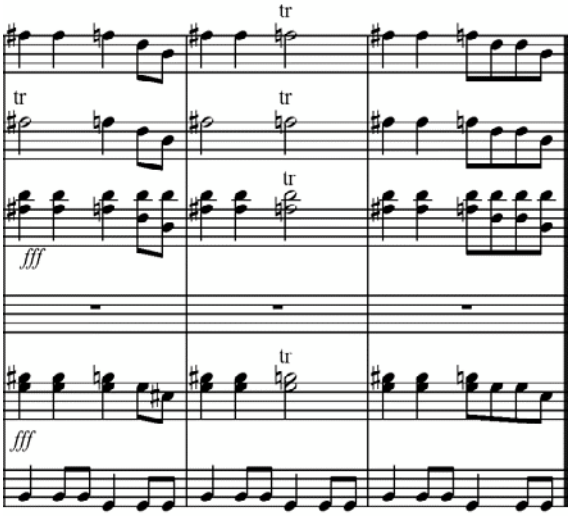
i gr. VII “G” (Sol), at the beginning of each measure.

E*xample 7: Thematic material of the second section of the third dance of block III, “C”.*



The “maestoso” coda, after the III block “C”, appears with deeply epic notes and bright sound, with a monumental appearance. Its output represents the most culminating development and the most emotional growth of the work. In the Coda, the interweaving of the thematic materials of the folk music of the South and those of the North, which, through the forte fortissimo (fff) sound, create an impressive fusionality.

Example 8: Thematic material of the Coda.



In Laros’ rhapsody, the thematic materials of the examples are quoted and recreated 1, 2, 3 from the folklore song of Zagoria, “You will never take the paths of crooks”; the examples 4, 8 from the song of Central Albania, “Song for Kajo Karafilin” and examples 5, 6, and 7 from the dances of the North of the country.

Conclusions

The citation of popular music, in addition to being widely included in the study of the genre of orchestral rhapsody, took precedence in the study of other simultaneous orchestral-symphonic forms, such as the "Symphonic Dance" and in the genres and forms of instrumental-orchestral music, such as the concerto instrumental and rhapsody for instrument and orchestra, etc. Creativity abounds in the cultivation of these genres. In the period between the 60s- 90s of the last century, the Albanian music scene presented dozens of simultaneous works, such as symphonic dance, orchestral fantasy, instrumental-orchestral rhapsody, etc., where quotations from the authentic folk music of different regions of the country were widely reflected. As a reminder, we are mentioning some of them: five symphonic dances Simon Gjoni (1969-1984), four Kristo Kono (1947, 1960, 1963, 1967), three Tish Daija (1971, 1978, 1989), three Thoma Gaqi (1980, 1981, 1984), two Pjeter Gaci (1971, 1974), two Ferdinand Deda (1975, 1981), one Ramadan Sokoli (1975) and one Cesk Zadeja (1982) etc.

In addition to developing symphonic dance, many composers also developed the genre of instrumental-orchestral rhapsody and rhapsody for orchestra. During this period, these composers composed instrumental-orchestral rhapsodies: 5 for piano and orchestra by Kozma Lara (1968, 1972, 1975, 1977, 1982), 2 for piano and orchestra by Tonin Harapi (1967,1981), 1 for piano and orchestra by Ramadan Sokoli (1975) and 1 for violin and orchestra, by Cesk Zadeja (1985).

While the rhapsody for orchestra was performed by these composers: 6 by Kristo Kono, 4 by Kujtim Laro, 4 by Aleksandër Peci, 2 by Feim Ibrahimi, 2 by Thoma Gaqi, 2 by Thoma Simaku, 1 by Cesk Zadeja, 1 by Ferdinand Deda, etc.

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Application of Fuzzy Logic in Depth Control of Sevofluorane Anesthesia: Case Study in Albania

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Abstract

In this paper, we had designed a fuzzy logic model for sevofluorane anesthesia. Sevofluorane is an anesthetic agent that is used to absorb and preserve anesthesia in patients during surgical operations. In addition, it is often used to put patients asleep for surgery. In this research, the fuzzy logic toolbox is used for this model. The designed model has 2 input variables, and 1 output variable, that was implemented for 30 patients in Albania. Fuzzy model inputs are considered: blood pressure and heart pulse rate taken from patients during surgical operations, while the output is the sevofluorane anesthesia rate. Here is done a comparison between predicted values by the anesthesiologist and predicted values by the fuzzy logic model. Moreover, the absolute error for each patient and the average absolute error were calculated. In this paper, trapezoidal membership functions are used that are chosen appropriately. The centroid method is used for defuzzification. The database is taken from University Hospital Centre "Mother Teresa" in Tirana, Albania.

Keywords: Blood pressure, fuzzy logic toolbox, heart rate, membership function, sevofluorane anesthesia.

1. Introduction

Depth control of sevofluorane anesthesia has remained a serious issue for a long time. This happens because none of the methods used for this purpose describes the complexity of the system [1]. Sevofluorane is a very important anesthetic agent in the medical area, which ensures that the patient's body does not react during surgical operations [2]. Lately, fuzzy logic has been widely applied in the medical field. Currently, developments in computers have brought significant applications in control theory, and the use of fuzzy logic is essential [3]. Fuzzy logic is a confident method that treats the uncertainty of the data. A lot of research work is done in the depth control anesthesia by fuzzy logic [1].

Yardimci et al. [3] designed a fuzzy system for the sevofluorane anesthetic agent. This system had 2 input variables, 1 output variable, and 17 fuzzy rules. In this study, MPLAB 3.01 programs and fuzzyTECH 3.16 Explorer are used for the application.

Samira-Hanane [4] proposed a fuzzy logic model to control the depth of general anesthesia. This study includes 4 input variables, 1 output variable, and 21 fuzzy rules. In this model, a comparison is made between the predictions of fuzzy logic and the predictions of the anesthesiologist.

Alian et al. [5] created a fuzzy logic model to predict anesthesia with 3 input variables and 1 output variable. This model gave good results and had high accuracy.

Esmaeili et al. [1] designed a fuzzy system to estimate the depth of anesthesia. This system was implemented on 22 patients. Also, they applied the same variables to an

adaptive network -based fuzzy inference system (ANFIS). The results show that the fuzzy system gave more accurate results.
Kumar et al. [2] implemented a fuzzy system to control and for monitoring the anesthesia level for patients during surgery.
Chou et al. [6] developed a self-organizing fuzzy logic control (SOFLC) structure to control general anesthesia. This structure gave successful results.
Sivanandam et al. [7] created a fuzzy logic model to control depth anesthesia. This model had 2 input variables and 1 output variable. The model was applied for 27 patients.
The main reason for conducting this research is to build a fuzzy logic model in order to increase patient safety, to relase the anesthesiologist and to economize the cost of an operation.
In this paper, two input variables are used: blood pressure and heart pulse rate. The output of the model is the sevofluorane anesthesia rate.
The designed model is implemented for 30 patients of the University Hospital Center "Mother Teresa" in Tirana, Albania.

2. **Fuzzy Logic**

Fuzzy logic is based on the notion of relative membership. The scientist Lotfi Zadeh published his first paper on fuzzy sets in 1965. Fuzzy logic can deal with information that is vague, uncertain, or partially true [8]. Initially, fuzzy logic was used in industry for complex processes control, image processing, and decision making. Recently, fuzzy theory has been implemented in the economy, social systems, and even medicine [9].
A fuzzy system includes:

- a fuzzifier
- basic knowledge
- a defuzzifier;

The fuzzifier is used to convert numerical data into linguistic values. Knowledge that contains system knowledge and database is analyzed using fuzzy IF-THEN rules. The defuzzifier converts linguistic values into numerical data [10]. In this paper are used trapezoidal membership function that depends on 4 scalar parameters (a_1, a_2, a_3, and a_4). The trapezoidal membership function is given by the following expression [11]:

$$g(x)=\begin{cases}0, & x\le a_1\\ \dfrac{x-a_1}{a_2-a_1}, & a_1\le x\le a_2\\ 1, & a_2\le x\le a_3\\ \dfrac{a_4-x}{a_4-a_3}, & a_3\le x\le a_4\\ 0, & a_4\le x\end{cases} \qquad (1)$$

or, more shortly by:

$$g(x)=\max[\min(\frac{x-a_1}{a_2-a_1},1,\frac{a_4-x}{a_4-a_3}),0] \qquad (2)$$

In this study, the centroid method was used in the defuzzification process. This method is used for regulating a point that defines the centre of gravity of the fuzzy set [12]. The centre of gravity is calculated from the following formula.

$$l^* = \frac{\int g_A(l) \cdot l \, dl}{\int g_A(l) dl} \qquad (3)$$

where l^* is the point of the center of gravity that presents the output of the system by a numerical value, $g_A(l)$ gives the membership value of point l in the output fuzzy set [12].

3. Design Steps

A. Fuzzy Inference System

In this study, fuzzy logic will be used for prediction of sevofluorane anesthesia by using membership functions and linguistic variables. The model contains two input variables and one output variable. The input variables are the blood pressure and the heart pulse rate. The output of the model is the sevofluorane anesthesia rate [7].
The Mamdani FIS model for our system is presented in Fig. 1:

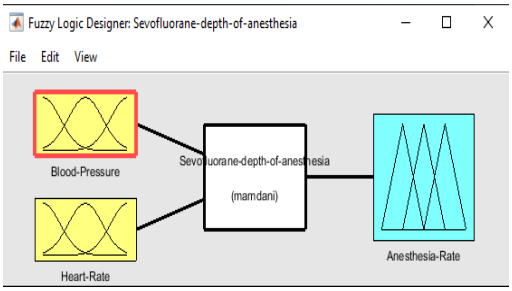

Fig. 1. Mamdani FIS model.

Moreover, Fig.1 presents the inputs and the output of our system, which are explained below [13].

B. Inputs

The input variables of our model are: the blood pressure and the heart pulse rate. The membership functions of the inputs are shown in Fig. 2 and Fig. 3 [7].

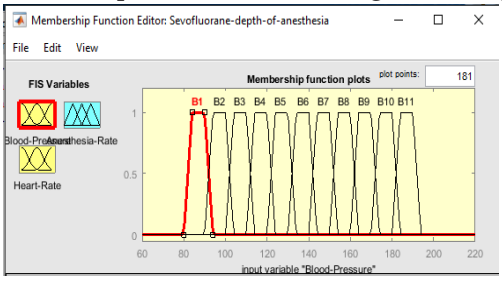

Fig.2. Membership Function of the Input Variable “Blood Pressure”

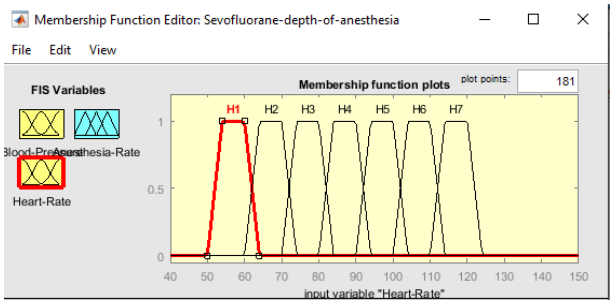

Fig.3. Membership Function of the Input Variable "Heart Pulse Rate"

C. Output

The output of our designed system is the sevofluorane anesthesia rate [7].

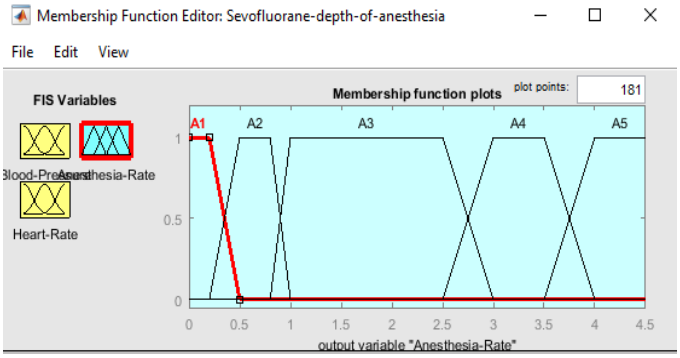

Fig.4. Membership Function of the Output Variable "Sevofluorane Anesthesia Rate"

D. Design Rules

Fig. 5 shows the Rule Viewer that shows all inputs, output, and IF-THEN rules of our model. Our system includes 71 rules.The following figure shows the case when Blood Pressure=140, and Heart Rate=95. For this values of the input variables the fuzzy model predicts the output variable Sevofluorane Anesthesia Rate =1.83.

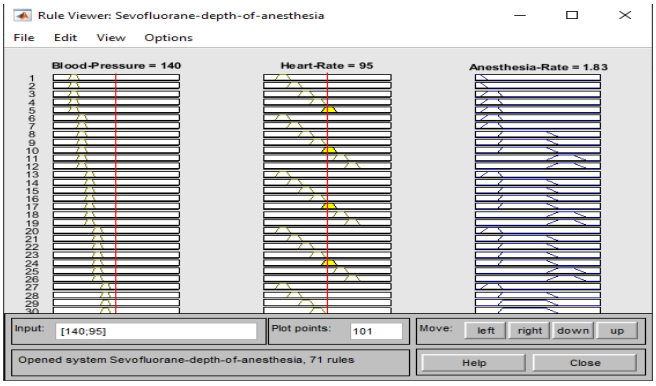

Fig. 5. Rule Viewer

Fig. 6 shows the Surface Viewer. This figure shows the output variable Sevofluorane Anesthesia Rate and accuracy of fuzzy rules with respect to various combinations of input variables. The surface in the graph helps us to interpret to what extent the output is related to each of the inputs that are effective.

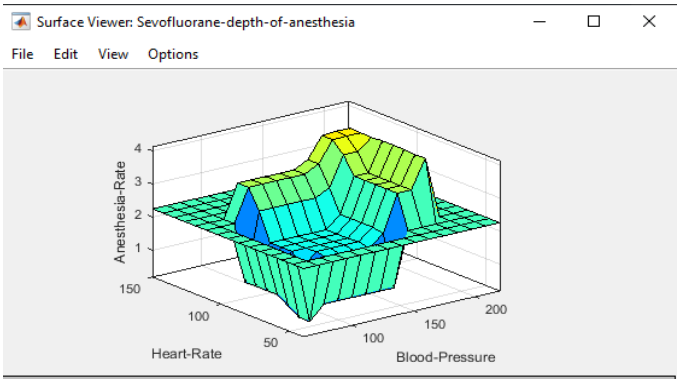

Fig. 6. Sevofluorane Anesthesia Rate vs. Blood Pressure and Heart Pulse Rate

4. **Results**

In this study, to build-up fuzzy model are used: blood pressure, heart pulse rate that are obtained during the operation, and sevofluorane anesthesia rate. The constructed model is implemented for 30 patients from University Hospital Centre "Mother Teresa" in Tirana, Albania, and the data are presented in Table 1. The age of patients is between 24 and 85. Also, the sexuality of patients are 16 woman and 14 men. The fuzzy model was built using the Mamdani type. To design the Mamdani FIS model, 71 fuzzy rules have been used.

Table 1. The Data for Patients

Patient	Blood pressures (mmHg)	Heart pulse rate (p/m)	Sevofluorane anesthesia rate (%u) Observed	Sevofluorane anesthesia rate (% u) Fuzzy Logic predicted	Absolute error
1	126	85	3	1.83	1.17
2	102	105	2	3.25	1.25
3	103	73	2	1.73	0.27
4	118	109	3	3.25	0.25
5	96	108	2	3.25	1.25
6	102	82	2	1.86	0.14

7	108	88	2	1.83	0.17
8	103	65	2	1.73	0.27
9	80	60	1.8	2.25	0.45
10	85	95	1.5	0.621	0.879
11	95	76	2	1.83	0.17
12	118	86	2	1.83	0.17
13	109	90	2	1.83	0.17
14	90	83	2	0.617	1.383
15	115	90	2	1.83	0.17
16	90	54	2	0.174	1.826
17	104	79	3	1.83	1.17
18	106	88	2	1.83	0.17
19	112	81	2	1.86	0.14
20	133	75	2.5	1.85	0.65
21	98	70	2	0.621	1.379
22	103	72	2	1.69	0.31
23	99	60	3	0.621	2.379
24	126	74	3	1.83	1.17
25	100	65	2	0.621	1.379
26	96	77	3	1.83	1.17
27	92	62	1.7	0.465	1.235
28	110	75	2.5	1.83	0.67
29	80	70	2	2.25	0.25
30	70	90	2	2.25	0.25

Average absolute error = 0.744.

5. **Conclusions**

In this study, the fuzzy logic method in depth control of sevofluorane anesthesia, was used. Two input variables and one output variable were used and a fuzzy logic model was designed. This model was implemented for 30 patients in Albania. From this study, we can release that the fuzzy logic system can be successfully implemented in depth control of sevofluorane anesthesia. It is powerful and appropriate for imitating decision anesthetists. The main benefits of this system are: increasing patient safety, facilitating the anesthesiologist, and economizing the cost of an operation. In the future, our purpose is to install this fuzzy decision system in hospitals to help patients, even if an anesthetist is not present.

Acknowledgments

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Cement Production with Additives Case Study: Cost Savings and Environmental Benefits

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Abstract

Chemical additives, consisting of mixed compounds, are aids for cement quality improvement that are added at a specific moment. In normal use, admixture dosages are less than 5% by mass of cement and are added to the concrete at the time of mixing at a specific temperature of 75^0C. Chemical compounds for use in the production of cement to increase the output and efficiency of the grinding process and improve the performance and quality of the finished cement, with the objective to reduce manufacturing costs, to increase cement volume per unit of clinker, to reduce environmental impact (Carbon dioxide CO_2). They are also known as Quality Improvers (QI) used to address specific quality issues. The demand for high-performance, versatile and robust additives have led to this field of experiments described in this paper. During the experimental work we used different combinations of additives in order to help achieve significantly higher mill throughput and improve the strength of the finished cement. Cost evaluation showed that additives decrease: the total cost of material form 17.99 €/t to 17.08 €/t; energy consumption form 39 kWh/t to an average 28.43 kWh/t, and the general variable cost from 20.00 €/t to 18.5 €/t

Keywords: Quality Improvers, Environmental impact, Cost Evaluation.

Introduction

Over the past ten years, the construction sector in our country has been the primary source of economic growth, accounting for 14% of gross domestic product. The demand for cement has increasing over the years. Starting from 2003 the growth has been linear with an average of 5% per year, reaching in 2006 a total consumption of 2 Mta. The cement industry is going through a major change, in which industrial chemists are not only facing important challenges, but are also confronted with new opportunities. Cement plants are asked to constantly improve efficiency, while decreasing their impact on the environment [1, 2].

Different kinds of organic additives are used to increase grinding efficiency and reduce power consumption, in the cement industry production [3]. This paper discusses the grinding aids mechanism and improvement in grinding efficiency through an experimental study with different types of cement. We analyzed cement mechanical properties, its chemical composition and physical properties, in order to evaluate compressive strength, consistency, expansion, fineness, setting time, humidity, temperature etc. The recent surge in construction activities in our country has necessitated a deeper understanding of cement production processes to meet the escalating demand efficiently.

Given the imperative to minimize environmental footprint, there is an urgent need to explore innovative approaches to enhance cement production while mitigating its ecological impact.

1.1 Additive mechanism on cement particles

Improving clinker milling requires detailed physic-chemical description of the process. Clinker particles are characterized by incomplete surface bonds, which are in an unstable state. As a consequence of this condition, the particles surface is subjected to tension. The particles will tend to approach the equilibrium by lowering the energy by performing the aggregation process and surface adhesion. At the mill streams the particles have a rough surface but during grinding, with the reduction of the particle size, the free surface energy increases and it is observed an unstable state [4, 5]. Agglomeration and further aggregation will affect the efficiency of the mill. When using organic additives during the milling process, they are adsorbed on the cement particle surface. This procedure reduces the energy required for further fragmentation and reduces surface electrical loads. Organic additives also affect electrostatic forces between cement particles by reducing Van der Wals forces. Understanding the physicochemical dynamics of clinker milling is crucial for optimizing the efficiency of the grinding process. The adsorption of organic additives onto cement particles not only facilitates fragmentation but also mitigates electrostatic forces, thus improving the overall grinding efficiency.

1.2 Experimental description of cement compositions

Cement paste (cement mixed with water) sets and hardens by hydration, both in air and under water. During our experimental work we used different additives recipes (table 1), which consist mainly of alcohol amines [6]. They are inserted at an initial temperature of 75^0C and before grinding starts.
Table 1 Composition of Some Representative Cement Samples

Clinker (%)	Limestone (%)	Gypsum (%)	Organic additive	
			Type	Quantity ml/ton
77.75	3.25	19.00	B	400
78.35	3.65	18.00	A	400
77.90	4.10	18.00	C	495

1.3 Results and Discussions

The amount of clinker used in average values decreases from 86.6% in non-additive samples to 77.8% when using B and 76% in case of using C. The amount of limestone (LS) used is averaged 10% in the sample without additives and 18% with B and 19.5% in the case C. The amount of gypsum (G) used, is on average 3.4% in the sample without additives and 4.2% when using B and 4.5% in the case of use C. In Figure 1 we can see how the total cost per €/ton changes when using different raw material recipes for cement paste samples, including various doses of additives. The total cost

of the cement decreases above 10% using additives, respectively 18 Euro / ton; 16.51 Euro / ton (C) and 16 Euro / ton (B)

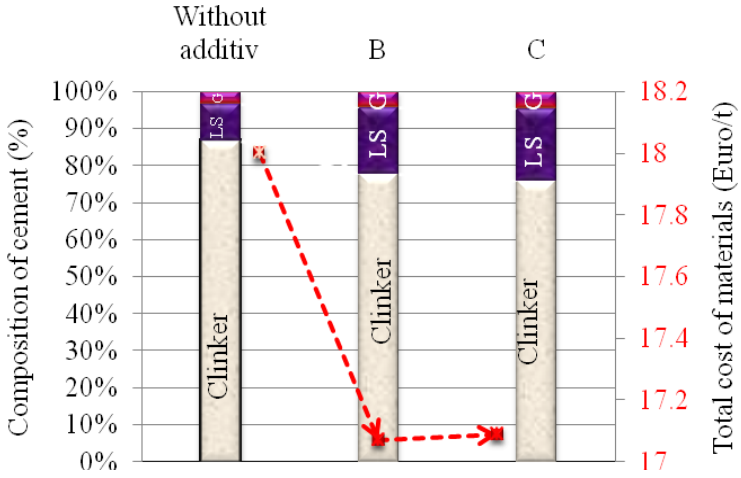

Figure 1. Description of Cement Composition (%) and Total Cost (Euro/ton), in three Different Senarios with and without Additives.

The quantity of the additive is less affective than the type when we evaluate the reduction of setting time, as it can be observed in figure 2. Compounds such as tri-iso-propanolamina $C_9H_{21}NO_3$ (found in Recipe B, C), are able to diffuse into the clinker particle pores affecting the initial and final setting time signifintly.

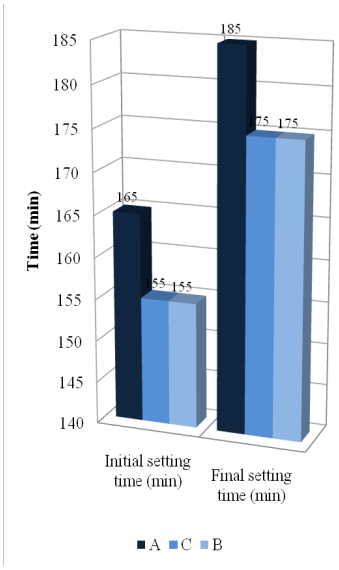

Figure 2. Description of Cement Paste Setting Time (initial and final), Using Three Different Additives (A, B, C).

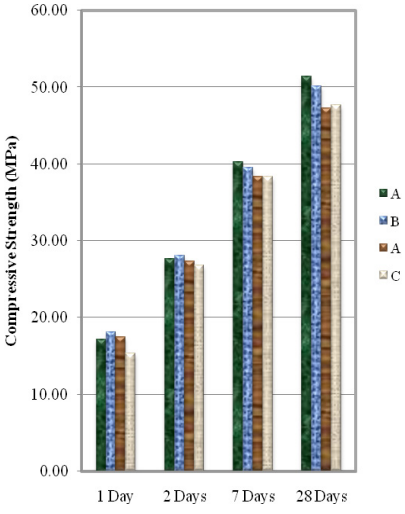

Figure 3. Description of Compressive Strength of Cement Paste Using Four Different additives (A, B, C, D)

We observed increased compressive strength with additives, especially with type A but a higher dosage is both uneconomical to use and has the opposite effect, decreasing strength.
The specific surface is higher during grinding with B additive but with increasing of the quantitity, there is a reduction in the production capacity. Recipe A enables us to have a more sustainable production during grinding with an average production capacity of 232 t/hr. A reduced electrical energy consumption leads to a lower clinker factor and lower carbon dioxide CO_2 emissions.

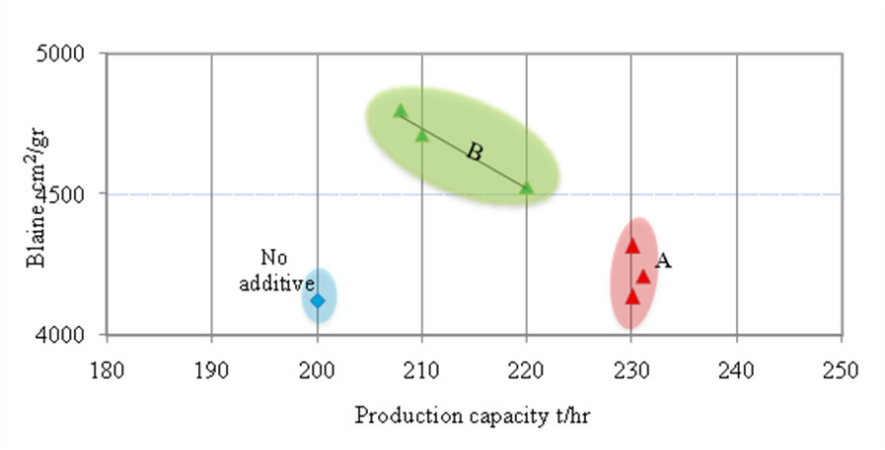

Figure 4. Description of Production Capacity with Blaine Specific Surface Areas for each additive.

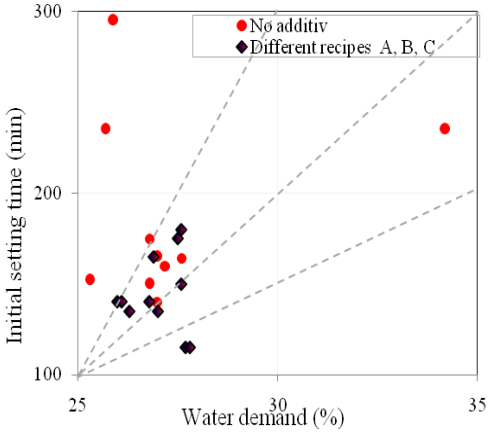

Figure 5. Description of Cement Paste Initial Setting Time with Water Demand (%), with/without Three Different Additives (A, B, C).

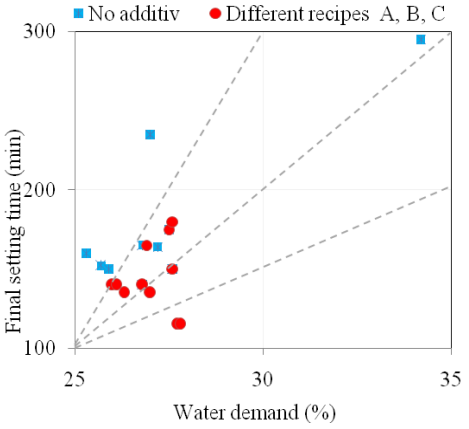

Figure 6. Description of Cement Paste Final Setting Time with Water Demand (%), with/without Three Different Additives (A, B, C).

Cement fineness increases with blaine but the increase is higher when using additive C and also A with both additives in the 50% inclusion zone, as described in Figure 7.

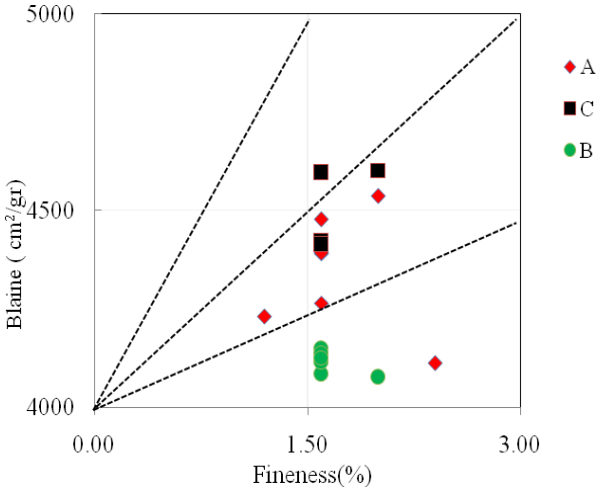

Figure 7. Description of Blaine Specific Areas with Fineness for Three Cement Samples with Different Additives.

The observed reduction in clinker usage and consequent cost savings underscore the efficacy of incorporating additives in cement production. Detailed analysis revealed that the type of additive plays a role in influencing cement setting time and compressive strength, necessitating careful selection based on specific requirements. Our findings elucidate the delicate balance between additive dosage and its effect on production capacity and energy consumption, emphasizing the importance of optimizing these parameters for sustainable manufacturing practices.

Conclusion

Industrial chemistry is, and will become, a basic factor in the cement production, with a close influence on optimal chemical additives being beneficial qualitatively and quantitatively in improved cement production. During our experimental work we concluded that for finer cement characterized by higher Blaine, organic additives based on amino alcohols are very efficient and this is also proved by optimal mechanical properties. It was evaluated that the average variable cement cost with additives has a decreased value of 12.5%. The quantity of additive is essential in achieving the optimal production capacity and in reducing electric energy but also emissions of carbon dioxide in the atmosphere. Our study underscores the significance of adopting organic additives, particularly amino alcohols, for achieving finer cement with superior mechanical properties while concurrently reducing production costs and environmental impact.

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The creation of new institutions of justice after the constitutional changes of 2016 in the Republic of Albania

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Abstract

One of the most acute problems that Albania has faced during the years of transition is undoubtedly the field of justice. The constitutional amendment approved by Law no. 84/2016, dated 22 July, was the most important regarding the justice system in the Republic of Albania. These changes affected the entire justice system and brought a reorganization of the judiciary by creating new institutions, changing the way these institutions are constituted, increasing the criteria of members who want to become part of these institutions, etc. It should be noted that the constitutional amendments that were adopted in July 2016 were concretized with the adoption of specific laws continuously. The amendment of the Constitution together with the adoption of the organic laws of the new justice institutions had as their main goal the creation of a credible justice system for the public, fair, independent not only *de jure* but also *de facto* from other powers, professional and service-oriented, responsible and efficient. This justice system with these characteristics is necessary for the strengthening of the rule of law and would help in the sustainable socio-economic development of the country and would enable in some way the integration of Albania in the European family. The questions that naturally arise after more than 5 years of these changes are numerous, but the most important in our opinion is as follows: has the Constitution been implemented in the constitution of new institutions of justice? If not, what are these violations, and do they affect the purpose of justice reform?

Keywords: Constitution, Constitutional Court, Special Prosecutor, High Prosecution Council, High Judicial Council, Violation of the Constitution.

1. Introduction

The term Constitution takes on several different meanings, depending on the historical, political, social and cultural contexts of reference. In general, by constitution we mean a solemn written act, which contains the organization of state bodies and the declaration of a number of rights and duties of citizens. This definition is undoubtedly influenced by Article 16 of the Declaration of the Rights of Man and Citizen of 1789, according to which "any society in which the guarantee of rights is not provided nor the separation of powers established, has no constitution".[1]

A significant part of twentieth-century constitutional doctrine preferred to speak of a constitution in a substantial or material sense, referring not to the written document but to the content of the constitution. For H. Kelsen,[2] the constitution would be nothing but the "fundamental norm" within his pyramidal conception of the legal system; for C. Schmitt,[3] on the other hand, the constitution would consist of the "fundamental political decision" of a certain political regime; for C. Mortati,[4] finally, the constitution in the material sense would be identified with the dominant political force in an authoritarian order or with the political forces that exercise the political direction of

the majority in a democratic state.[5]
The constitutional changes voted by unanimous consensus by the representatives of the people's sovereignty were the largest and most important that have been made in the framework of the justice system. More specifically, Law no. 76/2016 amended the eighth part of the Constitution (Constitutional Court), the ninth part (judicial power), the tenth part (prosecutor's office), the eighteenth part (transitional provisions), which regulated the transition to the new justice system, as well as the Constitution was attached a appendix which regulated the transitional reassessment of judges and prosecutors.
The Justice Reform that started six years ago is the result of a long and intensive work, but also of the continuous support of Albania's strategic partners, including the United States of America and the European Union. The independence and integrity of the judicial power is the cornerstone for the functioning of democracy and the rule of law, as well as a guarantee for the protection of the fundamental freedoms and rights of the individual guaranteed by the national and international normative acts that Albania has already ratified. The constitutional changes form the basis of a deep legal and institutional reform for reforming the justice system in Albania. The constitutional, legal and institutional changes offered through this reform were aimed at the efficient operation of the system, its self-regulating capacity, strengthening the accountability of magistrates, mutual control between institutions, with the aim of increasing reliability, accountability, and transparency in decision making. Of course, the most important part of the implementation of the reform was the establishment of new institutions as well as filling the vacancies of the existing institutions in accordance with the constitutional provisions. It should not be forgotten that between 2018-2020 Albania was left without a Constitutional Court and a Supreme Court, between 2017-2019 a temporary Prosecutor General was elected that was not revised in the Constitution revised in 2016, while institutions such as the KLP and KLGJ remained for a time considerable without being filled and SPAK was created without the anticipated number of prosecutors.
It is indisputable that the whole process has been difficult, but this does not justify the intransigence of political actors for the constitutional violations committed in the establishment of new justice institutions. These violations of the Constitution are related to non-compliance with the deadlines for the establishment of all new institutions of justice, they are related to the filling of vacancies as well as the quorum for the creation of new institutions. In this statement, we will analyze not all violations in an exhaustive way, but those violations that are more meaningful or important to the perpetrators.

2. **Constitutional violations related to the filling of vacancies of the Constitutional Court**

Law no. 7491, dated 29.4.1991 "On the main constitutional provisions" did not provide for the existence of constitutional justice, but after a year, on April 4, 1992, with the constitutional law no. 7561 "On some amendments and additions to the law on the main constitutional provisions" establishes the control of the conditionality of

[5] https://www.treccani.it/enciclopedia.

the laws. This control was entrusted to the Constitutional Court.[6] The Law on Main Constitutional Provisions, as amended, stipulated that the mandate of constitutional judges was 12 years, with 5 members elected by Parliament and 4 members appointed by the President. While the president of the Constitutional Court was elected by an absolute majority from among the members of the Court. The Constitution of the Republic of Albania, approved by the Parliament and approved by referendum by the people in 1998, provided that: "Members of the Constitutional Court are appointed by the President of the Republic with the consent of the Assembly."[7]

More specifically, this constitutional provision provided that the election of the members of the Constitutional Court was the competence of two constitutional institutions, the President on the one hand and the Parliament on the other. Even the President of the Constitutional Court is appointed from among its members by the President of the Republic, with the consent of the assembly, for a period of 3 years.[8] The Constitutional Court has a very important role in the constitutional system of any democratic state. It guarantees the implementation of the Constitution by all constitutional institutions in the function of protecting the rights and freedoms of the individual, which is not coincidentally provided for in the second part of the Constitution, immediately after the basic principles. The analysis of the Justice System has identified problems related to the independence of the Constitutional Court from other powers. With the constitutional changes of 2016, the formula and method of electing the members of this Court changed. The question that naturally arises is, why did this selection method change? The group of high-level experts in the analysis of the justice system in Albania reached the conclusion that, regarding the appointment procedure of the Judges of the Constitutional Court and the Supreme Court:

There are delays in the renewal of the Constitutional Court and in the filling of vacancies in the Constitutional Court and the Supreme Court, which has led to distortion of the Constitution regarding the extension of the mandate of these judges. There are no stipulated deadlines within which the appointment process should take place. There is a lack of a transparent process for the collection and selection of candidates for the Constitutional Court and the Supreme Court, which would guarantee a quality composition of them. The process of appointing judges of the Supreme Court and the Constitutional Court is not based on clear rules, so that the legal criteria that must be fulfilled by the candidates testify to the objectivity and impartiality of the decision makers. The constitutional provisions do not contain clear basic criteria that must be met by candidates for constitutional judges, while these criteria are completely absent for senior judges. The Assembly does not always give clear reasons for rejecting candidacies. The minimum majority (36 deputies) required for the approval of the candidacy chosen by the President to be appointed constitutional judge and senior judge does not provide sufficient guarantees in terms of respecting the independence, impartiality and quality of the composition of the Constitutional Court and the Supreme Court.[9]

So, according to high-level experts, the factors that have influenced the proper functioning of the process of appointing members of the Constitutional Court are related

[6] The creation of the Constitutional Court was a great victory for the development of democracy in Albania as well as a very important step on the way to the creation of a legal state.

[7] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998,* Neni 125/1.

[8] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998,* Neni 125/4.

[9] https://www.drejtesia.gov.al/wpcontent/uploads/2017/10/Analiza_e_sistemit_te_drejtesise_FINAL-1.pdf , Dokumenti Analitik i Reformës në Drejtësi, fq 34-35.

to the role of the President in the selection of candidates; the political nature given to the procedure of appointing senior judges in the Assembly as well as the minimum majority of no less than 36 votes for approval by the Assembly.[10] To ensure that the Court always functions in a position of complete independence from any other power, it is the Constitution itself that regulates the system of appointment of judges. The current constitution in force provides that the Constitutional Court consists of 9 members, where three members are appointed by the President of the Republic, three members are elected by the Assembly and three members are elected by the Supreme Court.[11] As for the election of the members of the Court by the Parliament, the Constitution provides that they are elected by no less than three-fifths of all its members, and if the Parliament does not elect the judge within 30 days from the presentation of the list by the Judicial Appointments Council, the candidate ranked first on the list is declared appointed.[12]

After this brief exposition regarding the evolution of the appointment of judges of the Constitutional Court, the question that naturally arises is whether the constitutional provisions have been respected regarding the filling of vacancies in this Court. As for the prohibition in the specific provision, Article 125, which deals with the formula for the appointment of this guarantee body, we do not highlight any violation of the Constitution, but if we refer to the transitional provisions, the constitutional violations are more than clear not only for constitutionalists but also for the lawyers of a basic level. More specifically, the Constitution revised in 2016, in its transitional provisions, in Article 179, second paragraph, stipulates: *The first member to be replaced in the Constitutional Court is appointed by the President of the Republic, the second is elected by the Assembly and the third is appointed by the Supreme Court. This sequence is followed for all appointments that will be made after the entry into force of this law*. The aforementioned constitutional provision has provided that the first vacancy that is created in the Constitutional Court, after the entry into force of the constitutional changes of 2016, must be filled by the President of the Republic, the second vacancy must be filled by the Parliament with a qualified majority within 30 days from the presentation of the list by the Judicial Appointments Council, [13] otherwise the candidate ranked first on the list is declared appointed, while the third vacancy is appointed by the Supreme Court. Unfortunately, this constitutional provision has not been respected at all by the President of the Republic as a representative of the unity of the people and by the Parliament as a representative of the sovereignty of the people. So, the vacancies in the Constitutional Court, the guardian of the Constitution, have been filled by not respecting the order provided by the highest law in the Republic of Albania.[14] The first five vacancies have been filled by the President and the Parliament with the excuse that the Supreme Court did not have the appropriate quorum to make the decision to fill the next vacancy. It would have been correct and constitutional to fill the va-

[10] https://www.drejtesia.gov.al/wpcontent/uploads/2017/10/Analiza_e_sistemit_te_drejtesise_FINAL-1.pdf , Dokumenti Analitik i Reformës në Drejtësi, fq 24.

[11] Kushtetuta e Republikës së Shqipërisë, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, Neni 125/1.

[12] Kushtetuta e Republikës së Shqipërisë, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, Neni 125/2

[13] Shih nenin 4, Kushtetuta e Republikës së Shqipersë.

[14] Shih nenin 4, Kushtetuta e Republikës së Shqipersë.

cancies in the Supreme Court first, then to follow the filling of the vacancies of the Constitutional Court or the second solution, but less desired by the political power, in the inability to fill the Court of Above all, the Constitution should be revised in order to have a Constitutional Court with constitutional legitimacy. The special composition of the Constitutional Court as well as the way of appointing the members of the Constitutional Court is the result of a careful balance, achieved by our constitutionalism, to harmonize the different needs: the guarantee that the judges are as impartial and independent as possible and, at the same time, that they are also representative of different cultures and political sensibilities.

3. **Constitutional violations for the election of the High Inspector of Justice**

The High Inspector of Justice is a constitutional institution newly sanctioned with the constitutional amendments approved in July 2016. This new institution was created as a result of the problems that appeared in the disciplinary proceedings against judges and prosecutors. The High Inspector of Justice is tasked with verifying complaints, investigating violations and initiating disciplinary proceedings against judges and prosecutors of all levels, members of the High Judicial Council, members of the High Council of Prosecution and the Prosecutor. of General and is responsible for institutional inspection of courts and prosecutor's offices.[15] The procedure for selecting candidates for High Inspector of Justice,[16] who are voted by the Assembly, is carried out by the Judicial Appointments Council, which selects and ranks 5 of the candidates, based on the criteria provided in the law, according to a transparent and public procedure. According to Article 147/d, point 3, of the Constitution, the High Inspector of Justice is elected by the Assembly with a qualified majority of 3/5 of the members. After the KED[17] presents the list of 5 candidates ranked according to its evaluation, in case the Assembly does not reach a majority of 3/5 for any of the candidates within 30 days from the presentation of the list, the candidate ranked first is declared appointed.[18]

His mandate lasts for a period of 9 years, without the right to re-election, and is chosen from the ranks of prominent lawyers with no less than 15 years of professional work experience, with high moral and professional integrity. The Constitution had provided that an important body like the ILD[19] should be established for the first time within 6 months from the entry into force of the Constitutional amendments.[20] Based on the CV, made public, the High Inspector of Justice in office at the time of writing, has exercised the office of Advisor to the President of the Republic until 2012.[21] The amended constitution in the framework of the judicial reform has provided that: "the

[15] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, neni 147/d/1.

[16] Inspektori i Lartë i Drejtësisë.

[17] Council of Appointments in Justice.

[18] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, neni 147/d pika 4 si dhe nenet 199 pika 2, e 201 të ligjit nr.115/2016.

[19] High Inspector of Justice.

[20] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, neni 179/9.

[21] Pozicioni i punës që ka ushtruar ILD-së, si pjesë e kabinetit të Presidentit të Republikës rregullohet nga dispozitat ligjore neni 30 i ligjit 8549/1999 dhe nenet 8 dhe 14 të ligjit 8095/1996 që konsiderohet si funksionar publik.

member of the Constitutional Court, the High Inspector of Justice, the member of the High Judicial Council, the member of the High Council of Prosecution, the judge of the High Court, the Prosecutor General, the member of the Independent Qualification Commission or the Special Appeals Commission, has defined the same constitutional criterion that "candidates have not exercised political functions in the public administration and have not held leadership positions in political parties during the last 10 years from of running.[22] The goal of the constitutionalist in this case is to "avoid any kind of perception of direct or indirect influence of politics on the justice system. This prohibitive criterion is defined by law no. 84/2016 "On the transitional reassessment of judges and prosecutors in the Republic of Albania". Specifically, according to the law, with the constitutional criterion, "he has not exercised political functions in the public administration," we must understand that he has not been a member of parliament, Prime Minister, Deputy Prime Minister, minister, deputy minister or official part of the cabinet of the President of the Republic, the Speaker of the Assembly, To the Prime Minister, the Deputy Prime Minister, or the minister who performs the duties of the cabinet director, adviser, assistant, spokesperson or personal secretary of the cabinet holder.

The same definition is provided in law no. 96/2016, on the status of judges and prosecutors in the Republic of Albania. As a result, referring to the Constitution and legislation in force, ILD should not have been an advisor to the President of the Republic in the last 10 years before taking office. Both the KED and the Parliament have flagrantly violated point 3 of article 147/d of the Constitution and the letter "dh", point 1 of article 199 of law no. 115/2016 "On the governing bodies of the justice system", amended.

4. **Constitutional violations in the creation of the Special Prosecutor's Office against corruption and organized crime**

This constitutional body was newly created in the system of justice with the constitutional reform of 2016. The Special Prosecutor's Office has the competence to prosecute and represent the accusation on behalf of the state before the Court of First Instance against corruption and organized crime, the Court of Appeal against corruption and organized crime, and the Supreme Court.[23] The Constitution in Article 135, second paragraph provides that Special Courts try criminal offenses of corruption and organized crime, as well as criminal charges against the President of the Republic, the Speaker of the Assembly, the Prime Minister, the member of the Council of Ministers, the judge of the Constitutional Court and of the Supreme Court, the General Prosecutor, the High Inspector of Justice, the Mayor, the deputy, the deputy minister, the member of the High Judicial Council and the High Prosecution Council, and the leaders of the central or independent institutions defined in the Constitution or in law, as well as the charges against the aforementioned former officials. Judges of special courts are appointed by the Supreme Judicial Council and dismissed from

[22] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, nenet 125, 135, 148/a, 147, 147/d, 149.

[23] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, neni 148/dh, 1.

office by two-thirds of the members of the Supreme Judicial Council.[24] The Special Prosecutor's Office, created to fight corruption, organized crime and prosecute some high-ranking public officials, consists of at least 10 prosecutors, who are appointed by the Supreme Council of Prosecutors for 9 years, without the right to reappointment.[25] Meanwhile, the Head of the Special Prosecution is elected from among the prosecutors of this prosecution with an absolute majority of the members of the High Council of Prosecution, for 3 years, without the right to re-election.[26] This Prosecutor exercises the functions through special prosecutors who can be dismissed from office, for committing a crime or for committing a serious disciplinary violation with two thirds of the members of the High Council of Prosecution.

The candidate for prosecutor, in the Special Prosecutor's Office, as well as his family members, before the appointment, are subject to the verification of assets and image, they give their consent to the periodic control of their bank accounts and personal telecommunications.[27] As you can see, the Constitution, based on the high level of corruption and organized crime in the transition period in Albania in all areas, has devised and approved a special structure to fight it. It should be noted that the reform in justice, made through constitutional amendments in July 2016, was approved by 140 deputies. But it should be noted that the unanimous vote of July 2016 was not repeated for most of the other laws of the justice reform package, which took longer than expected. One of the reasons why this unanimity or consensual nature of the opinion of the Assembly was not preserved in the voting of the basic laws of justice reform and the establishment of the functioning of new institutions of justice is that this unanimity, or total agreement between political factors for the opinion ours has been imposed by the international factor and not achieved or matured among the factors of Albanian internal politics. We can say without a doubt that the Special Prosecutor's Office was created in violation of the constitutional provision regarding the quorum through which it could exercise its functions.

As we saw a little above, the Constitution provides in Article 148/dh, second paragraph: "The Special Prosecutor's Office consists of at least 10 prosecutors, who are appointed by the High Council of Prosecutors for 9 years, without the right to reappointment". If we carefully analyze this provision, it becomes clear that the Constitution, the highest law in the Republic of Albania, expressly provides that the Special Prosecutor's Office consists of at least ten members, which means that it leaves room for more than 10 prosecutor members, but not less than ten. It should be noted that the Special Prosecutor's Office was initially created with only 8 members and not with 10 members as provided by the constitution and therefore we are facing an open violation of the constitutional provision. For how long has it been thought and reasoned that this body functions with a composition of no less than 10 members, we tend to think that each member has a special importance in the entire investigative

[24] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, neni 135/4.

[25] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, neni 148/dh/ 2.

[26] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, neni 148/dh/3.

[27] Kushtetuta e Republikës së Shqipërise, miratuar me *Lgjin nr.8417, datë 21.10.1998* dhe ndryshuar me ligjin nr.76/2016, neni 148/dh/5.

and decision-making process. We believe that the functioning of the Special Prosecutor's Office with a smaller number provided for in the Constitution constitutes an open violation of a very important constitutional principle, the principle of due process,[28] where Albania has been repeatedly condemned by the Strasbourg Court for not respecting this principle. The Constitutional deadlines, set by Article 179, have not been respected for the establishment of all new justice institutions. Specifically, based on the Constitution of Albania (amended in 2016), article 179, it was expected that the High Council of Justice would function temporarily until March 2017 and in the meantime, all the management powers in the judiciary and the prosecutor's office would pass to the new institutions that expected to be established in January 2017. Specifically, the High Judicial Council,[29] the High Prosecution Council[30] and the election of the High Inspector of Justice would have to happen before January 11, 2017, i.e. 6 months from the entry into force of the new constitutional amendments. Also, it would be necessary that within December 2016, the Coordinating Commission for the reform in justice should be established by the Assembly, as well as within March 2017, the Judicial Appointments Council should be established and become functional.[31]

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https://www.drejtesia.gov.al/wpcontent/uploads/2017/10/Analiza_e_sistemit_te_drejtesise_FINAL-1.pdf , Dokumenti Analitik i Reformës në Drejtësi..
https://www.treccani.it/enciclopedia.

[28] The Constitution in Article 42, first paragraph, provides: Freedom, property and rights recognized by the Constitution and by law cannot be violated without due process of law.

[29] The amended Constitution, in Article 147, provides that: *The Supreme Judicial Council ensures the independence, accountability and smooth functioning of the judicial power in the Republic of Albania. 2. The High Judicial Council consists of 11 members, six of whom are elected by judges of all levels of judicial power and five members are elected by the Assembly, from the ranks of non-judicial jurists.*

[30] The amended Constitution, in Article 149, provides that: *The High Council of Prosecution guarantees the independence, accountability, discipline, status and career of the prosecutors of the Republic of Albania. The High Prosecution Council consists of 11 members, six of whom are elected by prosecutors of all levels of the prosecution and five members are elected by the Assembly, from the ranks of non-prosecution lawyers.*

[31] Institute i studimeve politike *Reforma ne Drejtesi: 2018 bilanci, problematikat, sfidat.*

Value added tax in Albania and other countries of the Balkan and its influence on income

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Abstract

VAT as a consumption taxation model, which is applied at every stage of the production and distribution process, is based on the principle of self-declaration, self-assessment and tax credit, which means that taxpayers are encouraged to declare and assess their own tax obligations and may claim credit and refund of tax paid. Due to the importance, it presents, VAT has occupied an important place in the fiscal literature at the international level. The adoption and implementation of VAT, for a long-term period in the tax systems of Albania and the Balkan countries, has influenced the increase of tax revenues on average by 5.12%. The tax system of Bosnia and Herzegovina generates higher tax revenues in Balkans, for which the concentration of the tax and customs administration in a single institution has contributed positively. Albania's orientation towards the "mixed" VAT model, towards keeping the inflation rate under control, towards the formalization of the agricultural sector and the trend towards cross-border trade has a positive effect on the tax revenue stability ratio. Value Added Tax in the Republic of Albania Value Added Tax (VAT) is a general tax on the consumption of goods and services, proportional to their price, which is charged at each stage of the production and distribution process to the price without the tax All supplies of goods and services, performed against payment, within the territory of the Republic of Albania, by a taxable person acting as such and all imports of goods into the territory of the Republic of Albania are subject to value added tax. Albania. In its component parts, the most key moments of the implementation of the VAT mechanism are presented in detail. Thus, the law provides clear definitions regarding the demandability of the tax, with the place of supply, both of goods and services. An important place is occupied by the detailed treatment of the internationalization of supplies of goods and services, seen from the point of view of the VAT operation scheme. Persons obliged to register, to keep their records current, to declare and pay VAT, occupy a considerable space in the structure of this law. Despite the obligations, the law also clearly presents the right of every taxable person to benefit from the VAT refund.

Keywords: value added tax, administration, legal framework.

Introduction

Value added tax is subject to:
a) all supplies of goods and services, performed against payment, within the territory of the Republic of Albania, by a taxable person acting as such;
b) all imports of goods in the territory of the Republic of Albania.
In article chapter II, article 2, we talk about taxable persons. A taxable person is considered any person, regardless of the form of his organization, who independently carries out economic activity, whatever the place and the purpose or result of this activity VAT in Croatia and the legal framework.
VAT in Croatia has been present since January 1, 1998.
Croatia is the only country in the Western Balkans that is part of the EU. The only

tax authority that administers, assesses, controls and collects VAT is the Ministry of Finance. VAT in Croatia applies to the following transactions:

- supplies of goods and services in Croatia performed by a taxable person, part of his economic activity;
- purchases of goods and services by the taxable person within the EU area from another EU country;
- import of goods to Croatia.
- The VAT rates in Croatia are:
- standard rate of 25%;
- rates reduced to 13% and 5%.

VAT in Kosovo and the legal framework

VAT in Kosovo has been present since 31.05.2001. The only tax authority that administers, assesses, controls and collects VAT is the Tax Administration of Kosovo. The standard VAT rate is 16%. The VAT registration threshold is 50,000 EURO, but exporters and importers must register for VAT regardless of the threshold.
VAT in Kosovo applies to the following transactions:
§ supply of goods and services performed by PT in Kosovo;
§ importing goods into Kosovo, regardless of the status of the importer,
§ services offered to taxable persons in Kosovo by service providers, country i whose business is outside Kosovo.
Subject to VAT. The taxable entity is any person (PF or PJ), who independently carries out any economic activity, regardless of the purpose or result of that economic activity, is obliged to register for VAT. The standard VAT rate for taxable supplies is 16%. The standard rate of VAT applies to all supplies of goods and services, unless a provision of the law provides for a reduced rate or a temporary higher rate for the supplies specific to goods or services, which cannot be lower than 5% or higher than 21%.

VAT in Macedonia and the legal framework

The only tax authority that administers, assesses, controls and collects VAT is Ministry of Finance. The standard VAT rate is 18%. VAT in Macedonia applies for the following transactions:
- the supply of goods and services made in Macedonia by a taxpayer within the scope of his activity;
- importing goods to Macedonia.
VAT subject. The taxpayer, according to Macedonian legislation, is a person who for a certain period performs an independent business activity, regardless of the goals and results of the business activity. Taxpayers must register for VAT when their total annual supplies exceed EURO16,200.
VAT in Serbia and the legal framework
The only tax authority that administers, assesses, controls and collects VAT is the Tax Administration of the Republic of Serbia. The standard VAT rate is 20%.

The reduced rate is 10% with effect from January 1, 2014 and in other cases it is 0%.
VAT in Serbia applies to the following transactions: ---supply of goods and services performed by taxpayers during the exercise of their activity;
---importing goods to Serbia regardless of the importer's status;
---Services purchased by the Serbian taxpayer from service providers outside Serbia.
Subject to VAT. Every taxable person, who performs supplies of goods and services and as a result generates additional income, while performing the activity independently, is responsible for VAT. The obligation to register for VAT purposes and account for VAT arises when the total turnover, excluding exempt supplies, in the last 12 months exceeds 66,470 Euros.
The VAT rates of Serbia are as follows:

- Standard rate of 20%.
- Rate reduced to 10% (until 31. 12. 2013 it was 8%).
- Rate reduced to 0%.

VAT in Montenegro and the legal framework. The VAT taxable supplies in Montenegro are as follows:
- the supply of goods and the supply of services performed by a taxpayer within the scope of
his activity and
- importing goods to the Republic of Montenegro.
The only tax authority that administers, assesses, controls and collects VAT is the Ministry of Finance of Montenegro. Since July 1, 2013, the standard VAT rate has increased from 17% to 19%. This rate is standard for all types of taxable supplies, except taxable supplies to which a reduced rate applies according to law or supplies exempt from VAT. Montenegro is not a member state of the EU, therefore it does not benefit from fiscal facilities within the European community. In Montenegro, a reduced rate of 7% is applied by law for certain goods and services, including:
---Basic foods (bread, milk, flour, sugar, cooking oil, meat, baby food), water beverages, with the exception of bottled water.
---Medicines including those used in veterinary medicine, with the exception of listed drugs which are taxed at zero rate.
---Prosthetic devices as well as implants, with the exception of implants, which are taxed at the rate
zero etc.

Comparisons between countries for value added tax

The value added tax represents the most important tax in the Balkan countries, with the largest share of revenues in the budget of these states, which ranges from 20%-30%.
Albania is the first country to embrace VAT in the countries of the Western Balkans, as a tax that taxes income from the sale of goods and services. The VAT payment deadline is a special characteristic of the tax system of Serbia, which is clearly different from other Balkan countries. In the Balkan countries, VAT is generally paid at the time it is declared, regardless of whether the goods or services offered for sale are

liquidated later. Meanwhile, in the fiscal legislation of Serbia, a fiscal facility has been created for taxpayers registered in the VAT scheme with an annual realized turnover of less than EUR415,438. These taxpayers can postpone the payment of VAT until the collection of accounts receivable, but not later than 6 (six) months from the date on which the VAT is declared as payable. Regarding the right to credit VAT, Albania and Serbia converge on the fact that VAT paid for purchases of goods, assets and services provided that they serve only taxable supplies can be credited (deducted) within 12 tax periods. While in Croatia this right can be exhausted within 3 years. In other countries, there is no specific definition regarding this issue, which may mean that this right does not have a defined deadline to be exhausted. Also in Serbia, according to the fiscal legislation, for some expenses the tax paid on them cannot be deducted, such as

- expenses related to the purchase and import of cars, ships, yachts, motorcycles, airplanes, fuel expenses and spare parts for the above equipment, as well as
services related to their maintenance and storage;
- expenses related to representation;

Meanwhile, the basic principle in other Balkan countries, aligned with European legislation, is that the VAT paid on purchases can be credited if these purchases served as taxable supplies. So if a company buys an air conditioner for the financier's office, the VAT paid will be credited since the work performed by the financier in this office serves the business activity, that is, it serves taxable supplies.

Conclusions

In this VAT analysis, it has been important to review the applicable law and regulations. Based on the provisions of the Fiscal Code and the instructions of the tax administration, we have come to the conclusion that the entity has adapted and correctly applied the procedures for the payment and declaration of VAT for the specified period.

For this reason, we can conclude that the procedures followed by the entity for handling VAT are legal and in accordance with fiscal rules.

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The Role of Communicative Competence in Learning German as a Foreign Language: Speaking Anxiety and Motivation

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Abstract

In the realm of foreign language acquisition, our research primarily targets productive skills, with a special emphasis on communicative competence. Over the past two decades, communicative competence has emerged as a pivotal linguistic skill, integral yet challenging due to its requirement for a comprehensive integration of linguistic knowledge and practical abilities.

Globalization, coupled with increased mobility and the pressing demand for effective communication, has propelled communicative and intercultural competences to the forefront of language education. Consequently, foreign language instruction should be oriented more towards fostering communicative interaction within classroom settings, positioning the enhancement of such competencies at the heart of modern language learning strategies.

However, our observations of Albanian students learning German highlight substantial obstacles in their oral proficiency. This in turn raises several questions: What significance does speaking hold in the context of learning German in Albanian educational institutions? To what extent are Albanian learners encouraged and motivated to practice speaking in their German classes? Furthermore, how can educators mitigate the anxiety often associated with communicative situations and speaking activities in the classroom?

To address these research questions, our study employed a comprehensive survey methodology using a questionnaire as the primary research tool. The survey encompassed students of foreign languages at the pre-university level, specifically within upper-secondary education (grades X to XII), aged 15 to 18, from a variety of schools across Albania.

Keywords: Communicative competence, teacher's role, motivation.

1. Literature Review

In the context of the ongoing expansion of globalization, the significance of mastering foreign languages is increasing in various spheres. In the professional environment, the necessity to converse in a foreign language often arises, turning language proficiency into a significant asset. However, the advantages of learning a foreign language extend beyond professional realms. Foreign languages also play a crucial role in our personal lives, whether its during travel or when we interact with individuals from different cultures, be that within our home country or internationally. Effective communication has emerged as one of the key comptences of today's society, a fact that is mirrored in the relevant legislation, such as the Law on Pre-University Education No. 69/2012.

Given the importance highlighted earlier, foreign languages should be taught in schools with a focus on real-life situations. The teaching context ought to mirror the scenarios in which the language skills will be utilized.[1] From this perspective, classroom activities that foster speaking and listening skills warrant special emphasis,

prioritizing those that incorporate reading and writing. According to Schart and Legutke[2] the classroom should transform into a dynamic space for communication, facilitating exchanges among students. It is crucial that a significant portion of this communication occurs in the target language, as this practice is a fundamental prerequisite for the development of students' communicative abilities.

For many years, numerous researchers have dedicated themselves to exploring the characteristics of successful teaching, identifying one of the key aspects of effective teaching and learning as the willingness to involve students actively in the process. This approach aims to engage students as fully as possible, enabling them to absorb the content being taught. From a communicative standpoint, it is essential to encourage students to ask questions, freely express themselves in a foreign language, and achieve mutual understanding among each other in the target language[3].

According to Henrici and Riemer, the purpose of teaching foreing languages using the communicative method is to equip students with the ability to respond appropriately in linguistic contexts across a range of life situations[4].

It is important to note that the communicative method of teaching foreign languages emerged in the 1970s and 1980s. This shift was influenced by developments in the socio-political landscape and recent advances in the sciences related to foreign language didactics. A key factor that facilitated this evolution was critique of behavioral theory, underscoring that foreign language teaching involves a more creative and conscious process.

Students need to actively use the information they are taught rather than merely accumulating bits of knowledge[5]. They must engage with the information in a practical manner to achieve true learning. This approach to learning is constructivism. Furthermore, the Common European Framework for Foreign Languages (CEFR) primarily focuses on linguistic action, viewing students as social actors. This perspective considers them as members of society who must tackle communicative tasks within specific circumstances and environments. It is worth noting that cultural mediation extends beyond mere communicative skills to include intercultural competencies. Reimann und Rössler confirm this observing that: "Linguistic mediation can only be successful if specific cultural distinctions between the source and target languages are acknowedged and taken into consideration"[6].

2. Motivation

Learning a foreign language is associated with various challenges and obstacles. Fear, reluctance to express oneself, and other issues related to motivation are potential barriers that can compromise speaking in class and negatively affect students' communicative skills.

Motivation is crucial in the process of learning a foreign language[7]. It is broadly recognized that motivation is one of the key factors influencing success in foreign language acquisition. In this context, motivation acts as the driving force that propels individuals to overcome challenges and continue their path to learn the language. As a result, a student's level of motivation can have a direct impact on their learning outcomes.

Research indicates that there are two primary types of motivation in foreign language learning: intrinsic and extrinsic. Intrinsic motivation originates from within the student, spurred by their personal interest in and their enthusiasm for the target language. On the other hand, extrinsic motivation is driven by external factors, such as the desire to achieve a reward (in this case, good grades) or even to avoid an unfavorable outcome. Both types of motivation can significantly impact the language acquisition process among learners. Edelmann even describes motivation as "energy that influences learning performance".[8]

Moreover, motivation in learning a foreign language can be influenced by other factors, including self-confidence, expectations of success, anxiety, and the learning environment. Students who have greater confidence in their language abilities tend to be more motivated and committed to the learning process. Conversely, high levels of anxiety can hinder motivation and adversely impact learning outcomes, particularly in terms of communiative aspects in the classroom.[9]

3. Teacher's role

As teachers, grasping the fundamental factors that influence student motivation is crucial for creating a supportive and encouraging learning environment. By fostering a positive attitude towards learning a foreign language and offering possibilities for both instrinsic and extrinsic motivation, we can assist students in succeeding in their language learning endeavours. Furthermore, the primary goal of teachers should be to establish a motivating learning atmosphere where the approach towards students is characterized by acceptance, praise and open communication.[10].

Closely linked to motivation are several additional elements, such as establishing achievable and clear objectives, fostering student self-awareness about learning, creating conditions for dynamic and interactive learning experiences, and facilitating the mediation of learning strategies. These components collectively contribute to shaping an autonomous learner, who is, in turn viewed as a motivated student.[11]

Teachers' dedication to successful teaching is manifested, among other aspects, through their communication and approach in the classroom. There are several reflective questions which include: What are the most effective techniques for praising and grading students? How can we encourage students towards sustainable learning? How can we correct them without demotivating them?

Making mistakes during the process of learning a foreign language is not only inevitable but also a vital component of language acquisition.[12] In contrast with traditional teaching methods that placed grammar at the core of language education – emphasizing error correction - the communicative approach prioritizes achievements, accepting mistakes as an inherent aspect of the learning process. The appropriateness of intervention for correction is determined by the clarity of the communication rather than strictly by formal grammar, syntax, or semantic errors.

In principle, teachers should adopt a more tolerant stance towards mistakes during

[8] Edelmann, W. (2003), 30.
[9] Fischer, S. (2005), 36.
[10] Schart, M, Legütke, M. (2012), 109.
[11] Ushioda, E. (1996), 2.
[12] Königs, F. (2007), 377.

authentic speaking situations, recognizing the paramount importance of successful communication. Continuously interrupting and intervening to correct errors carries the risk of diminishing students' motivation.[13].

Anxiety related to oral production has been a subject of study since the 1980s, and it has been identified as a significant barrier to effective language learning and speaking. Referring to Yalçın and Inceçay[14] we can highlight several strategies that assist students in overcoming the significant issue of anxiety related to oral production:

1. Creating a supportive and nonjudgemental learning environment.
2. Engaging students in interactive and communicative actitivies in the classroom.
3. Encouraging discussions in various social forms of work.
4. Providing constructive feedback and encouragement to the students while correcting during oral production.
5. Incorporating spontaneous speaking games and activities
6. Promoting a growth mindset towards speaking.

4. Using quesitonnaires as instruments to assess gathered data

To assess the impact of the communicative competence on learning German as a foreign language within the Albanian educational system, with a particular focus on motivation, the researcher employed survey methodology. This survey was conducted among pre-university students, within the upper-secondary education, spanning grades ten to twelve, with participants aged between 15-18 years old. The sample included students of foreign languages from various schools across Albania. The data collection tool was a questionnaire comprising eleven questions. This questionnaire was filled out by 66 students who are studying German at the A2-B1 level.

The analysis of the questionnaire results aims to identify whether the teaching process encourages the active use of German in the classroom and if students feel motivated and confident to communicate in German during their classes without experiencing hesitation or anxiety.

5. Questionnaire results

5.1. Why did you choose to study German?

Regarding the question of why they chose to learn German, a significant majority of the survey participants expressed strong motivation. According to their responses, there is not only a high interest in the German language itself but also in the diverse opportunities that proficiency in German provides in the job market. Below are some of their responses in their original wording.

I chose German because I like challenges.
I have been in Germany, and I would like to learn its language.
Because I like this language and because of the labor market.
Because I find it an interesting language.
It is an interesting language and I've always wanted to learn it.
I like it because it is a different world.

[13] Bohnensteffen , M. (2020), 491.
[14] Yalçın dhe Inceçay (2014), 2620 – 2624.

I've always liked this language and I decided I should learn it.
I love the language and I love Germany.
Because it's a special and beautiful language.
I chose to study German because there is a high labor demand.
To have a better job position in the international market.
Because it is a language which is in demand by the labor market.
I think it is a language that provides employment opportunities.
Because it is in demand by the larbor market, and I like it.
It was my preference to learn another foreign language besides English, and German sounded a better option.
Because it is gaining spread and becoming important, plus I love learning foreign languages.
Because it is one of the most demanded foreign languages right now.
Because I love it and I would like to work as a German teacher.
I chose it because I think it is the future.

5.2. Do you try to communicate in German during the class?

When inquired about their attempts to communicate in German during class, it is worth pointing out that a significant portion of the students (57.6%) acknowledged doing so only sometimes, rarely, or never. Conversely, a smaller group of participants, specifically 28 out of 66, reported that they try to communicate in the target language 'always' or 'often'. The reasons behind students' reluctance to speak in German are varied, such as a lack of self-confidence, the nature of the teacher's feedback, an inappropriate classroom atmosphere, or even the perception that the target language is challenging and that they lack the necessary linguistic skills for effective communication.

5.3. Are you given the opportunity by the teacher in class to speak in German?

Regarding the question of whether teachers provide students with opportunities to speak German in class, 60% of the students responded affirmatively. However, a significant number, approximately 40%, indicated that such opportunities occur only 'sometimes' or 'rarely'. A plausible reason for this could be the high student-to-teacher ratio in Albanian classrooms, which, due to time constraints, might prevent every student from having the chance to speak during lessons.

5.4. Does your teacher organize you to work in different social forms in the classroom, such as pair work, small and big group work?

Research has indicated that collaborative work forms in the classroom can significantly promote student interaction, foster a spirit of collaboration, and enhance the desire to participate, which in turn boosts motivation. An interesting observation from the provided chart is that more than half of the participants, approximately 53%, reported that they engage in collaborative work only once or rarely. Conversely, about 47% of students indicated that they participate in such activities 'always' or 'often'. The reasons for the scarcity of group activities in the classroom may include time constraints and teachers' concerns over managing the class effectively. Additionally, it is important to consider the influence of personal teaching styles;

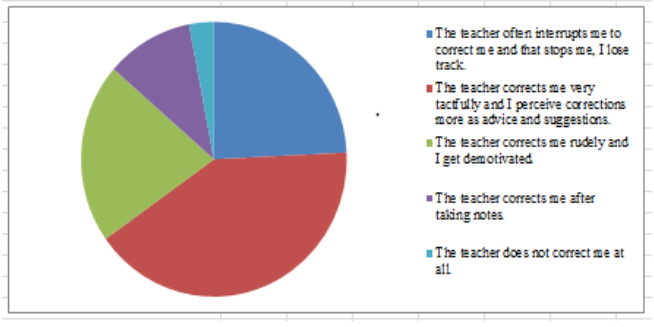
some teachers might prefer traditional methods of instruction over more interactive or collaborative approaches.

5.5. How often do you feel inhibited/insecure to speak in German during lesson?
The feedback to the question "How often do you feel inhibited/insecure to speak in German during the lesson?" reveals significant insights. Approximately 56% of the students reported often feeling inhibited during lessons to speak in German, while 9% consistently experience insecurity when speaking. Conversely, a smaller proportion, 34.8%, chose options indicating they feel this way only sometimes, rarely, or never. The underlying reasons for this sense of insecurity are further explored through the responses to the subsequent question.

5.6. Why is this insecurity in your opinion?
When students were asked about the reasons behind their insecurity or lack of confidence in speaking, more than half admitted that the primary cause is the fear of making mistakes. Additionally, 39.4% attribute their main source of insecurity to the teacher's reaction. Only a small number of students cited the mocking reactions of their classmates as the issue.

5.7. Approximately 40.9% of the students acknowledge that their teacher corrects their mistakes with considerable tact during oral communication, viewing such corrections as constructive advice and suggestions. However, it is concerning that 21.2% of students feel demotivated by their teacher's harsh corrections, and 24.2% report that frequent interruptions by their teacher for corrections during speaking in German cause them to lose their train of thought and become hesitant to engage in further exchanges. A minority of students mention that their teacher waits until the end of their speaking to correct them, having taken notes on their mistakes during the speech. Only 2 out of the 66 participating students claim that their teacher does not correct their mistakes at all.

5.8. Does the teacher organize learning strategies and techniques into topics to encourage and enhance your speaking competence?
This question touches on the critical role these strategies play in promoting autonomy and motivation. Through efficient learning techniques, the students may improve their skills in foreign language acquisition by encouraging self-awareness and self-confidence in them. When asked if their teacher categorizes techniques to encourage and improve speaking competence in class, about 47% of the students



responded affirmatively, selecting 'always' and 'often,' in contrast to 18.2% and 19.7% who chose 'sometimes' and 'rarely,' respectively. Part of this non-positive approach are even 15.2% of all the participants in this questionnaire who state that the efficient learning techniques are never categorized into topics in the class. This suggests a possibility that some teachers might not be acquainted with effective strategies for enhancing speaking skills or might underestimate the importance of specifically addressing this facet of foreign language teaching.

5.9. Which of the linguistic skills in your opinion is the most important?
5.9.1. Which of the linguistic skills in your opinion is the most difficult to be achieved?

According to chart 5.9, an overwhelming 86% of students regard speaking as the most important linguistic skill. Similarly, the majority of students (81.8%) also perceive speaking as the most challenging skill to master (Chart 5.9.1). This perception likely stems from the fear of making mistakes and the demotivating effects of how teachers correct those mistakes.

5.9.2. Which linguistic skills would you like to improve?

Based on the provided chart below, 86% of the students expressed a desire to improve their speaking skills, contrasting with a smaller group of students who showed interest in enhancing their listening and writing abilities. Notably, none of the students identified reading as a skill they wish to improve. This data suggests that the students prioritize language acquisition for communicative purposes above all.

5.9.3. The concluding section of the survey, which invited students to leave comments, further underscores their aspiration to achieve fluency in speaking German, while concurrently highlighting perceived deficiencies in their lessons regarding this aspect. The students expressed a desire for speaking practice to extend beyond merely reading their assigned tasks, suggesting an interest in more diverse and interactive forms of oral communication practice. Notable issues raised by the students in their responses include the lack of group work, concerns about the manner and impact of corrections, and the perception that German is a particularly challenging language. Below are some of their original responses.

We read our tasks, but we don't have free discussions.
I would like to speak German, but since I make may mistakes, I then withdraw.
I'd like to improve my speaking skills so that I can speak freely and without mistakes.
Engaging in conversation in German should be encouraged during lesson so that we can improve our speaking skills, which in turn enourages even our listening skills.
In my opinion, the speaking part should be allocated more time, and the teacher should create a secure environment so that the students are not afraid to speak.
I would like to be given the opportuinity to speak German fluently.
I'd like the teacher to organize free discussion topics in German during which we could do group work and express our opinions on those topics and improve our speaking skills.
I'd like to improve my speaking skills, but we read more our homework and the workbook

exercises. We don't discuss on free topics.
It is important to speak and listen more in German during the lesson.
We usually speak in German when we read our homework. We don't do any discussion. It is really difficult for me if I don't prepare something written beforehand.
It is really difficult for me to spontaneously express my thoughts in German. We make many mistakes, and our teacher corrects us nervously.
I feel sorry we don't organize any games in the class and do not have any group work.
I really need to understand why I make mistakes while speaking. My teacher corrects me, but I don't always understand why I should use another word or verb instead of another. I'd like to understand it, but I don't ask my teacher.
It is really an issue for me to express myself in the class, I find speaking in German really difficult. I make so many mistakes.
I'd like to have more free discussions than deal a lot with the grammar.
In the class we usually speak in German when we read our homework or the exercesies our teacher gives us. I don't have any difficulty when I read.
I find it really difficult to speak in German. I didn't have this with English.
We are many students in the class, there's not time enough for us to speak.
I like German very much, but I find it very difficult. We don't do listening in the class and don't speak a lot. We do more grammar and exercises.
In our outnumbered classes, we don't often have the opportunity to speak.
Speaking can't be improved if only grammar is addressed, like we do.

6. Conclusions

The above analysis clearly indicates that Albanian students face significant challenges in developing speaking competence in German. The data suggests that encouraging active speaking in the class is not prioritized, with students indicating that speaking activities are often limited to reading from classwork and homework. Despite students showing a strong internal motivation to learn German, external motivation appears to be lacking. Anxiety about making mistakes and apprehension concerning the teacher's reaction are prevalent among students during oral activities. As a result, there is nearly unanimous agreement among the students that speaking in German represents the most challenging skill to master.

To enhance speaking skills in foreign language learning, a range of competencies is essential. The foremost prerequisite is establishing an encouraging and motivating environment by the teacher. Teachers should be approachable, open-minded, and eager to engage in communication with their students. Providing students with opportunities to work in social groups on various tasks can nurture a sense of collaboration and communication.

It stills remains a responsibility of teachers to encourage students to speak in the target foreign language. Therefore, it is crucial for teachers to familiarize students with various learning strategies, especially communication strategies to facilitate this process. It is indispensable that interactive speaking is encouraged in the class, and where appropriate to the students' level, the teacher may not use the source language at all during lesson.

Teachers need to be aware that making mistakes in speaking is an integral part of the language learning process and an incorrect approach to addressing these mistakes can have lasting negative impacts on students.

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Some legal issues regarding the money laundering process: Judicial practice

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Abstract

This paper seeks to clarify, through a legal-criminal analysis of the elements of the criminal offense of money laundering, the issue of whether a person can be prosecuted and convicted for money laundering proceeds of crime or criminal activity, in case the existence of the initial/ predicate criminal offense is not proven. The solution to this problem has been achieved by analyzing the legal definitions and referring to the Albanian case law. In a criminal trial, the connection between cause and effect is necessary; linking a criminal offense to the proceeds of crime, that is capable of being laundered. A person can be charged and then tried for the criminal offense provided by Article 287 of the Criminal Code, only when the commission of a predicate criminal offense has been proven, which has produced proceeds, identifiable and distinct, and through various ways have been introduced into the legal circulation of assets or one is aware that the proceeds are criminal in origin.
In addition, the paper clarifies the cases when the same person has criminal responsibility for both the initial crime and the laundering of criminal proceeds. This is achieved by explaining whether both the predicate offence and the proceeds of crime laundering offense have the same object, i.e. violate the same criminal legal relationship, the same legally protected interest, as well as by identifying the motive and purpose, as separate elements that characterize the laundering of criminal proceeds.

Keywords: Product, proceeds of crime, predicate offence, criminal liability, etc.

1. Elements of the criminal offence of laundering criminal proceeds

The Object of this criminal offence represents the entirety of legal relations established by the legislator in order to guarantee the proper and normal functioning of public administration bodies and protect the interests of the state and citizens from laundering the proceeds of crime. The material object is represented by the proceeds of criminal offence laundered. **On the objective side** *(actus rea)* this criminal offense is committed through the active actions of the perpetrator, that are within the provisions of one of the forms provided in Article 287 of the Criminal Code. [1] There must be a causal link between the actions of the perpetrator of the criminal offense which aim at laundering the proceeds of crime and the consequence or the possibility of the occurrence of the consequence, in the sense that the realization of laundering the proceeds of crime (consequence) comes exclusively and directly from the actions of the perpetrator of the criminal offense (cause). Thus, it is important to note the fact that between the product of the predicate criminal offence, on the one hand, and the offense of laundering this product there must always be an exclusive and necessary causal link.

Subject *(active)* who represents the perpetrator of the criminal offense, bearing criminal responsibility and be subject to criminal proceedings and trial, must meet two

legal criteria:
1). The age criterion, in this case to have reached the age of 14, and 2.) The criterion of responsibility, i.e., to be able to control his actions and to understand the importance of performing them. The absence of either of these two criteria constitutes a procedural reason for the subject, the perpetrator of the criminal offense, not to initiate criminal proceedings against the subject – the perpetrator of the criminal offense and if it has started, he should be terminated, proceeding instead with the assigning of medical measures, in case of irresponsibility and the assigning of educational measures, in the case of age. **Subjectively** *(mens rea)* the criminal offense of laundering the proceeds of crime, is committed only with direct intention in the sense that the perpetrator of the criminal offense anticipates and desires the arrival of the consequence, the laundering of the proceeds of crime. Thus, he is aware that the property or economic advantage derived from the main criminal offense, is a product of the criminal offense and wants to launder this product through active actions carried out in one of the forms provided in Article 287 of the Criminal Code.[2] The purpose is a qualifying element of the concrete provision and it consists in: a) concealing, covering the origin of the property or providing assistance, in order to avoid the legal consequences related to the commission of the criminal offense. b) avoidance of reporting according to the law on money laundering. The perpetrator of the criminal offense carries out his criminal activity knowing that the advantages or property he possesses are the product of the criminal offense and intends to launder them, giving them the form or advantage of legitimate economic property.
Laundering the proceeds of crime does not represent a single act, but involves a process, which aims not only to conceal the origin of the product itself, but also to keep it under control. This process usually goes through three stages, which are: *1) Placement* of the proceeds of crime; *2) Layering* which represents the attempt of the perpetrator of the criminal offense to realize the separation of the product from the criminal source, creating complex networks of financial transactions; *3) Integration,* which represents the epilogue of the process of laundering the proceeds of crime, in which this product, usually money, integrates into the lawful economy and joins with other lawful assets, making it quite difficult to distinguish between lawful and illegal property.

2. The concept of the proceeds of criminal offense

Article 1 of the Council of Europe Convention[3] provides this definition of the term proceeds of a criminal offense, capable of undergoing a laundering process: *a) "Product"* means any economic advantage derived from criminal offenses. This advantage may consist of any property, as defined in subparagraph 'b' of this Article; *b) "property"* means property of any nature, physical or non-physical, movable, or immovable, as well as legal acts or documents proving a title or interest in such property.

The notion of " *proceeds of crime* " is also found in Article 36 of the Criminal Code,

[2] Ibid .
[3] Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Warsaw , 16 May 2005. Ratified by Law No. 9646 of 27 November 2006. (Warsaw Convention)

which provides that :*Confiscation is mandatorily given by the court and has to do with the taking and transferring in favour of the state: b) of the criminal offense, which includes any kind of property, as well as legal documents or instruments proving titles or other interests in the property that derives or is obtained directly or indirectly from the commission of the criminal offense; ".*[4] The notion of "*proceeds of crime*" in the provision of Article 36 of the Criminal Code of the Republic of Albania, is similar to that of Article 1 of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on Financing of Terrorism ", which means that, as a product of the criminal offense, we will understand any economic advantage derived from a criminal offense, which may consist of property of any nature as well as documents or legal acts proving a title or an interest in this property.

3. Can a person be convicted for the offence of money laundering when there is not a predicate crime?

In Article 287 of the Criminal Code of the Republic of Albania, and also the Warsaw Convention, it is explicitly stated that " proceeds *of the criminal offense"*[5] in case of criminalization of actions, constitute the criminal offense of laundering. It is necessary to prove that a criminal offense was committed, from which the product was obtained, regardless of where and by whom the criminal offense was committed or the person should be aware that the products are criminal in origin, only then can the offence of money laundering be prosecuted.

Laundering the proceeds of crime cannot be detached from the very existence of a crime. From the Albanian jurisprudence, including the Albanian academic opinion and case law,[6] as well as referring to the legal acts, it is accepted that the product of the criminal offense is any kind of property, documents or legal instruments that prove titles or other interests in the property that derives or is obtained directly or indirectly from the commission of a criminal offense.[7] In the absence *of "initial crime"* or *"illegal criminal activity"* there cannot be the criminal offense of laundering criminal proceeds. Referring to law doctrine, it is clearly defined that a criminal offence will be considered illegal act or conduct, which by law is provided as a criminal offense and to be called as such, must have four distinct elements as the object, the objective side, the subject and the subjective side. It has already been accepted in jurisprudence that the absence of one of these elements would result in the absence of the criminal offence itself. The term *"major criminal offence" is* also used in the Warsaw Convention, which means any criminal offense that has brought, as a consequence, products.[8] So, both the Albanian legislation and the Warsaw Convention, definitely require the

[4] See Criminal Code of the Republic of Albania. Article 36 " Confiscation of the means of committing a criminal offense and the proceeds of crime"

[5] Ibid., "Proceed" means any economic advantage derived from criminal offenses. This advantage may consist of any property, as defined in sub-paragraph b of this Article; b) "property" means property of any nature, physical or non-physical , movable or immovable, as well as legal acts or documents proving a title or interest in this property.

[6] Decision No. 229 of the Vlora Judicial District Court, dated 10.05.2012. Case 3.7 "Albanian Judicial Practice" and Decision No. 1043 of the Tirana Judicial District Court, criminal case No. 1095 Act, dated 27.06.2011.

[7] Article 36 of the Criminal Code of the Republic of Albania.

[8] Article 1 / "e" of the Council of Europe Convention, Warsaw 16 May 2005 "On the laundering, search, seizure and confiscation of the proceeds of crime and on the financing of terrorism". Ratified by law No. 9664 dated 27.11.2006.

existence of an initial/predicate criminal offense which has produced the product, capable of being laundered.

In a criminal trial, the cause-and-effect relationship is necessary, linking offense and product. A person can be charged and then tried for the criminal offense provided by Article 287 of the Criminal Code, only when the commission of a criminal offense has been proven, which has produced a product, identifiable and distinct and through various ways has been introduced into the legal circulation of assets or is aware that the proceeds are criminal. This position is in line with respect for the principle of presumption of innocence and due process of law. The guilt of the defendant in the criminal proceedings is not based on suspicion, as any suspicion is assessed in favour of the defendant.

The Albanian legislation provides law no. 10192, dated 03.12.2009,[9] which is an exception to the rule on the right of ownership of the person, and this for a certain category of criminal offenses considered by law in terms of consequences, such as high social risk. It has a preventive character and not a criminal punishment, it applies to the assets of persons suspected of committing a category of criminal offenses, where the suspicion is based on clues. The investigation and trial according to this law is supplemented by the rules of the Code of Civil Procedure and the burden of proof falls on the suspect, owner of the property or its possessor.

In the case of the criminal offense provided by Article 287 of the Criminal Code, we are not before a case of not justifying the acquiring of property with legal sources, in this case the burden of proof lies with the prosecutor. The defendant cannot be presumed guilty on the basis of unjustified of the origin of the property. The criminal trial takes place, as a result, based on the rules clearly defined in the Code of Criminal Procedure. Even when the defendants are charged under Article 287 of the Criminal Code, the trial takes place according to these rules. The innocence of the defendant is presumed and the burden of proof for proving the changes falls on the prosecutor and the suspicions under Article 4 of the Code of Criminal Procedure[10] go in favour of the defendant. The defendant cannot be charged with the criminal offense provided by Article 287 of the Criminal Code when the existence of the initial/predicate criminal offense has not been proven, it is not enough for the defendant to be charged with committing the criminal offense of money laundering when we have a property which has a suspicious origin and not legally justified. In this case, Law no. 10192, dated. 03.12.2009, should be applied but not the criminal proceedings for the criminal offense provided by Article 287 of the Criminal Code.

Law no. 10192, dated. 03.12.2009,[11] has a preventive character and not a criminal punishment and is applied to the assets of persons suspected of committing a category of criminal offenses, where the suspicion is based on clues (circumstantial evidence). This law does not aim at punishing persons for committing criminal offenses, but at confiscating and seizing the assets of persons suspected of having committed a cer-

[9] Law no. 10192, dated 03.12.2009 "On the prevention and crackdown on organized crime and trafficking through preventive measures against property".

[10] Article 4 of the Criminal Procedure Code of the Republic of Albania. The defendant is presumed innocent until proven guilty by a final court decision. Any doubt about the charge is assessed in favor of the defendant.

[11] Law no. 10 192, dated 03.12.2009 "On the prevention and crackdown on organized crime and trafficking through preventive measures against property". (Anti -mafia law)

tain category of criminal offenses. The investigation and trial according to this law are supplemented by the rules of the Code of Civil Procedure. Exceptionally from criminal trials, the burden of proof also falls on the suspect, owner, or possessor of the property. This person has the burden of proof, to prove that his property is legal and comes from non-prohibited sources. Unlike this law, when we are dealing with a criminal proceeding, the confiscation or sequestration made according to the Code of Criminal Procedure, or the Criminal Code takes full force only after the issuance of the criminal decision. If there are doubts about the origin of the property of the defendants, it could be done according to Law no. 10192, dt. 03.12.2009. If the existence of a criminal offense is not proven, i.e., we are not dealing with the laundering of the proceeds of crime, there can be no knowledge or opportunity to be aware of third parties, regarding the origin of the resulting property from the offense.

4. **Does the same person have criminal responsibility for the initial crime and for laundering the products?**

During the process of laundering the proceeds of illegal activities, the organizers and leaders of criminal organizations severely damage the legally protected interest, the socio-economic order. In this case we must accept that Article 287 of the Criminal Code of the Republic of Albania allows punishment for this criminal offense as well. The provisions of this article also apply when: *c) the person who performs the laundering of the products is the same as the person who has committed the act, from which the products have derived.*[12] Money laundering protects the criminal activities of organized crime. In this sense it constitutes a special act and the participants in the predicate offence go unpunished for money laundering. The legislator has left open the possibility of punishing the perpetrators of the subsequent criminal offense of laundering their profits. To determine the impact of laundering on the socio-economic order and to punish the subject of the main criminal offense, an indicator to consider is the sum of the values of the laundered illicit assets.[13] If the financial and economic health of the state is compromised, the state is obliged to punish those who influence and damage social and economic values.

The principle of justice and equality requires that any person who affects the interests protected by law be punished. Therefore, if this illegality is involved in the case when it is considered that the punishment for laundering has been applied to its perpetrator, it will be arbitrary in similar circumstances for the perpetrators of the preliminary act which constitutes a criminal contravention. If the protected interest in the social aspect as in the criminal offense and in that of laundering is the same, the double punishment of the perpetrator will not be justified. Conversely, if the interests protected by law are different, the socio-economic harms of laundering should be considered, as they constitute an object protected by a special norm.

The offense of money laundering affects other social values, and, in this case, criminal

[12] Article 287, point (c) of the Criminal Code of the Republic of Albania , Law no. 23/2012 "On some additions and amendments to Law no. 7895 dated 27.01.1995 "Criminal Code of the Republic of Albania", as amended

[13] Blanco Cordero , " *El delito de Blanqueo de* Capital , " *Ed.Aranzadi* , 1997, page 501, and Vives Antón and Gonzalez Cussac , " Comments al Código Penal de 1995 ", T. 2. Available , www .ci c ad.oas.org/Lavado.../eng/.../Eng l ishVersionACrime.d ..

behaviour is always driven by the profit that inspires the profit of the criminal organization, allowing it to reinvest the proceeds of the offense, and generate criminal enterprise. From the legal analysis of the criminal offense of money laundering, it results that the motive and purpose of acquisitive criminal activities is a qualifying element of money laundering.[14] The purpose of money laundering is not always involved as an element of the crime of the principal offense, for example, in drug or arms trafficking, or other offenses from which financial profits are derived. This purpose of concealing the illegal origin of funds contains an additional element of illegality and risk. Furthermore, it is necessary to analyse whether the offense has a motive of profit as an element of the crime and whether this illegality covers the intended profits of the criminal organization in a form of laundering, consisting not only of concealment but also of the use of criminal gains as fuel for ongoing crimes that aim to keep the criminal enterprise in action, by making it very powerful. This is exactly the essence of the problem, around which the question revolves whether the perpetrator of the criminal offense should be punished for the subsequent laundering of its profits.

Illegality in carrying out money laundering offence has an additional element that goes beyond the previous crime, a profit motive designed to ensure the survival of the criminal organization, which is not always present in the preliminary act. Even when profit is present in the previous behaviour, the illegality and social danger of money laundering go even further, because it involves performing repetitive actions over time, in order to strengthen the structure of the criminal organization, to give it a legal picture, seeking to challenge the existence of the state. It is, therefore, clear that these actions, *this process*, in which the perpetrator of the preliminary act plays an active role, cannot be considered to have been involved in the criminal offense. Thus, the operation is not unique, nor is the criminal intent a single one. The same position has been held by the Albanian judicial practice,[15] the court considers that the laundering of the proceeds of crime is not a single act, but involves a process, which aims not only to hide the origin of the product itself, but also to keep it under its control. The court continues with the reasoning that the same person cannot be convicted, at the same time, for the criminal offense of *"Falsification of documents in cooperation"* provided by Article 186/2 of the Criminal Code or for the criminal offense *"Fraud"* provided by Article 143 of the Criminal Code and "Laundering the proceeds of crime" provided by Article 287/1 point (b).

The state is obliged not only to guarantee due process of law and in accordance with relevant international conventions, but also to protect other interests, it must protect the economic order and financial health of the banking system. What we need to remember is that the United Nations Convention against Transnational Organized Crime, Palermo 2000, provides for the criminalization of money laundering, as one of the crimes, to increase the effectiveness of the fight against organized crime. In conclusion, there is no violation of constitutional guarantees in the case of conviction of a perpetrator of a preliminary act, also for the criminal offense of money laundering, as its illegality is more serious than that of the predicate criminal offense and affects a legally protected interest of great importance. At the same time there is no reason to

[14] Mëçalla , N. Book «Money laundering-legal-criminal and criminological elements», Tirana 2013, page 215.

[15] Decision no. 1043 of the Tirana Judicial District Court, criminal case no. 1095 Act, dated 27.06.2011.

support double prosecution as one cannot be asked to plead against himself.

Conclusion

- According to Article 287 of the Criminal Code of the Republic of Albania, it is not enough for a person to be prosecuted for committing the criminal offense of laundering the proceeds of crime or criminal activity, that has asset of suspicious origin and is not legally justified. In this case, Law no. 10192, dt. 03.12.2009, should be applied, but not the criminal proceedings for the criminal offense provided by Article 287 of the Criminal Code.
- When the existence of a criminal offense is not proven, from which a *"product"* capable of being laundered, has been produced, when there is no knowledge or opportunity to know about the criminal origin of the property, we cannot have criminal proceedings for laundering the proceeds of criminal offence.
- If the protected interest is the same in the social aspect as in the predicate criminal offense and in that of laundering offence, the double punishment of the perpetrator will not be justified. Conversely, if the interests protected by law are different, the socio-economic harms of money laundering should be taken into account, as they constitute an object protected by a special norm.
- There is no violation of constitutional guarantees, in the case of conviction of the subject of the preliminary/predicate act for the criminal offense of money laundering, as the illegality of money laundering is more serious than that of the original/ predicate criminal offense and affects a legally protected interest of great importance, the act in question and the criminal purpose are different from that of the predicate criminal offense. In this case, the state is obliged not only to guarantee due process of law but also to protect also other interests, it must protect the economic order and financial health of the banking system.
- At the same time, there is no reason to support double prosecution, as one cannot be asked to plead against himself (self-incrimination). Laundering the proceeds of crime does not represent a single act, but involves a process, which aims not only to conceal the origin of the product itself, but also to keep it under control.

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Corporate Social Responsibility through Sustainable Development Goals: A Study of Banking Sector in Albania

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Abstract

This paper examines the practices of the Albanian banking system in the field of social responsibility and the achievement of sustainable development goals through these practices. The objectives of the study are to see how the bank's contributions in the frame of CSR are harmonized with the SDGs, how these contributions are distributed between the main pillars of sustainable development (5Ps), and to find trends in the distribution of the contributions over the years. This descriptive research is based on quantitative analysis of secondary data. The database is constituted by aggregated financial data reported in the annual reports on social responsibility of the banking sector in Albania during 2016 – 2022. The results show that the SDGs offer a comprehensive and practical framework for CSR. Although the study is focused only on the banking sector, in Albania, it contributes to advance the theoretical and practical knowledge about the adoption of SDGs by corporations.

Keywords: Corporate Social Responsibility, Sustainable Development Goals, banking sector, Albania.

Introduction

Although enterprises exist to maximize personal profit, nowadays they are encouraged to integrate their businesses vision and activities with issues such as the protection and well-being of employees and consumers, safety of goods and services they provide, the impact of their operations on the natural environment and the community where they operate, as well as to contribution to sustainable development (Mariano, 2005). Such issues are represented under the term Corporate Social Responsibility (CSR).

The concept of CSR basically means that enterprises decide on their own initiative to contribute to improving the society and keeping the environment clean. Enterprises ought to voluntarily integrate social and ecological concerns in their economic activities and in their relationships with interested parties, the so-called *stakeholders* (CEC, 2001).

In recent years, more CSR activities have been linked to the Sustainable Development Goals (SDGs).

The 2030 Agenda for Sustainable Development was adopted by 193 member states of the United Nations (including Albania) in September 2015 and entered into force on January 1, 2016. The agenda is a 15-year global framework focused on 17 Sustainable Development Goals, 169 targets and over 230 indicators. The 17 goals include: 1. End poverty in all its forms globally; 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture; 3. Ensure healthy lives and promote well-being for all at all ages; 4. Ensure inclusive and equitable quality education

and promote lifelong learning opportunities for all; 5. Achieve gender equality and empower all women and girls; 6. Ensure availability and sustainable management of water and sanitation for all; 7. Ensure access to affordable, reliable, sustainable and modern energy for all; 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all; 9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation; 10. Reduce inequality within and among countries; 11. Make cities and human settlements inclusive, safe, resilient and sustainable; 12. Ensure sustainable consumption and production patterns; 13. Take urgent action to combat climate change and its impacts; 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development; 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss; 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels; 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development (UN General Assembly, 2015).

These goals can be categorized into five leadership principles or pillars (5Ps): People (Goals 1, 2, 3, 4 and 5), Planet (Goals 6, 12, 13, 14 and 15), Prosperity (Goal 7, 8, 9, 10, and 11), Peace (Goal 16), and Partnership (Goal 17) (SDG SERVICES, 2024).

The concept of Corporate Social Responsibility in the Western Balkan region is relatively new and is promoted mainly by multinational corporations and international development agencies (UNDP, 2008).

In Albania, implementing social responsibility is limited to large companies and subsidiaries of multinational corporations. Therefore, CSR in Albania is "mainly philanthropic, unlike in other countries where the CSR is closely related to the basic operation of the business" (OSBE & Ambasada e Kanadasë, 2013: 12-13) due to the relatively new business and market culture in the country. Thus CSR is not yet an important element of business policies (ACIT, 2020).

Notably, there has been an increase in the level of social responsibility by businesses operating in Albania following efforts by Government of Albanian to create a friendly environment at the national level. Currently, the Albanian government has been incrementally implementing CSR policies due to the requirements of attaining EU membership, a high CSR performance gives Albania a competitive advantage over other Balkan states (Valbona et al., 2021).

The Albanian banking system occupies an important place in the country's CSR development.

Banks are the main source of financing for the Albanian economy. Banks contribute up to 40.5% of the country's Gross Domestic Product. Banks in Albania have not only financed the country's economy but have also significantly contributed to society by financing the institutions and NGOs in the frame of CSR (AAB, 2018).

Banks routinely publish annual reports of CSR activities. Moreover, banking system precedes other sectors in presenting CSR activities by SDGs. The Albanian Association of Banks (AAB), a non-profit association consisting of 11 member banks, reports the activities of the member banks within the framework of CSR, together with the total

figures spent on each of the 17 sustainable development goals each year since the entry into force of the 2030 Agenda (AAB, 2022).
This study focuses on the practices Social Responsibility in the Albanian banking system and its role in the attainment of sustainable development goals. The objectives of the study are to describe how the bank's contributions in the framework of CSR are harmonized with the SDGs, how these contributions are distributed between the main pillars of sustainable development (5Ps), and identify trends in the distribution of Albanian banks' CSR activities over the years.
Unlike other studies on CRS in Albania, the present study is unique because it relies on objective data declared year after year by the banks.
Although the study was limited to the banking sector, it highlighted the distribution and progress of CSR contributions to the five pillars of sustainable development hence enriching the literature on CSR integration with the SDs in Albania.

Brief overview of the theoretical discussion on CRS and SDGs

The concept of social responsibility in business was first mentioned in the 1950s; Bowen's *Social Responsibilities of the Businessman* is identified as the first text on this subject (Carroll, 1991). In his book, the term *social responsibility of businessmen* refers to the obligations of businessmen to follow policies, make decisions, or follow lines of actions which are desirable based on societal objectives and values (Bowen, 1953).
From the 1970s to the beginning of the 1980s, there was a change in the conception of social responsibility. There was a realization of the importance of internalizing the principles of responsibility by enterprises. The discussion was then dominated by the concept of *Corporate Social Responsiveness* which emphasized a greater business interest in societal issues (Ackerman & Bauer, 1976). This period is lauded for the birth of operational instruments and processes within enterprises to implement social responsibility: *Social audit* techniques, *social balances,* and *codes of conduct* of enterprises.
The same period is described as belonging to the visualization of entrepreneurial activity in the form of a four-level pyramid with its base as economic responsibilities (making profits) on which rest legal and ethical responsibilities that are topped by philanthropic activity (Carroll, 1991).
In the mid-1980s, a third group of studies called *Business Ethics* came into focus where *ethics* referred to standards that were independent of the company's goals. Its supporters could not envisage economic and legal issues preceding ethics which they felt was the regulatory basis of doing business (De George, 2005).
The turn of the last century (the 1990s) heralded the concept of *responsibility towards interested parties,* the so-called *stakeholders,* who are subjects that have legitimate interests in the company's activities because they can be affected by them (the local community, subordinates, suppliers, customers, etc.). In the same discussion, *externalities,* external conditions that can affect the performance of the company for instance the stakeholders, could be ignored emphasizing the close connection between ethics and competitive strategy where moral values are considered central to the management of an organization.
Today, CSR activities are increasingly seen as linked to the global goals of sustainable development. CSR, being a business model that embodies ethics and facilitate

balancing economic interests with social and environmental needs, promotes the attainment of the Sustainable Development Goals (Silva et al., 2021). Since the SDGs contain a set of well-thought-out and internationally accepted objectives, they are a reputable, comprehensive, and practical framework for CSR (Schönherr et al., 2017; Van Zanten & Van Tulder, 2018); thus the need to assess CSR within framework of the SDGs (Fallah Shayan, 2022).

Materials and Methods

The research study was based on secondary data. Secondary data can either be numerical or qualitative data, but the present study analyzed numerical data, an analysis that belongs to the corpus of quantitative research techniques in the social sciences.

This study opted to use secondary data published in an accessible official website of AAB. Since these data are announced by the association and are open to the public, their validity and reliability exceeds (Church, 2002; Liao et al., 2019; Tarjo et al., 2022) that of survey data (Scholderer et al., 2005).

The database consists of 7 annual reports on the CSR of the banking sector in Albania from 2016 to 2022 (SHSHB, 2016; 2017; 2018; 2019; 2020; 2021; 2022). These reports include aggregated financial data of 11 member banks by all the 17 SDGs as well as data on *Art, sport and culture,* which were not used by the present study. The financial data also reflected the loans granted by the banks, the loan portfolio. But the present study only evaluated contributions from the banks in support of the institutions for SDGs achievement.

First a database was created with yearly CSR contributions on each of 17 SDGs.

Funding contribution for the first three years were in Euros, while for the subsequent four years were in Albanian currency (Lek). All funds were converted to Euros using the average exchange rate of the corresponding year.

Subsequently, the table was examined for concordance between the figures in the table and the annual totals declared by AAB.

Finally, data were aggregated based on the 5Ps of the SDGs by year.

The weight of each pillar was measured and assessed for trends of in the contributions to respond to the following research questions:

- What are the banks' contributions (weights) to each pillar?

-Which of the 5 pillars receives the highest banks' contributions (i.e., has the largest weight)?

- Are there changes in contributions over the years for any pillar?

Descriptive analysis were conducted and tables and graphs prepared using the Microsoft Excel 2013 program.

Results and discussion

The data collected from the reports on CSR for the years 2016 to 2022 are presented in *Table 1.* The total contribution of banks to the five pillars of the SDGs ranged from 1 million and 50 thousand euros in 2017 to 2 million and 240 thousand euros in 2019.

Table 1. Contributions in years for the 5Ps *(in thousands euro)*

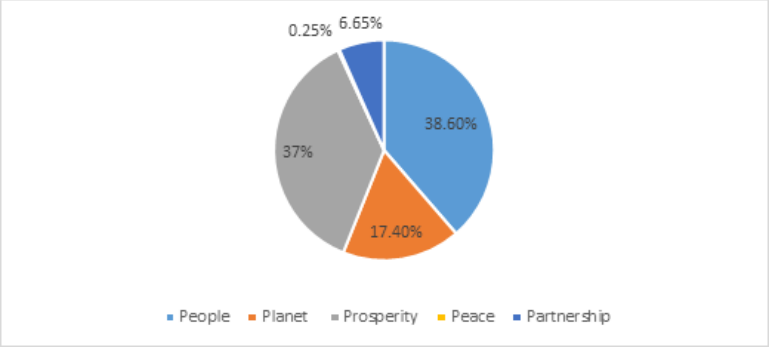
	People	Planet	Prosperity	Peace	Partnership	5Ps
2016	570.8	57	650.2	23	100	1401
2017	575	17.55	399	4	53	1048.55
2018	336	181	523	0	147	1187
2019	371.6	745.4	716.8	0	406.5	2240.3
2020	1089.4	391.6	274.4	0	6	1761.4
2021	856.8	497	690.2	0	9	2053
2022	386.8	0	766.4	0	0	1153.2
TOTAL	**4186.4**	**1889.55**	**4020**	**27**	**721.5**	**10844.45**

Source: Albanian Association of Banks

Regarding the trends in contributions, after 2016 there was a decrease in the contributions in 2017 and 2018 followed by a rapid increase and peak in 2019. Contributions decreased to 2017 and 2018 levels with the lowest contributions seen in 2022. It is possible that the increase in contributions in 2019, 2020 and 2021 was related to the country's social problems caused by the 2019 earthquake and the COVID-19 pandemic in the following two years. Banks responded to the urgent needs of society for financial contributions in 2019, 2020 and 2021.

The total contributions to each of the 5 pillars of the SDGs for the 7 years under review is illustrated in *Chart 1.* The People pillar predominated with 38.6% (4 million and 186 thousand euros) of the total of 10 million and 844 thousand euros contributed to CS, followed by the Prosperity pillar with 37% of the total contributions. The fact that the two pillars received more than 75% of the total contributions portrays the Albanian's banking system prevailing priority for people and economic prosperity. Concerns about the Planet, although financed (17.4% of the total contributions), were not excluded from the banks' considerations. The lesser valued Partnership for achieving the goal received only 6.65% of the contributions. The promotion of peace in the world (receiving 0.25% of the total contributions) was the last item on the agenda of the banking system in Albania.

Chart 1. Total contributions in years for each Pillar



A clearer overview of the distribution of banks' financial contributions to CSR was obtained by examining each of the individual 5 pillars of sustainable development.

Table 2, summarizes the data by year for each of the 5 specific goals for the People Pillar (*1. Poverty; 2. Zero hunger; 3. Good health and well-being; 4. Quality education; 5. Gender equality).* The maximum contributions of 1 million and more euros in 2020 and 2021, resulted from an increase in contributions to health and well-being during the COVID-19 pandemic. *Quality education* was the most steadily funded goal; an indicator of banks transitioning towards a longer-term support for promoting sustainable development.

Table 2. Contributions in years for the People *(in thousands euro)*

	1. No poverty	2. Zero hunger	3. Good health and well-being	4. Quality education	5. Gender equality	People
2016	14	32	150	371	3.8	570.8
2017	19	26	149	371	10	575
2018	30	8	54	144	100	336
2019	26	2.6	203	122	18	371.6
2020	56.6	52.5	775	194	11.3	1089.4
2021	367	11.4	130	347.8	0.6	856.8
2022	202	25	57	85.8	17	386.8
Total	**714.6**	**157.5**	**1518**	**1635.6**	**160.7**	**4186.4**

Source: Albanian Association of Banks

However, short-term philanthropic contributions, such as those for goals 1 (*No poverty)* and 2 (*Zero hunger)*, continue to be present. A significant increase in support for goal 1 was observed in the last two years possibly reflecting the high levels of poverty in Albania, where 22% of the population live below the national poverty line and 44% of the population is at risk of being poor or in social exclusion (INSTAT, 2023).

Data for the second most funded pillar, Prosperity (which summarizes goals *7. Affordable and clean energy; 8. Decent work and economic growth; 9. Industry, innovation and infrastructure; 10. Reduced inequalities; and 11. Sustainable cities and communities*) are presented in *Table 3.*

More financing was allocated to the attainment of prosperity in 2022, lesser funds, less than that allocated to the other 4 pillars, were allocated to this pillar in the preceding years. An increase in funding allocation to prosperity in 2022 could be attributed to the redirection of attention to economic development after the civil emergencies of the 2019 earthquake and the 2020 pandemic. The most supported goals were goals 11 (*Sustainable cities and communities)* and 9 (*Industry, innovation, and infrastructure),* followed by goal 7 (*Affordable and clean energy*). But goal 7 was not uniformly funded over the years. Moreover, goal 7 was not funded on some years. Meanwhile, goal 8 (*Decent work and economic growth*) and 10 (*Reduced inequalities*), although less supported, were continuously funded possibly to meet Albania's immense needs for investments in the economy and infrastructure.

Table 3. Contributions in years for Prosperity (*in thousands euro*)

	7. Affordable and clean energy	8. Decent work and economic growth	9. Industry, innovation and infra-structure	10. Reduced inequali-ties	11. Sus-tainable cities and communi-ties	Prosperity
2016	250.2	10	230	20	140	650.2
2017	0	91	122	25	161	399
2018	10	20	253	40	200	523
2019	0	22.8	165	57	472	716.8
2020	2	26	64.6	44.4	137.4	274.4
2021	0	81.6	408	37.6	163	690.2
2022	378.5	12.6	9.3	25	341	766.4
Total	**640.7**	**264**	**1251.9**	**249**	**1614.4**	**4020**

Source: Albanian Association of Banks

The annual finances for the Planet pillar are given in *Table 4.* Five relevant goals (*6. Clean water and sanitation*; *12. Responsible consumption and production*; *13. Climate action*; *14. Life below water*; *15. Life and land*) two goals (6 and 14) were not financed at all. Likewise, other goals were not funded every year. Thus, although goals 12 and 13 were ranked 5th and 6th in terms of funding 17 goals, respectively, they had large interruptions of contributions each year (goal 12 in 2018 and 2022; goal 13 in 2022). Likewise, goal 15 was among the least funded goals with contribution interruptions (years 2019 and 2022). The distribution of contributions reflects decreasing and sporadic preoccupation of the banks with addressing the challenges facing our planet. The two least supported were Partnerships for the goals and Peace. *Table 1* shows that Partnership contributions significantly declined after peaking in 2019 and zeroed in 2022. But partnership is crucial for achieving sustainable development goals evidenced by it being the seventh most funded among the 17 goals.

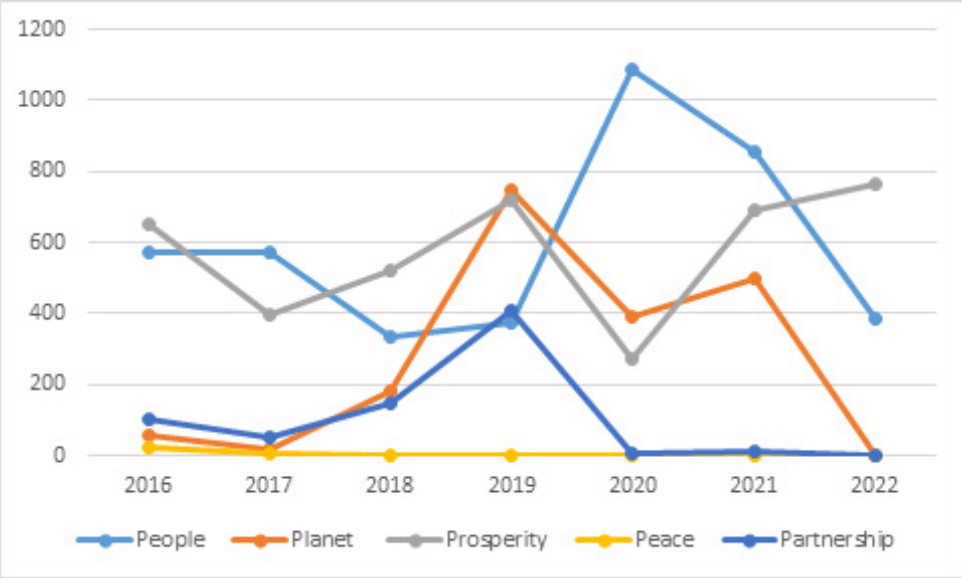
Table 4. Contributions in years for the Planet (*in thousands euro*)

	6. Clean water and sanitation	12. Responsible consumption and production	13. Climate action	14. Life be-low water	15. Life and land	Planet
2016	0	5	32	0	20	57
2017	0	0.25	6.3	0	11	17.55
2018	0	0	170	0	11	181
2019	0	650.4	95	0	0	745.4
2020	0	290	56.6	0	45	391.6
2021	0	38	449	0	10	497
2022	0	0	0	0	0	0
Total	**0**	**983.65**	**808.9**	**0**	**97**	**1889.55**

Source: Albanian Association of Banks

The Peace pillar, the least funded goals, received modest contributions only in 2016 and 2017 possibly due to the fact that the Republic of Albania, a relatively small country with internal social-economic problems, is less involved in the promotion and protection of global. Moreover, Albania has long been isolated from the rest of the world from the communist period to just before the 1990s.

Chart 2. Total contributions in years for each Pillar



Finally, as seen in *Chart 2,* there was no uniform trend in contributions to any of the 5 pillars of sustainable development during the 7 year study period. However, a slight upward trend could be discerned for the Prosperity pillar. There was an immense growth in contributions to the People pillar in 2020 and 2021 dedicated to the exceptional situations during these years. Funding remained stable, given that the financial support of 2022 matched that of 2019 and earlier. For the Planet pillar, after an increase in contributions that culminated in 2019, declined to zero in 2022. A similar trend was observed in the contributions to Partnership. While for Peace pillar founds through the years remain almost absent.

Conclusions

First, the SDGs are a suitable framework for presenting of the Albanian Bank's CSR activities. Using 5 pillars of the SDGs facilitates the comprehension of banks' CSR activities.

The Albanian banking sector's CSR did not evenly contribute to the 5 pillars of the SDGs. The People and Prosperity pillars, both accounted for ¾ of the total funding; a weight distribution that reflects the country's greatest need for support to its people and for investments in its economy and infrastructure. The limited and sporadic

funding for the Planet pillar indicates inattention to challenges facing our planet. Lesser funding was allocated to partnership for achieving sustainable development goals disregarding its significance. Meanwhile, the Peace pillar received modest contributions portraying a suboptimal involvement in the promotion and protection of Peace around the world.

No definite trends were observed for any of the 5 pillars of sustainable development. An upward trend was seen in the Prosperity pillar only, while funding for the People pillar remained stable. A longer duration may be needed to visualize trends in bank financing support for the SDGs.

However, further studies with more robust analysis are need to examine the distribution of CSR contributions across the 5 pillars of the SDGs from other economic sectors in close proximity to large foreign and domestic companies to further shed light on the CSR situation in Albania.

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Legislative procedure for the approximation of Albanian legislation to EU law

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Abstract

On 12 June 2006 was signed the Stabilization and Association Agreement between the European Communities and their Member States and the Republic of Albania, which entered into force on 1 April 2009. It sets out the obligation to harmonize Albanian legislation with the *acquis* of the European Union. Under Article 70 of the Stabilization and Association Agreement, the Parties recognize the importance of the approximation of Albania's existing legislation to that of the Community and its effective implementation. Albania shall endeavor to ensure that its existing laws and future legislation are gradually compatible with the Community acquis and that existing and future legislation is properly implemented and enforced.For the approximation of the legislation, changes have been made both at the executive level and in the legislative process. The purpose of the article is to highlight and analyze the stages of the legislative process of a draft law that aims to approximate Albanian laws to EU legislation.The legal basis for the stages of the legislative procedure of a draft law aimed at its approximation with the *acquis* of the EU is the Constitution of the Republic of Albania, Law no. 15/2015 dated 05.03.2015 "*On the role of the Parliament in the process of integration of the Republic of Albania in the European Union*", as amended and the Rules of Procedure.
This legal basis will be analyzed through descriptive and comparative methods. The conclusions of this article will refer to the concrete changes that have been made for the approximation of the legislation.

Keywords: legislative, procedure, EU law, approximation, legislation.

1. Introduction

The experiences of the new EU member states show that EU membership is not only a political and economic question, but also a legal one. The process of legal harmonization of national law with that of the EU is a comprehensive task as part of the accession process. Any country that wants to join the EU must harmonize its legal system in all areas in which member states have delegated their competences to the EU. (Kajtazi, 2016, p.619)
On April 1, 2009, the Stabilization and Association Agreement (SAA) with Albania entered into force after being ratified and approved by the 25 EU member states that were part of the EU at the time the SAA was signed by the Albanian Parliament. With the entry into force of the SAA, Albania has a clear obligation to gradually align its legislation with the EU acquis. This obligation arises from Title VI of the SAA "Approximation of laws, enforcement of laws and competition rules".
Pursuant to Article 70 of the SAA, the Parties recognize the importance of the approximation of Albania's existing legislation with that of the Community and its effective implementation. Albania shall endeavor to ensure that its existing and future legislation is progressively brought into line with the acquis communautaire and shall

ensure that existing and future legislation is properly implemented and enforced. This convergence began with the entry into force of the SAA and will be expanded with the other elements of the EU acquis. It begins with this agreement over a period of up to ten years and is divided into two phases. Also based on the decisions of the Court of Justice of the EU jurisprudence determining the primacy principle of the EU, the effectiveness of EU law is guaranteed when there is a harmonization of the laws of the Member States. Without such harmonization the EU cannot function. (Beqiraj, 2019. p. 136)

Article 70 of the SAA should be viewed as a commitment to the fullest possible implementation of EU law and as an essential non-binding requirement for EU membership. For this reason, the SAA requires that the harmonization process must under no circumstances be described as complete not only with the formal harmonization of the laws, but also with their implementation (Herma, Bazerkoska, Bushati, 2016, p. 10).

To this end, the Republic of Albania has reformed and adopted national procedures and mechanisms at both executive and legislative levels for the adoption of legal acts for the approximation of legislation. The procedures and mechanisms depend on the chosen legal approximation act. This article only analyzes the legislative procedures.

2. Law no. 15/2015 2015 *"On the role of the Parliament in the process of integration of the Republic of Albania in the European Union"*

The legal basis for the phases of the legislative process of a draft law to approximate with the EU acquis is based on:

1. Law no. 15/2015, dated 05.03.2015 "*On the role of the Assembly in the process of integration of the Republic of Albania in the European Union*", as amended with Law no. 19/2023, date 16.3.2023 (hereinafter Law no. 15/2015) and,
2. Rules of Procedure of the Parliament of the Republic of Albania (Rules of Procedure of the Parliament).

In its introduction, Law No. 15/2015 assesses the procedural deficiencies of the previous law and states the aim of further strengthening the role of Parliament in the process of Albania's integration into the EU. The entirety of the provisions of the Act governs Parliament's relations with the executive at national level within the framework of this function. With regard to the EU, rules for cooperation with the EU institutions in this process are also established. (Beqiraj, 2018).

One of the main questions that arises when a new Member State joins the EU is the approximation and harmonization of that state's legislation with the EU acquis. Fulfilling this obligation by adapting the acquis to the national legal order means that the candidate countries must ensure, from the moment of their accession to the EU, that national legislation is fully in line with the acquis.

Full compliance is required not only with respect to secondary EU law, but also with respect to its primary law, the principles established by the ECtHR in its case law, international agreements concluded by the EU and the general principles of EU law. This is a legal requirement for EU membership that was adopted at the 1993 European Council Summit in Copenhagen and is also known as the Copenhagen Acquis Criterion. The Madrid Summit of the European Council further strengthened this acceptance criterion by adding the requirement of effective implementation of the

acquis communautaire through appropriate administrative and judicial structures. The rules set out in Law no. 15/2015 regarding draft laws that align legislation with the EU acquis in summary are analyzed as following.

The list of draft laws for legal approximation will be sent to Parliament by the Council of Ministers within January. According to Article 16 of Law No. 15/2015, this is done for the purposes of the Parliament's work program. This list will be reviewed by the Commission for European Affairs (CEA). In cooperation with the standing commissions according to the relevant areas, at the end of the examination of the list of project laws, they prepare a special report with recommendations, which is submitted to the Council of Ministers.

Article 17 of Law No. 15/2015 defines in paragraph 1 the competence of the CEA to examine draft laws related to the alignment of Albanian legislation with that of the EU. This task is carried out in cooperation with other parliamentary commissions. If such a bill is submitted to Parliament for approval, it must first be examined by the CEA. Only then can it be submitted to other parliamentary committees for consideration according to their area of responsibility. Furthermore, according to Article 38 of Parliament's Rules of Procedure, each Commission must consider the CEA report before fully approving the draft law.

Another obligation under Law No. 15/2015 has to do with the addition of the compatibility tables to the draft law: "The draft laws presented by the Council of Ministers are accompanied by a table that analyzes the degree of compatibility with European Union law according to the criteria, which are provided for in the current legislation for the instruments to align local legislation with that of the European Union." This is therefore the responsibility of the Council of Ministers. If the bodies of the Parliament find deficiencies in this accompanying documentation, they return the draft law to the Council of Ministers, which must be resubmitted to the Parliament within fifteen days.

These are the basic requirements for the legality of the draft law aiming at approximation with EU law. If there are deficiencies in the required documentation, the bodies of the Parliament have the right to return the draft law to the Council of Ministers, that must resubmit the finished draft law to the Parliament within 15 days. Also on the basis of Article 68 of the Rules of Procedure of the Parliament, the President of the Parliament may, with justification, return the submitted draft laws to the initiator if they do not meet the requirements provided for in point 2 of this Article. Point 2 of this article, as mentioned above, requires that draft legislation be accompanied by a relation which must contain harmonization with EU legislation. In addition to the government, which is obliged to propose legislative initiatives, the Parliament, as a legislative body, plays a very important role in the process of legal approximation.

3. Rules of Procedure of the Parliament of the Republic of Albania

The steps of the legislative procedure that must be followed by a draft law that aims to approximate the legislation with the EU *acquis* are those defined in the Rules of Procedure of the Parliament for other draft laws as well. Exceptionally, pursuant to Article 28, paragraph 2 of the Rules of Procedure of the Parliament, the draft law aimed at the approximation of Albanian legislation with EU legislation is not reviewed and adopted under an accelerated procedure.

With the amendments made to the Rules of Procedure of the Parliament, these rules have been adapted by adding additional provisions for the draft laws approximated to the EU *acquis*.

The first step in the legislative procedures is the **legislative initiative**. According to the Constitution of the Republic of Albania, the right to propose laws belongs to the Council of Ministers, each deputy and 20,000 voters. The draft law is drafted in the form of a normative act and is accompanied by a report, which contains, among others the compatibility of the draft law with the Constitution, harmonization with the legislation in force and the legislation of the European Union. Since the Council of Ministers, in accordance with Law No. 15/2015, is obliged to submit the list of laws for harmonization within the month of January, it exercises the legislative initiative in accordance with this constitutional right.

Review of the draft law in the responsible Commission is the other step. The responsible committee initially conducts the discussion in principle of the draft law or issue. After the approval of the draft law in principle in the commission, it starts the review and voting article by article. For draft laws aimed at approximation, before their full approval, it is the obligation of the responsible committee to review the CEA's report. During the work in the responsible commission, the part of the report that deals with the approximation of legislation and directives is considered without changes.

The third step refers to the **proposal of amendments in the responsible Commission.** Each Member of the Parliament or the Council of Ministers has the right to propose amendments during the review of the draft law in the responsible committee. The amendments are submitted in writing and reasoned. The amendments proposed by the Council of Ministers are accompanied by an assessment of its compliance with European Union legislation. The responsible commission considers the amendments proposed by the deputy or the Council of Ministers and gives reasoned explanations for its approval or rejection in the report it drafts for the plenary session.

Review of the draft law in plenary session is the last step before a draft law is adopted to a law. The consideration of the draft law in the plenary session includes the discussion in principle of the draft law and its article-by-article review.

a) First reading of a draft law (voting of a draft law in principle)

For the discussion in principle will be applied the same rules as for any draft law. Article 74 of the Rules of Procedure of the Parliament does not provide additional elements for this step of the draft laws on approximation.

b) Second reading of a draft law (Scrutiny article-by-article)

Each Member of the Parliament or the Council of Ministers has the right to submit in plenary session amendments to the draft law or changes proposed by the responsible committee. The amendments submitted by the Council of Ministers are accompanied by an assessment of its compliance with EU legislation and are drafted by its proposer. If the amendments are not considered in accordance with the EU legislation or the Albanian legislation, which is approximated with the legislation of the European Union, the President of the Parliament, or the chairman of a parliamentary group, or a group of seven deputies, or the chairman of CEA, requests for the amendment to be submitted for opinion to the responsible committee or to CEA. The plenary session is suspended if necessary. In this case the proposer of the amendments and the representative of the Council of Ministers have the right to be heard at the meeting of the

responsible committee or at the CEA (Article 75/5 of Rules of Procedures).

c) Adoption in its entirety

Following the article-by-article review and approval of the amendments, the text of the draft law is adopted entirely. In the event that the text of the draft law, during the consideration in the plenary session, has undergone significant changes, the chairperson of the session mainly or at the request of the chairman of a parliamentary group or seven deputies is obliged to postpone the vote in full in the next session, submitted to the Parliament the full elaborated text (Article 77 of the Rules of Procedures).

Figure 1. Steps of the legislative procedure in the Parliament

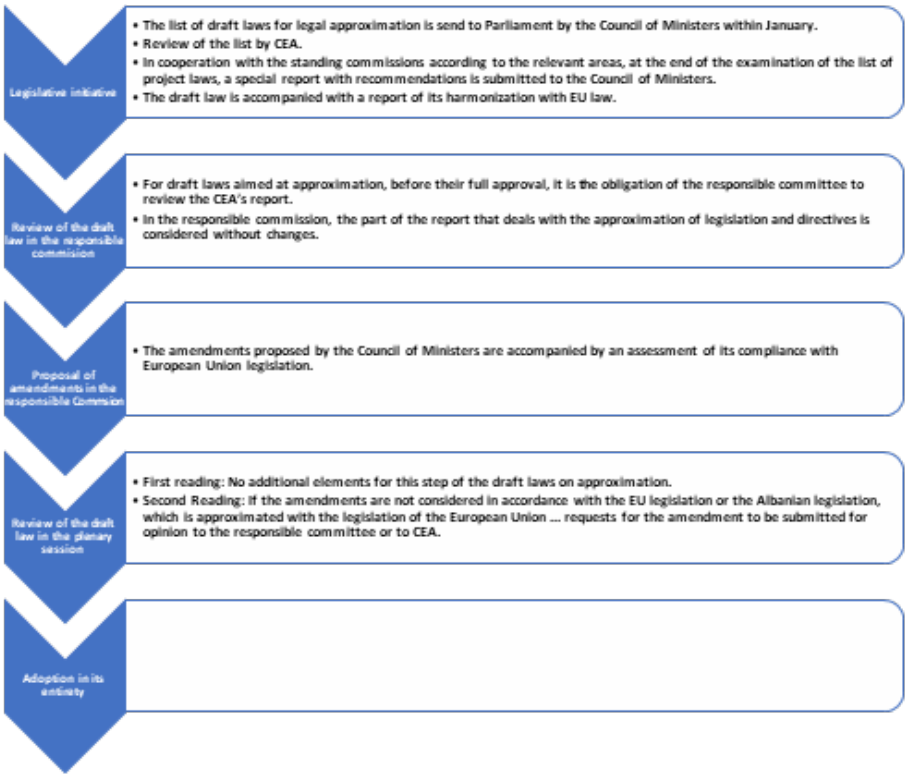

Figure 2. Legislative steps for draft laws aimed at approximation

4. Conclusions

The role of the Parliament in the EU membership process is based primarily on the Constitution of the Republic of Albania (the Constitution). The government is the main actor in the accession negotiations, but according to the Constitution it is responsible to the parliament. This responsibility arises from the parliamentary system of government enshrined in the Constitution. In addition to domestic issues, the government is also accountable to the Parliament for the fulfillment of obligations under Albania's membership to the EU.

Based on Law no. 15/2015, CEA plays an essential role, among others, in the process of aligning Albanian legislation with the EU acquis at the parliamentary level. The adoption of a legal act in the form of a law directly concerns the Parliament in accordance with its legislative function. Monitoring the process of legal approximation is the responsibility of the CEA. The legislative procedures for the approval of draft laws have been adapted to ensure the compatibility of the laws with the EU acquis and to approximate the legislation in terms of the quantity and quality of the harmonized laws. The quantitative and qualitative alignment of laws with the EU acquis requires also the expansion of parliamentary specialist staff, including as a special structure close to the CEA. The creation of this structure must be stable and unaffected by political changes.

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Social, political and economic factors that supported the establishment of fascism in Italy

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Abstract

This paper analyses the historical moment when fascism was set in Italy in 1922. Concretely, it will focus on the support of this movement from specific groups within Italian society. It is known that Mussolini succeeded in power through an electoral coalition which was supported by the industrialists, conservators, part of clerical structures, but also from the middle class. Moreover, some authors like Lopuchov explain that this movement can be described through the counter-revolutionary theory, which is against workers' movements against industrialism. In 1908, in Italy, the Socialist Party and the trade unions were established, which mainly included the workers and intellectuals from the south and the peasantry. On the other hand, the nationalist movement emerged as an answer against the foreign influences in the country, highlighting the idea of a nation that soon could attract the support of the liberals. The liberals, composed mostly of farmer fighters in World War I, were disappointed by the political class, who missed Fiume's annexation and the Balkan expansion. Indeed, the fascist movement organised in 1919 by Mussolini, who was a farmer socialist, did not have any clear idea. The movement did not have any program but aimed to attract left and right-disappointed politicians. The paper will focus on the Italian and international literature to find out how and with what support a dangerous movement could take power, even without a clear ideology.

Keywords: fascism, Italy, socialism, counter-revolution, Mussolini, communism.

I. Introduction to the establishment of fascism

The fascist movement was created officially by Mussolini in 1919, and in the beginning, it did not attract the attention of the social-political elite. Indeed, the movement did not have a clear ideology but was a mix of forces, groups' ideas and disappointments. Nevertheless, the leader, later Duce, who initially was a journalist at the socialist press "Avanti" (Forward), supported the participation of Italy in WWI and succeeded in becoming the prime minister of Italy in 1922 after the March on Rome. The winning coalition was ambiguous and composed of forces that, from his point of view, were political enemies like clericals and liberals. Anyway, he kept the power for 20 years.

The coming into power of fascism did not happen only because of the violence but also with the consent of indoctrinated and mobilised masses. How could this happen? The previous government was in crisis and could stay in charge for only 143 days, ending the liberal period of Italy on 31 October 1922. Some scholars think that Mussolini's demagogical capacity and opportunism made him conquer the sympa-

thy and support of the powerful financial class of the big industrial and agricultural cities. Other authors believe that this was combined with the disorganisation of his adversaries and the weakness of the previous government and the state (Boverini, 2008). Others think it was King Vittorio Emmanuele's mistake, who, afraid of a civil war, decreed Mussolini to form the government instead of signing the state of siege proposed by Prime Minister Facta (Rotondi, 2007).

What is the main idea of fascism that took so many people for a short time? Initially, the fascist movement, without a well-defined program, aimed to attract the right and left's attention and support. In addition, Mussolini abandoned his revolutionary socialist idea and dreamed about a confusing revolution without explicit content. Hence, initially, they were claiming against capitalism and the petite bourgeoisie. Moreover, they highlighted the war and republicanism and managed to gain about 20.000 supporters in 1919 and 5000 votes in the elections in Milan, together with a small victory in Trieste (Carroci, 1997). Nevertheless, after some years in power, Benito Mussolini claimed that fascism is simultaneously action and thought. Based on this, the individual is in the function of the nation's history, where tradition, language, customs, and the rule of life are essential. Therefore, man is not running after happiness, as the economic way of thinking in the XVIII century shows. Still, individuals are in the service of the state or nation, which includes everything: power, command, and strength, as in the imperial Roman tradition. In addition, discipline, effort, and self-sacrifice are needed. Hence, the social groups and associations with specific interests should be aligned with and incorporated into the state. It is the state deciding for them. Similarly, religion is of secondary importance because of the crucial role of the state code (Mussolini, 1932).

From this philosophical point of view, fascism could also be attractive. Nevertheless, the basic idea states that the state should be the shelter for everyone because the parties, the associations, and all other groups were causing confusion and disappointment (Waxman, 2019). Still, our main research question of the paper remains: What factors made such a movement and doctrine gain the support of the masses and elite groups of society?

II. Literature review

Ernest Nolte, in his book on the epoch of fascism, describes it as a product of time, place and social conditions, and therefore, it can never be repeated (Nolte, 1965), assuming that fascism was an accident (Kitchen, 1974). On the other hand, Lupuchov explains the establishment of fascism through the counter-revolutionary theory. Based on this theory, after WWI in Italy, a revolutionary movement, similar in certain traits to the dictator of the proletariat, was inspired by the Russian Revolution and, consequently, by industrialisation. This essential moment brought fascism as a movement to control the proletariat through the state by avoiding trade unions and other syndicalist or democratic movements. Lupuchov argues that in 1908, the Socialist Party was formed by syndicalists ready to get on top of the worker's movement. They represented the workers and the peasants mainly from the country's south, and all the leaders were from the south. Hence, fascism was offered as a different thesis,

based on the nation, contrary to all the foreign experiences (like, for instance, the Russian Revolution), and it came as a moment of union within all the regions and classes of the country. In other words, fascism came as a solution after the Red Biennium (1919-1920) when the country was taking place strikes, battles, boycotts, and meetings of workers and peasants gave fascism the possibility to come out as a solution (Angione, 1998).

Additionally, the Italian author De Felice argues that fascism was not only an outcome of the societal crisis in Italy after WWI, but it has its roots in some Italian peculiarities like the weakness of the liberal democratic tradition, the deficiency of the bureaucratic political class and even the Italian ethnic temperament. Therefore, there was some certainty in Italy that fascism was possible only in Italy, or as Mussolini assumed in one of his speeches, it was not a commodity suitable for exportation elsewhere in the world.

More recent studies suggest that fascism as communism was established in Russia as an outcome of a society in crisis that needed some radical transformations, in this case, from the end of WWI. It was the weaknesses of the liberals and their incapacity to make peace that brought fascism to power in Italy as the Communists in Russia (Lupochov, 1998). Similarly, the Italian writer Vespa argues that the root of fascism was the crisis of democracy because, from his point of view, democracies tend to produce crisis and somehow go towards suicide (Vespa, 2020). In addition, authors Flores and Gozzini argue that fascism could succeed because of multiple factors, like the role of the charismatic leader who could gain the sympathy of the masses in crises, the thesis that fascism was bringing a solution between capitalism and communism, and of course the combination with the violence of fasci (Flores, Gozzini, 2022). Indeed, after the disappointment of the first elections 1919, the fascists moved from the left to the right. In this way, they attached the attention and support of the bourgeoisie, based primarily in the south and rural areas like the Agrarian Party. The violence started around 1920, when the fascists fought the Sindicalists and the agricultural cooperatives, while the authority of the state was weak and did not react to the violence. The Italian author Russo argues that one of the main reasons why fascism gained support and votes is the disappointment of the population and veterans, in particular from the war. Hence, the cities with the most significant number of deaths and veterans of the war are the districts with the highest number of votes for the fascists (Russo, 2020).

III. **Methodology**

This study will focus on the establishment of fascism, and its main specific question is: What economic, social and political factors pushed the enforcement of Mussolini and his fascist movement? To answer such a question, it is relevant to understand the political, social and economic situation before the establishment of fascism, which lasted for 20 years. Such a question and the respective potential answer are relevant in today's society. All over Europe, there is a tendency to see the right as a solution to the crises of liberal democracies, which are producing different kinds of insecurities among the citizens. Going deep into the conditions that helped the enforcement

of fascism, we are able to know what threats in our society can potentially bring on powerful political forces with low faith in democratic values and principles.
Therefore, the paper starts by analysing the political situation that produced the coalition between the liberals and socialists and the movement created by Benito Mussolini. In addition, the paper will proceed with the country's social situation to understand its roots and the conditions that pushed the masses to believe in this movement. What was the role of the society crisis after WWI, and what classes found a solution to their problems in this movement? In what way did the fascists succeed in getting the majority of the society's support? Moreover, the paper will focus on the particular role of the socialists in the process of enforcing the fascist movement. Hence, the literature considered will be mixed between the international and Italian literature published in the period close to fascism and the recent literature because there has been a growing interest in studies on this topic. At the end of the paper, the conclusions will show the most relevant factors and circumstances that helped the victory of fascism in 1922.

IV. **The political background**

From the end of the war in 1918 up to 1922, when Mussolini became Prime Minister, there were successive governmental crises from Orlando, Nitti, Giolitti, Bonomi and Facta. Such changes in the government showed that there was no majority in the parliament anymore. Moreover, in the elections 1919, a coalition was created between the socialists and the Popular Party, which formed the majority of the parliament. Since the beginning, it has been unthinkable to work. Therefore, among the liberals, the hypothesis was that a coalition between liberals, fascists and nationalists could be possible. Indeed, in the elections of 1921, the fascists showed up in the lists of the national blocs with liberals and other parties from the centre and could win 31 seats. Consequently, the government, led by Bonomi, gave importance to the fascists, who meanwhile could attract the sympathy of people in the squares but hid the intentions of violence (Carroci, 1997).
At the end of 1920, fascists were favoured because the socialist movement became impotent due to strikes without a positive end in the factories. At this point, the bourgeoise gained some more authority. Even the Catholics were losing the sympathy of the masses. During this period, membership in the fascist movement increased considerably, with individuals of different social classes, such as students, workers, peasants, young generations of the bourgeoisie, and unemployed people. Likewise, members of the public administration, the army, and courts adhered to the fascist movement and succeeded in organising teams of action in cities and regions. Consequently, the army assured ammunition to the movement, while the police did not intervene in their several protests. Therefore, in 1921, the movement was organised as a party, aiming to give power to the government and ensure public order, which manipulated the conservators (Carroci, 1997).
It was the coalition with the liberals, conservators and democrats that made Mussolini organise his government in 1922. Indeed, in 1919, the number of liberals and Catholics in the parliament was reduced while the socialists grew. Therefore, the lib-

erals gave up on the government, previously with Nitti and later with Giolitti. They saw the fascist alley against the Catholics (Popular Party). Indeed, they were pushed by the WWI ex-soldiers who were disappointed by the decisions of WWI as Italy could not get Fiume or expand more in the Balkans. The political crises after WWI allowed some patriotic political groups to reopen the debate of the war and create the so-called Fasci di Combatimento (Fighting League). This group also included veterans, students but also syndicalists and even anti-Bolshevik or, in other words, all the disappointed segments of the society after the war. They created the so-called Fighting League, which initially did not clearly understand what they were supporting. Nevertheless, their ideology was noted for anticlericalism, republicanism, the right to vote for women and confiscation of war profits. (Britannica, 2023)

In 1921, the National Fascist Party was created by Benito Mussolini. The party also organised its syndicates with employees of the public administration. These unions gained the sympathy of the organised middle class, the middle class and small landowners. The middle class, mainly from the country's south, was a class of job seekers. Nevertheless, they gave respect and reputation to the NFP.

As fascists could repress the Bolsheviks, they could also get the Americans' support (Hausheer, 1933). When Mussolini (Duce) became prime minister with the decree of King Vittorio Emmanuele, he included in the coalition nationalists, two fascists, liberals and catholic ministers from the popular party.

V. **The social-economic background**

The economic crisis played a core role in enhancing the success of fascism. At this time, the Italian economy suffered from a lack of investments, weak industrialisation, low modernisation, and agricultural development. Such fragmentation of Italy's social and economic situation is relevant in producing multiple-dimensional crises that need solutions. Hence, in this period, Italy, from the financial point of view, was divided into three economic zones. The North was the most developed one, even though not enough; the south part was based on agricultural activity, and central Italy had some developed commercial activities, but steel was weak. Such a division created a deficit in united Italy, for which the Italian author Gramsci assumed that this was the consequence of the unification process imposed from above, as a bourgeois revolution, or from the superior North (Gramsci, 1949).

Moreover, the harsh society developed after WWI made possible the acceptance of the violence organised by the fascists starting from 1920, especially towards socialism, which was getting stronger in the North of the country. This created a culture of overwhelming the opponent, diminishing the faith in the state as a legitimate exerciser of the monopoly of force. Even the parties in the political arena, like the popular party or the constitutional parties, did not take a position against the violence (Cammarano, 2022).

According to the author Barnes, the roots of fascism are found deep in the middle class, which is why it mainly emerged in societies where the middle class is powerful and with historical tradition. The same author argues that in the end, fascism is also a tool in the hands of the financial capitalists who use it every time they feel threatened,

especially for the monopolies they have created (Barnes, 1936). Among the middle class, the groups that are more addicted to becoming part of the fascist movement are the ones coming from the poorest zones of Italy. Therefore, the harsh economic conditions of the population pushed the middle class to embrace such a movement. Indeed, in the fascists, there were more teachers and ex-fighters. They have nothing to do with culture, which is never a topic of debate within these organisations (Hausheer, 1933).

On the other hand, the economy of Italy in this period was much weaker than that of the rest of Europe. The author Hausheer, whose writings are dated 1933, explains that France, for instance, enjoyed a better-developed economy than Italy in this period. Agriculture and food were in small quantities, and the emigration remittances were diminishing due to worldwide economic crises. Therefore, people asked Mussolini for a solution (Hausheer, 1933). The weak economic situation was also why liberals and the bourgeoisie supported the expansionist international policy of Mussolini over the Mediterranean and in Africa. In other words, as Swanden (1972) argues, the social environment in Italy was a situation of all against all, creating a dream of order in the name of the nation. The elite, the liberals, and the boughs gave Mussolini the power to set the order, and he created a private state.

VI. **The direct and indirect role of socialists in enforcing fascism**

As we assumed in the previous session, Mussolini was a socialist. Moreover, like him, many socialists approached fascism at the beginning of 1920 and later in the middle of 1930. The socialists have influenced the empowering of fascism in different ways. First is the idea of counter-revolution, based on which society groups approached fascism because of the fear of an Italian proletariat revolution inspired by the Russian Revolution (Lupuchov, 1998). Secondly, not only Mussolini but other members of the Socialist Party became members of the fascist movement. This phenomenon is not only for pragmatic reasons. After WWI, the Socialist Party was potent due to the workers' and trade unions' strikes and protests. In some cities, they created a state within a state, gaining even the support of public administration employers. Nevertheless, the organisation of socialists was pure, simple, and centred around charismatic figures, lacking solid institutional structures. The leaders were the first to be attacked and raped by the fascists. Some of them resisted the growing violence, but others did not. For this reason, they stopped political activity or adhered to the fascist movement, especially the peasants, simple workers, etc (Ebner, 2017). Some other leaders went abroad, and others returned later to join the fascist movement, directly contacting Mussolini (Suttora, 2021). This is also the thesis of the Italian author Alosco, who states in his book that not only did the socialists abandon their party to approach fascism, but furthermore, they brought some ideological ideas that were later applied by the fascists, especially in 1934 when the corporate policy was implemented (Alosco, 2021). The corporatist state (*stato corporativo*) was a platform that allowed economic decisions to be taken in the councils of workers and employers. Indeed, a fascist author, Enzo Panzato, during the fascist propaganda, stated that fascism, in reality, is just a transformation of socialism. According to him, the fascist

program is composed of revolutionary ideas of socialism because the main idea of fascism is the State of work, and their mission was to fight against capitalism and for workers' rights (Penzato, 1934).
Moreover, the author Brustein goes deeper into such a choice, and he argues that some members of the Socialist Party joined the fascist movement because they were afraid of the wrong policies introduced, like collective farming. Nevertheless, he does not exclude the fear of the socialist revolution (Brustein, 1991).
Fifthly, the weakening of the socialist party, which later made possible the empowerment of the fascists, started after the elections 1919, and some of its extreme left members, in 1921, abandoned the party to create a communist wing to participate in the Third International. In addition, in 1922, other party members distanced themselves to make the Unitary Socialist Party led by Matteotti. The socialist crises were exploited by the fascists, who could gain more and more support from the right wing.

VII. Conclusions

This paper analysed different aspects of the social, political, and economic life in Italy that contributed to the settlement of fascism. In the end, the paper concludes that the settlement of fascism in Italy cannot be attributed to one man, one party, or one phenomenon in the society. Therefore, it results from many factors and actors combined with social-political and economic conditions. The factors that contributed to the empowerment of fascism were the deep disappointment from the end of WWI. Veterans, ex-combatants, students, workers, and villagers were disappointed by the weak economic performance and needed to believe in another orientation. In addition, this situation was combined with the government crises of the left and the coming of weak figures in power. Moreover, the left wing of the political spectrum was greatly strengthened due to the two-year red period characterised by labour strikes and protests. As a consequence, this caused panic in the bourgeoisie class, which was afraid of a revolution similar to the Bolshevik one that happened in Russia. In addition, the socialist wing could not resist the violence and provided the fascists with members but also ideas. Therefore, we can assume that society's general and profound political and socioeconomic crises caused the failure of democracy and the rise of fascism or dictatorships in general. Furthermore, this can happen even nowadays in any society in crisis.

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The United States Congress supervision on foreign activities during the Cold War

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Abstract

This presentation analyses the scepticism of United States Congress on the foreign activities at the peak of the Cold War. It focuses mainly on the Church and Pike Committee, the exposure by the press of foreign intelligence, and the presidential reactions through executive orders.
At the start of the Cold War, the involvement of the United States in covert action abroad was a gradual one. The initiation of covert action did not originate within the intelligence services, but with senior United States officials, in response to the development of Cold War. The elastic phrase "such other functions" included in the NSC 68 was used by successive U.S. presidents to move the intelligence apparatus into espionage and covert operations. Successive U.S. Presidents had different impacts on foreign interventions as a result of their fascination with covert action, technological evolution, or as an immediate response to certain events in the course of the Cold War. U.S. Presidents had a greater impact than any other source. They pushed the intelligence services to take action, whether covert or overt, in the interest of the U.S. foreign policy.
But, the U.S. was expected to challenge the Soviet KGB organisation and to use all its methods in order to prevent Soviet expansion and the spread of Communism. The brutal political methods by which the Soviet Union was seizing control of Central Europe created the terms of the Iron Curtain and the Cold War in the post-war years. In this climate the sense of the need to protect the nation was paramount, and little concern for extraordinary regulating, monitoring, or oversight procedures was registered. This climate, together with presidential pressure, gave the intelligence service the freedom at times to do its 'dirty work.'
The main primary sources of this research are taken from the hearings before congressional committees, memoirs of former executive and intelligence high officials and operators, US Presidents, analytical books from people on the inside and the outside, as well as defenders and critics of intelligence agencies, in order that I could present a fair analysis on the subject.

Keywords: United States, Congress, International Relations, Cold War, President.

Introduction

In a news conference on September 16th, 1974, the U.S. President Gerard Ford courageously defended the intelligence community in a way subsequent presidents have not dared to do. For the first time, Ford confirmed the existence of a committee of the NSC, then known as the "40 Committee", which had for over two decades reviewed covert programmes before they were submitted to the President for approval. Ford also disclosed that the relevant congressional committees had been kept informed of every covert programme on the basis of procedures devised in co-operation with the congressional leadership.
No major government had ever admitted that it was conducting covert operations, even less described the methods by which it reviewed them. But far from stemming the tide, the President's public acknowledgment of covert operations provided a new

focal point for attacks on the intelligence services. The generation of Representatives and Senators elected in the wake of Watergate was inherently suspicious of the motives of the executive branch. The phrase, "CIA transgressions," masked their objections to the very concept of covert action and to the CIA as the symbol of America's Cold War role, which they were determined to end.[1]

The "fighting Ninety-fourth" Congress, as it was called, had been elected in November 1974, just three months after President Nixon resigned. Ten new senators won seats in that election, but the greatest changes occurred in the House. Not only did the Democrats hold an overwhelming advantage of 291-144 in the House, but they also had within their ranks 75 freshmen determined to exert their new power against the executive.[2] This was the "post-Watergate Congress", wrote Colby, "with new and even some old members exultant in the muscle that they had used to bring a President down, willing and able to challenge the executive as well as its own Congressional hierarchy, intense over morality in government, extremely sensitive to press and public pressures."[3] The intelligence enquiry had become a political struggle, a battleground in the post-Watergate realignment of power between Congress and president, and the CIA needed help.[4]

The two houses of Congress had differing views on the extent of the reforms needed. The Senate shared the desire of most of the establishment press to stabilise the nation's institutions and executive-congressional consensus. But many members of the House, more affected by the changes in the political culture, tried to sustain the spirit of Watergate and strictly limit all forms of secrecy in government. These divergent approaches, according to Kathryn S. Olmsted, would lead to very different outcomes for the two investigations.[5]

The Senate effort was led by Senator Frank Church and the House committee was chaired by Representative Otis Pike. These investigations led to the creation of the two permanent intelligence committees and a much closer oversight by the Congress. In addition, they also produced a number of recommendations for reorganisation and realignment within the Intelligence Community.[6]

The Rockefeller Commission was looked upon by the critics as merely an effort to defuse the controversy and dissuade the Congress from the pursuit of a more serious enquiry.[7] Its charter, according to Colby, had been carefully drawn to authorise it to look into only the CIA's alleged improprieties in the domestic field; Operation Chaos, the mail-intercept programme, and so on, and to stay away from the other "family jewels." The DCI was being too open for some people's taste and, as he recalled in his memoirs, he was approached by Rockefeller to change his open attitude. "The Vice-President of the United States was letting me know that he did not approve of my approach to the CIA's troubles, that he would much prefer me to take the traditional stance of fending off the investigators by drawing the cloak of secrecy around the Agency in the name of national security."[8]

However, the Rockefeller Commission's report, issued on June 6th, 1975, found ninety-six cases over a quarter of a century involving investigative techniques not authorised by law. The overwhelming majority had occurred in the administrations preceding Nixon's and none in Ford's incumbency. The initial finding of the Rockefeller Committee was that the great majority of the CIA's domestic activities complied with

its statutory authority, but that, during its twenty-eight year history, the CIA had: "… engaged in some activities that should be criticised and not permitted to happen again … Some of these activities were initiated or ordered by Presidents, either directly or indirectly … [and] … some of them were plainly unlawful and constituted improper invasions upon the rights of Americans."[9] In retrospect, according to John Prados, the Rockefeller Commission investigation is hardly remembered, even by observers who follow intelligence.[10] Director Colby thought the Rockefeller report a sober and useful summary but that "it had, of course, failed to pre-empt Congressional investigations of intelligence."[11] Those investigations brought the White House, and William Colby, much more trouble than they ever believed possible.

United States Congressional Committees

Established in the wake of sensational revelations about assassination plots organised by the CIA, the Church Committee had a much wider mandate than the Rockefeller Commission, extending beyond the CIA to all intelligence agencies. It concentrated on illegalities and improprieties rather than organisational or managerial questions *per se*. Much of the committee's executive sessions were devoted to alleged assassination plots against foreign leaders.

In its public hearings, the Church Committee's focus was on covert operations, where it found no current abuses. On the contrary, all actions except Nixon's co-called Track II in Chile had been vetted by established policy procedures and briefed to the designated congressional oversight committees. The problem was that, as Kissinger argued, "the chairman and key members of the Senate majority were opposed to covert operations in principle, and could justify themselves to their constituencies only by a policy of full disclosure of what they had investigated." Thus, while accurately describing the general purposes of the CIA covert action programme, the Church Committee's final report included a detailed historical compendium of methods and sources, and identified many of the groups and individuals that had been of assistance to the CIA. Individuals, who had supported American policy in good faith, were severely compromised, and the CIA's capability to recruit for future operations was greatly weakened.[12]

After extensive and highly publicised hearings, the committee made some 183 recommendations in its final report, issued April 26th, 1976. The principal recommendation was that omnibus legislation be enacted to set forth the basic purposes of national intelligence activities and defining the relationship between intelligence activities and the Congress. Criticising vagueness in the National Security Act of 1947, the committee urged charters for the several intelligence agencies to set forth general organisational structures and procedures, and delicate roles and responsibilities.

A number of recommendations reflected on the committee's views on the appropriate role of the NSC in directing and monitoring the work of the intelligence agencies. The apparent goal was to encourage a more formal process, with accountability assigned to cabinet-level officials. The committee concluded that covert actions should be conducted only upon presidential authorisation with notification to appropriate congressional committees. In addressing covert actions, the committee recommended barring political assassinations, efforts to subvert democratic governments, and

support for police and other internal security forces engaged in systematic violations of human rights. Attention was given to the role of the DCI within the entire intelligence community. The committee recommended that the DCI be recognised by statute as the President's principal foreign intelligence advisor and that he should be responsible for establishing national intelligence requirements, preparing the national intelligence budget, and for providing guidance for intelligence operations.[13]
The Church Committee redeemed itself to a considerable extent by making a number of congressional proposals, which have become the basis of contemporary intelligence organisation, and it concluded in its final report that "the Central Intelligence Agency in broad terms was not 'out of control.'"[14] But, during the committee's hearings the executive branch was alarmed and frightened. Many members of the Ford administration became convinced that Church was leading a sensationalist, irresponsible enquiry that had to be controlled.[15] But, the person who alarmed the executive the most was the DCI himself, William Colby.
Colby saw the need for change in the CIA. The Cold War had changed, and the world with it. Nixon's administration had brought China into the international system in a new way, creating a triangular diplomacy and a competition far different from that of the heights of the Cold War. That also meant a new CIA, peopled by men and women impatient with the prevailing cult of secrecy. The DCI was determined to move the CIA into the future despite the revelation of serious misdeeds in the past. His strategic choice in 1975 was to open up the investigations to the extent necessary to preserve the CIA.[16]
During the three intelligence investigations, a wholesale disclosure of sources, methods, procedures and the most closely guarded secrets, became inevitable. In normal circumstances, the CIA Director would have been expected to protect his sources and methods and, if pressed, to ask the White House to intercede with the committees. Colby not only refused to do this, Kissinger disclosed, but he also formally absolved his subordinates of the secrecy oaths, which they had sworn upon entering the service. Colby felt at liberty to supply Congress with documents it had not even requested.[17]
In September 1975, when the Senate investigating committee held its first public hearing, Colby went to Congress with a briefcase full of CIA weapons. 'Fascinated by one of the first of them, an ingenious gun for firing poison darts, the senators never got to some of the important issues on the docket for that day! Many of the executive branch thought that the exhibit was a mistake,' but as Prados observed, 'by showing them, Colby had thereby avoided even more damaging areas for testimony.'[18] But the "CIA's dart gun" succeeded in gaining the press's attention. Public television covered the hearings live, and photographs of Church with the dart gun appeared on the front pages of the newspapers across the country. The image was not one that the Agency wanted to project. The hearings also sealed William Colby's fate. Ford had considered replacing him for months. Now, his inability to prevent the embarrassing dart gun

[13] Richard A. Best, Jr. Congressional Research Service Report for Congress, pp. 21-22.
[14] Henry Kissinger, p. 330.
[15] Kathryn S. Olmsted, p. 93.
[16] John Prados, pp. 304-305.
[17] Henry Kissinger, pp. 322-323.
[18] John Prados, p. 306.

hearings persuaded many in the White House that he had to go.

In order to survive the investigations, the DCI believed that the Agency needed to reveal all of the CIA's past abuses, whilst emphasising that these abuses were few and far between. Colby believed that the CIA had "bad secrets" such as domestic spying, and "good secrets" such as its sources and some of its methods. He hoped that the Congress would be so impressed by his good faith in disclosing the "bad secrets," that it would not jeopardise the "good secrets" or insist on major reforms.[19] Colby maintained that this approach was not only a tactical but also a constitutional necessity. In his memoirs he wrote, "I believed that the Congress was within its constitutional rights to undertake a long overdue and a thoroughgoing review of the Agency and the intelligence community. I did not share the view that intelligence was solely a function of the Executive Branch and must be protected from Congressional prying."[20]

Colby reached a fairly good, although not complete, understanding about the disclosure of secret documents with the Church Committee.[21] "In the Senate", wrote Kissinger, "we were dealing with responsible individuals who, even if they did not agree, would take into account the administration's view of the national interest."[22]

The Church Committee's final report in general, noted Colby, was a comprehensible and serious review of the history and present status of American intelligence, with its faults shown as an aspect of the nation's historical experience in the Cold War rather than as sins of intelligence alone, and a substantial degree of its attention was directed to the need to improve the Agency's analytical capabilities.[23] Regarding the covert action, the committee gave numbers of the covert actions which the CIA had conducted, "some 900 major or sensitive covert action projects plus several thousand smaller projects since 1961,"[24] but, instead of banning such activities, the committee recommended that "the U.S. should maintain the capability to react through covert action, when no other means will suffice to meet extraordinary circumstances involving grave threats to U.S. national security."[25] What pleased the Agency's officials the most was the conclusion that "on the whole, the Agency has been responsible to internal and external review and authorisation requirements."[26]

It was different with the investigation in the House of Representatives. Compared with the Senate, recalled Colby, the House was a far more raucous and unruly body with many new members voted into office in 1974 at the height of the nation's anger over the Watergate scandal and hyper-suspicious of CIA's secrecy. It had a devilish time getting its act together.[27] The Pike Committee attempted to compensate for its late start by adopting a passionately adversarial attitude toward both the intelligence community and the Ford Administration. The Pike Committee refused to abide by the very flexible rules worked out between the Church Committee and the executive branch. Staff members without experience in dealing with classified documents and

[19] Kathryn S. Olmsted, p p. 91-92.
[20] William Colby and Peter Forbath, p. 404.
[21] Ibid, p. 406.
[22] Henry Kissinger, p. 330.
[23] William Colby and Peter Forbath, p. 442.
[24] U.S. Senate. Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities. Book I, p. 445.
[25] Ibid, pp. 446-447.
[26] Ibid, p. 447.
[27] William Colby and Peter Forbath, p. 407.

with no background in security procedures were now handling some 75,000 classified documents made available to them by Colby.[28]

Chairman Otis Pike refused to agree to many procedures which Frank Church had approved. He declined to examine documents which his full committee could not see, and he resisted any private consultation with the CIA and the executive branch. He also tried to keep his investigation as open as possible and presided over fifty-four public hearings, more than three times the number held by Church.[29]

According to Philip Agee, "President Ford, Secretary Kissinger, and Director Colby were determined to prevent the Pike Committee from making a thorough and effective investigation through administrative delays, refusals of documents, interference with testimony and deletions of content."[30] Colby and Kissinger, despite their differences, were worried that the disclosure of sensitive material was jeopardising the national interest. When Colby testified before the Pike Committee, he insisted that the highly sensitive material "should be handled in a very special way."[31] When Secretary Kissinger testified before the committee, he offered "to supply the committee with a summary from all the sources, but without identification of authorship."[32] Chairman Pike refused the "full summary" and claimed the right to have the best evidence documents.[33]

The Pike Committee, recalled Colby, alarmed and angered the executive branch and the intelligence community because it refused to accept any classification system for the committee's documents, no matter how sensitive the material was, nor would they sign a secrecy agreement binding them to protect the sensitive material they would learn.[34] For example, the committee threatened to release five different intelligence assessments regarding the imminence of the Arab-Israeli war in October 1973. Intelligence specialists argued that these would reveal the extent of the American capability to monitor and analyse communications. The committee nevertheless published the offending material on September 11th, 1975. There was no precedent for such conduct by a congressional committee, wrote Kissinger.[35] Director Colby described the Pike Committee as an "immature, and publicity-seeking committee staff that had been gathered for the investigation, a bunch of children who were out to seize the most sensational high ground they could, and who could not be interested in a serious review of what intelligence was all about."[36]

The Pike Committee's recklessness, wrote Kissinger, reached a crescendo in the handling of its final report. On January 20th, 1976, the *New York Times* and the *Washington Star* published stories allegedly based on portions of the draft report, then in the process of being prepared by the Pike Committee and its staff. These dealt primarily with the Cyprus crisis in 1974, covert operations in Iraq, CIA arms supplies to Angola political factions, the collection of intelligence inside Soviet territorial waters using

[28] Henry Kissinger, p. 331.
[29] Kathryn S. Olmsted, p. 118.
[30] Philip Agee. p. 14.
[31] William Colby. p. 170.
[32] Henry Kissinger. U.S. House of Representatives. Friday, 31 October 1975. First Session. Part 2, p. 841.
[33] Otis Pike. Ibid, p. 843.
[34] William Colby and Peter Forbath, p. 431.
[35] Henry Kissinger, p. 331.
[36] Wlliam Colby and Peter Forbath, p. 432.

U.S. Navy submarines, and the failure of American intelligence to predict India's nuclear test explosion in 1974.[37]

With a January 31 deadline, the Pike Committee had to move quickly to complete its report. During that time the full House of Representatives was having second thoughts about the disclosure of such secret material under the impact of the assassination of Richard Welch, the CIA station chief in Athens, on December 23rd, 1975. His name had been disclosed during the intelligence investigations and had subsequently appeared in a variety of media reports. On January 29th, 1976, the House of Representatives voted 264-124 to block the release of the Pike Committee report until the President could certify that it contained no information adversely affecting American intelligence activities. But the document had already been leaked, and large portions of it had appeared in the New York weekly *The Village Voice* on 16th February.

The Pike Committee continued drafting even newer versions of its report. Soon there were so many versions floating about that it became impossible to make a specific response. "*The Village Voice* version," wrote Kissinger, was "tendentious, misleading and totally irresponsible." In the event, the Pike Report never attained official status. Slapdash and distorted accounts of several covert operations circulated for a while, but only one of the Pike Committee's recommendations survived the controversy surrounding the leak of its final report: the creation of a House Standing Committee on Intelligence.[38] The leak of the Pike report itself became the subject of investigation and hearings that went on through much of 1976.

The assassination of Richard Welch proved a godsend for the Ford administration and the CIA. Welch's death seemed to demonstrate the dangers of disclosure as officials had so darkly hinted. The administration turned the Welsh affair into a media circus, with Ford, Kissinger and Colby all present to receive the body as it arrived at Andrews Air Force Base.[39] Although Welch had been named in the *Athens News*, an English-language newspaper, as the local Chief of Station one month before his death, the CIA knew that he had also been named by *Counterspy* magazine as the Chief of Station in Peru nearly a year earlier. Philip Agee maintained that the CIA actually quickly disseminated the *Counterspy* "connection" and managed to turn Welch into a martyr, using his death to frighten many of its would-be reformers in Congress and the press. The killing gave Congress an excuse to back down and the press a pretext to lose interest.[40]

According to Loch K. Johnson, 'the "Year of Intelligence" had brought the torch of democracy into his dark halls. Whether this new light was helpful or harmful to the Republic was, and remains, a topic of often bitter dispute.'[41] Though the various investigations claimed to aspire to improving intelligence activities, their efforts, as Kissinger pointed out, especially in the case of the Pike Committee, coalesced into a powerful assault on established American foreign policy. Sensitive classified information was deliberately put into the public domain, intelligence officers were named, operational cables and internal memoranda were quoted, the identities of

[37] Henry Kissinger, p. 335.
[38] Ibid, p. 337.
[39] John Prados, p. 328.
[40] Philip Agee. p. 79._
[41] Loch K. Johnson, p. 208._

foreign agents were exposed by using transparent cover deceptions, and particular operational methods in specific countries were detailed. None of it was essential either to the ostensible purposes of the investigations or to the congressional oversight process. The cumulative damage to the intelligence community lasted a long time. Having been so thoroughly dissected and occasionally ridiculed in the full glare of publicity, the CIA was stripped of its mystique of competence, reliability, and self-assurance so important to its mission. Since these investigations, most (and perhaps all) covert operations have become public, defeating the very reason for their being covert.[42] The published findings of the Senate and House committees weighed some twenty pounds. These hundreds of thousands of words, wrote Helms, were more useful to the KGB and some other adversaries than to the American people.[43]

Ray S. Cline argued that, the exposure of the CIA to the public by the media and the Congress nearly destroyed its effectiveness at home and abroad. It was going to take a long time to restore the confidence of the American people in the CIA, despite its being an agency so essential to the nation's survival in a disorderly and often hostile international environment.[44] Cline wrote that the harassment of CIA came also from former Agency employees, such as Philip Agee. It is a fact that Agee instigated some of the most devastating assaults upon the Agency. He allegedly had experienced a political conversion to Communism, and had worked closely with Soviet and Cuban intelligence agents. In 1975 he published a hostile book, *Inside the Company: CIA Diary,* about covert political operations in Latin America. He had helped to organise *Counterspy* and *Covert Action Information Bulletin*, two publications dedicated to exposing the names and addresses of CIA undercover officers stationed abroad.[45] One of the names exposed was Richard Welch, mentioned earlier, who was killed in Athens. David W. Doyle wrote that Agee received between $20,000 and $30,000 of KGB money at the time.[46] Appendix 1 of Agee's book listed a great many CIA case officers and agents,[47] and it was called by many 'an incitement to murder.' Lives were lost as a result of it.

According to Kathryn S. Olmsted, the secret agencies emerged as the winners in their long battle with the investigations. The Pike Committee collapsed in frustration and mutual recriminations. The Church Committee issued a massive, detailed final report, but some of its sections on foreign intelligence struck many critics as vague and timid.[48] However, the executive branch proposed new reforms. These were subsequently carried out by successive presidents through Executive Orders, which introduced new structures and procedures to the CIA.

Conclusion

During the intelligence investigations, President Ford had taken the substance of all the

[42] Henry Kissinger, p. 342.
[43] Richard Helms, p. vi.
[44] Ray S. Cline, p. 248.
[45] Ibid, p. 268.
[46] David W. Doyle, p. 235.
[47] Philip Agee. p. 599.
[48] Kathryn S. Olmsted, p. 169.

charges very seriously. On February 18th, 1976, Ford issued a lengthy new Executive Order 11905 putting into effect a number of sound reforms of the intelligence community structure and procedure. It went about as far as is possible without legislation, and it was accompanied by proposed legislation amending the National Security Act of 1947 to make the provisions of the Executive Order permanent. It was a complex document, unquestionably representing significant steps in the right direction.[49]

Drawing on the recommendations of both the Rockefeller Commission and the Church Committee, the executive order established a new foreign intelligence command structure providing the intelligence community with precise policy guidance, and it made public the guidelines for the responsibilities and duties of the intelligence community. It also provided a new set of procedures for vetting activities, which raised issues of legality or propriety.[50]

The executive order was most meaningful because it elevated the position of the Director of Central Intelligence to a very high level in the White House. He was therefore unlikely ever again to be reduced by wilful policy officials to silent acquiescence in practices, procedures, or intelligence judgements he considered fundamentally wrong.[51] The DCI, among other duties, was appointed to "act as the President's primary advisor on foreign intelligence … develop national intelligence requirements and priorities,"[52] "establish procedures to ensure the propriety of requests, and respond thereto, from the White House Staff or other Executive departments and agencies to the Intelligence Community,"[53] and was appointed as the chairman of the Committee on Foreign Intelligence.[54]

The executive order established new restraints, for example, prohibiting assassinations; "no employee of the United States Government shall engage in, or conspire to engage in, political assassination;"[55] prohibiting the CIA from "performing electronic surveillance within the United States,"[56] and forbidding the "opening of mail or examination of envelopes of mail in United States postal channels."[57] It also delineated responsibilities of each intelligence agency and provided two NSC- level committees for internal review of intelligence operations.

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[49] Ray S. Cline, p. 263.

[50] Henry Kissinger, p. 341.

[51] Ray S. Cline, p. 363.

[52] President Gerard R. Ford's Executive Order 11905: United States Foreign Intelligence Activities. 18th February 1976, Section 2 (d) iv. [http://www.ford.utexas.edu/library/speeches/760110e.htm]

[53] Ibid, Section 2 (d) vi.

[54] Ibid, Section 2 (b) 1.

[55] Ibid, Section 5 (d) g.

[56] Ibid, Section 5 (b) 2.

[57] Ibid, Section 5 (b) 4.

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Echoing EU Business Reforms: A comparative analysis with business policy in Albania

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Abstract

Small and medium enterprises (SMEs) represent 99.8% of total enterprises in the European Union (EU) and provide two-thirds of all jobs (EIB, 2022)[1]. Despite the significant impact on the economy, they face numerous challenges, which several EU business reforms have tried to address.

The Small Business Act (SBA) constitutes one of the key policy frameworks for SMEs in the EU. Adopted in 2008, the SBA aimed to incorporate entrepreneurship in law and policymaking by taking into consideration SME needs – facilitating "access to finance" and supporting "women entrepreneurship" being two of the ten pillars (EU, 2012). The SBA extended to the Western Balkans and Türkiye, enabling EU standards and best practices of SME support to be shared into this region; hence, ensuring mainstreaming of EU policies into their own SME policies.

Sixteen years from the SBA adoption, SMEs continue to represent the engine of economies, both in the EU and the Western Balkans. But, the challenges persist and the need for business reforms remains strong. Now stronger than ever, as the world is faced with climate change threats and the ambitious objectives towards a green transition. Equally important is the fragile state of today's economy – threatened by possibilities of global fragmentation and the IMF warning that fragmentation could cut down 7% of Global GDP (WEF, 2024)[2].

Through a qualitative analysis and interviews with stakeholders, the article reviews developments in the framework of SBA in Albania – by focusing on a couple of SBA pillars, such as access to finance and women entrepreneurship. By analyzing and comparing these developments to the rest of the region and the EU, the paper will emphasize lessons learnt and provide recommendations on the way forward and in line with EU Business reforms.

Keywords: Small Business Act, SME, EU Business Reforms, SME policies.

Introduction

Literature shows that Micro, Small and Medium Enterprises (MSMEs) represent the core of an economy in most of the world economies (Algan and Bayraktar, 2019). According to the World Trade Organization, 60% of jobs worldwide are held by MSMEs, which in turn, make up 95% of all enterprises worldwide. In the EU, SMEs represent 99.8% of total enterprises and provide two-thirds of all jobs (EIB, 2022). In the Western Balkans, SMEs made up approximately 99.7% of all enterprises in 2017, of which 90.4% are microenterprises; 87.9% in Albania (OECD, 2019). In addition, SMEs in Albania generate about 80% of total employment, which translated to employing on average 4 people; slightly higher than the EU average of 3.7 (EC, 2021).

However, MSMEs also face major obstacles. This is the case in the European Union (EU) and similarly in Albania. Access to finance remains a key constraint for businesses in the Western Balkans region, with Albania having the highest concern for financial

burden as demonstrated by 74% of respondents (Balkan Barometer, 2023). Lack of government subsidies and lack of regulatory framework are other key concerns highlighted by the Albanian private sector (Balkan Barometer, 2022). The situation is not any better when looking at women entrepreneurship: flaws in the institutional frameworks and lack of access to finance, which is also related to lack of property ownership in the case of women-led businesses, are among the key obstacles (RCC, 2023).

Given the important weight in the EU economy and to address the obstacles they face, the EU initiated several policy reforms - the Small Business Act (SBA) constituting one of the flagship policy frameworks for SMEs, adopted in 2008. Composed of 10 key principles, EU Members States took action to address key obstacles for SMEs.

Extending to the Western Balkans and Türkiye and embedded in the SME Policy Index, the SBA principles are also implemented in this region in line with the region's European integration processes to adopt EU standards and best practices in different areas, including SME support. Hence, the aim of this paper is to analyze the effectiveness of business reforms in Albania echoing EU business reforms, concretely the Small Business Act which reflects key obstacles and needs through 10 principles.

Analysis and methodology

This paper, based on desk research and interviews with the relevant institution, identifies the key challenges faced by SMEs in Albania, highlights the key EU business reforms and compares them to the business reforms in Albania to understand the scale of adoption and implementation in line with EU business reforms. The aim is to develop policy recommendations for SME support in Albania by implementing and/or adjusting the measures in line with EU business reforms, important as well for the EU integration process of the country.

The SBA was one of the flagship frameworks in the EU that introduced the *"think small first"* principle to support SMEs. Three out of ten SBA principles represent about 55% of actions taken to support SMEs: create an enabling environment, enhance access to finance and skills development" (Alessandrini et. al., 2019).

EU policies adopted in later years have continued to focus on these key principles which remain quite relevant still today, both, in the EU and in Albania. Hence, having in mind the key pillars that constitute 55% of the SBA-related measures, it is worth mentioning the following improvements or success stories at EU level. In Hungary for example, there is a general improvement on access to finance indicators. There is also a general understanding from stakeholders that SMEs in Hungary can easily get a loan and at a low cost, and additionally, more than 20% of SME bank loans come with a guarantee supported by the state. At general EU level, according to the EU-28 SBA factsheet, more than 735 policy measures were adopted or implemented in relation to the access to finance: for example, 17 Member States created one-stop-shops to support SMEs in accessing funds; 27 Members States established business angel and Venture Capital funds; and all 28 offered bank loans with corresponding guarantee schemes and dedicated funding to innovation and starting up a business.

The SBA was followed by the other important initiatives such as the "Action Plan to

improve access to finance for SMEs" in 2011 (COM, 2011) which provided various instruments to enhance the opportunities for access to finance for SMEs; a "Stronger European Industry for Growth and Economic Recovery" and "Entrepreneurship 2020 Action Plan", in 2012; and other measures addressing specific principles of the SBA, up to the most recent objectives to support SMEs in the twin transition.

Looking at Albania, there are two key strategic documents for SME support: the Strategy for Business and Investment Development (BIDS) 2014 – 2020 and the Strategy for Business and Investment Development 2021 – 2027 (BIDS II). Some of the key challenges for Albanian SMEs identified in the BIDS are access to finance, supporting women entrepreneurship and technology skills. This is at the same time one of the actions embedded in one of the three key objectives of BIDS II - support to SMEs.

Based on the key challenges identified in BIDS I by Albania, the paper looked at the rankings and scores Albania achieved in these principles under the SME Policy Index in order to understand whether progress has been made to address these challenges. While focusing on one of the key principles - access to finance - the SME Policy Index for Albania shows the following developments over the years (Fig. 1):

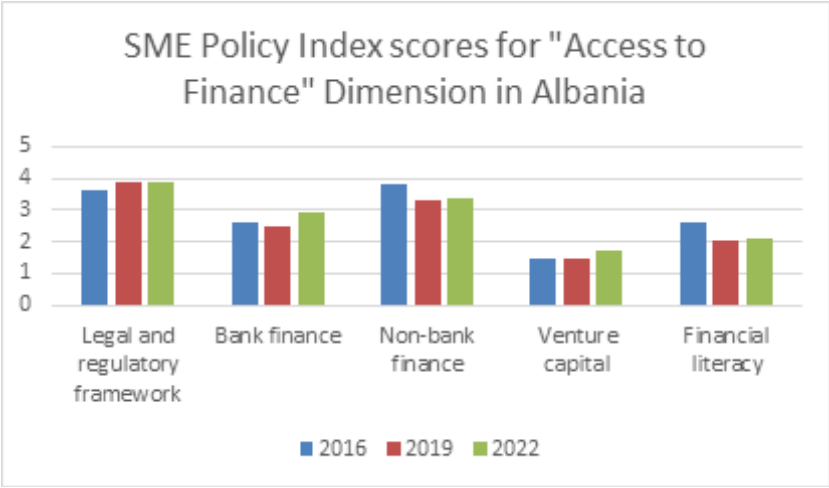

Figure 1: *SME Policy Index, Access to Finance scores for Albania*
Source: OECD SME Policy Index 2016, 2019, 2022

The scores on access to finance show some improvement over the years on the legal and regulatory framework, bank financing has also increased. On the other hand, non-bank finance has declined, venture capital opportunities remain quite low (despite a slight increase in the most recent Index, 2022) and financial literacy is also low and declining (which is related to the skills development and there seems to be a lack of emphasis on financial literacy).

The dependence on bank financing is also confirmed by the Bank of Albania: it constitutes 90.6% of the financial sector (Fig. 2).

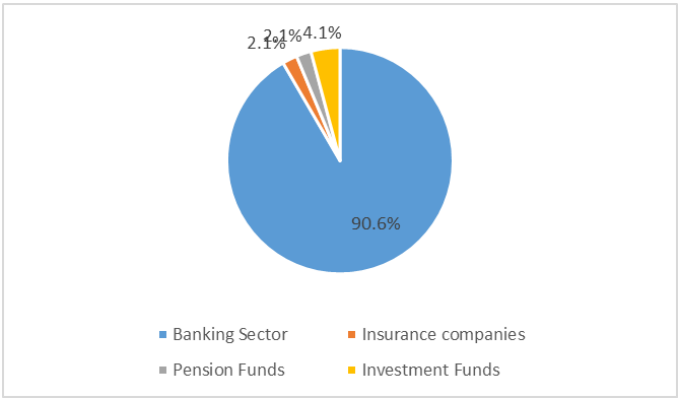

Figure 2: *Financial system structure in Albania*
Source: Bank of Albania (2023)

Table 1 shows the high percentage of credit-constraint firms. Being mainly reliant on bank financing and having a high level of loan rejection diminishes the possibilities for external financing by SMEs, leading to delayed investments and expansion.

	Domestic Credit to Private Sector (% of GDP)			**Credit-constraint firms (as % of firms needeeding loans)**		**NPLs (as % of total gross loans)**		
	2008	**2011**	**2014**	**2008**	**2012**	**2008**	**2011**	**2014**
Albania	35.4	39.5	37.1	35.6	60.4	6.6	18.8	22.8

Table 1: *Banking sector Indicators*
Source: OECD, SME Policy Index 2016

There are several justifications for focusing on this specific pillar of the SBA: first, it has been identified as one of the key challenges for SMEs in Albania; second, it is one of the principles that has shown low to moderate progress; and equally important, it affects different spheres of SME growth and development. Several studies and surveys show how lack of adequate funding affects different dimensions: ability to innovate, to embrace green business models, etc. According to Albania Investment Council's survey (2021), high costs and lack of funding are two key obstacles for business in Albania to develop innovative products and/or services. Moreover, Balkan Barometer (2023) shows that access to finance remains a key constraint in Albania for 74% of respondents and also a constraint in adopting circular business models (Balkan Barometer, 2023).
The latest SME Policy Index published for the Western Balkan and Turkey (OECD, 2022) shows progress has been made by Albania compared to the 2019 report especially in the areas of providing a favorable legal and regulatory framework and operational environment for SMEs, public procurement and internationalization of SMEs. The 2019 report on the other hand demonstrated moderate progress in implementing the SBA principles and low implementation of the SMEs strategy. The

positive achievements in the 2019 report were related mostly to a strengthened legal framework and better approximation with the EU acquis.
Due to the current BIDS (2021-2027) that was adopted in 2021, the analysis has focused particularly on the 2019 SME Policy Index in order to understand reflection of its recommendations into the SME strategy of Albania (since the 2019 recommendations were available during adoption of BIDS 2021-2027).

Results

The analysis leads to the following key findings:
The current Strategy for SMEs being implemented in Albania is the Business and Investment Development Strategy (BIDS) 2021 – 2027. The BIDS specifically refers to the aim to support entrepreneurship in line with two strategic documents: the Small Business Act for Europe and the EU Strategy for SMEs for a sustainable and digital Europe. Even though the analysis shows that not all SBA principles are mirrored in the BIDS, this strategy has put SMEs at the forefront through a dedicated objective. Hence, one of the three key objectives of the BIDS is related to supporting SMEs and innovation. Going further into sub-objectives, the actions in line with SBA principles focus on "access to finance" and "human capital development". In addition, all the actions foreseen in the BIDS aim to eventually provide an enabling environment for SMEs. As analyzed above, these pillars constitute about 55% of SBA actions at EU level. Hence the measures and actions in BIDS reflect at least 55% of SBA principles and EU actions.
Other 2019 SME Policy Index recommendations that can be mentioned for being reflected in BIDS 2021 – 2027 are:

- Training programmes for young entrepreneurs, to provide grants and mentoring;
- Action Plan 2022 - 2023 "On facilitating and developing Electronic Trade in the Republic of Albania" and the Program for Export and Internationalization 2022-2027, both measures aimed at internationalization of SMEs;
- Adoption of Law 43/2022 "On development of SMEs" which aims to increase grants for supporting SMEs, etc.

On the other hand, implementation of such policies remains a key question. The 2022 SME Policy Index, one year into the start of implementation of the BIDS, still highlights the need for better implementation despite a strengthened legal framework. This remains to be analyzed further and it will be considered during the midterm review of the BIDS. *A midterm review of the BIDS is being planned by the lead institution (as informed through the structured interviews).*
Interviews (Ministry of Economy and Finance of Albania, personal communication, December 2023) as well support this analysis regarding lack of proper implementation. When asked on the extent of consideration of SBA recommendations during the process of drafting strategies, the response is that most of the recommendations have been taken into account during BIDS drafting. However, there is a need for a better planning of implementation of these recommendations. Additionally, the analysis identifies that one perspective while drafting the BIDS is to focus on business climate in general, rather than on specific SBA principles. The business climate encompasses the SBA principles as a whole.

Another important dimension for the Small Business Act is cooperation with local government. The SBA has served as a way to identify the relevant institutions for implementing entrepreneurship policies and pointed out the importance of implementing measures at regional level of an economy, since not all principles can be implemented or at least effectively implemented at national level (EC, 2014). Local governance is closer to business needs and in order to provide a full support to SMEs, including local governance in this process is crucial.

While the EU experience shows that the role of local government is very important to reach an effective implementation of SBA principles and direct support to SMEs; in the case of Albania, according to the SME Policy Index reports and interviews with the relevant institution, there is no evidence on direct cooperation with the local government to implement SBA principles.

Another important element is the greening of SMEs. Considering EU's emphasis on the green and digital transition, more needs to be done by Albania in this regard. The SME Policy Index identified limited progress in implementing the environmental policies included in the BIDS I (2014-2020), partially due to weak coordination between relevant institutions and limited budget. This highlights another important aspect: consultation and engagement with relevant actors in implementing and monitoring measures to encourage SMEs to improve their environmental performance is crucial.

To summarize, the results and discussions suggest that Albania has been focusing on key challenges and recommendations in line with the SBA and SME Policy Index suggestions. However, more effort needs to be put into implementation. This is also supported by the OECD (2023) which shows that despite the echoing of EU and OECD best practices into Western Balkan policies, more effort should be put into the implementation of these policies, including business reforms to improve the business climate. Overall, Albania is in the right track: used as one of the indicators of economic convergence in the OECD report, the SME Policy Index shows a positive (even though low, +0.09) level of economic converge of Albania to OECD and EU best practices.

Conclusions and recommendations

Based on the above results and discussion, the paper provides the following conclusions:

1. The SME Policy Index 2022 and 2019 demonstrated strengthened legal and regulatory frameworks, as well as better aligned to the EU acquis, but that there is a need for better implementation. In addition, while Albania has made progress in some areas that provide a favorable business environment, enhance SME internationalization and provide standards and technical regulations aligned with the EU acquis, the focus in the upcoming SME strategy (or a mid-term revision of the current strategy) should be on the other SBA principles where weaknesses are still faced.
2. One of the persisting weaknesses in Albania is access to finance for SMEs. Echoing EU experience, action can be taken by drafting a dedicated action plan for enhancing access to finance for SMEs and bringing relevant stakeholders together (relevant institutions, angel investors, financial institutions, etc.).

3. Albania can draw upon the experience of EU Member States to set up one-stop-shops dedicated to supporting SMEs to access the necessary funding (or alternatively, include dedicated windows for access to finance in existing one-stop-shops). Implementing access to finance as one of the SBA principles addresses many issues, varying from enhancing entrepreneurial opportunities to incentivizing innovative business models (as well as circular, socially responsible etc.), supporting women entrepreneurship and finally, enhanced access to finance leads to financial inclusion.
4. Improving the consultation process during adoption of SME strategies and action plans is another important dimension that should be considered as a separate pillar by establishing consultation instruments that are all-inclusive and sustainable. Though the consultations do not lack, they might happen ad-hoc or lack some of the stakeholders, such as the local government which is not yet part of the SBA processes in Albania.
5. Improving evaluation and monitoring framework: despite existing internal procedures in the relevant institutions, there is no clear framework to track progress, and no publicly available information, which is very important for beneficiary stakeholders, such as businesses, civil society and academia. Revision of a Strategy or Action Plan is an important step in such framework and taking into consideration Albania's plan for a midterm review of the BIDS, one step forward to improving these mechanisms is being taken. Another important step to be considered is to monitor in parallel the national strategies, like BIDS, and the SBA/SME Policy Index recommendations.
6. Decentralizing competences for entrepreneurship support would be a highly significant measure. Having SME support policies focused at central level of government leaves little freedom for action at local levels and limits the possibilities for action at grassroots.

Overall, Albania has taken action to address some of the SBA principles and puts SMEs in the center of the Business and Investment Development Strategy. However, as the latest SME Policy Index suggests, more efforts should be put into implementation. This can be achieved by incorporating the SME Policy Index suggestions deeper into national policies and strategies, by following and adopting more good practices from the EU, by improving monitoring and evaluation frameworks and by extending the consultation process to a wider range of stakeholders and through established regular structures.

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The usual terms of the contract according to the Albanian and English civil legislation

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Abstract

The contract as a legal manifestation of the will of the parties to create, amend or terminate a juridical-civil change must contain certain conditions. From the doctrine of contractual law and judicial practice these conditions are classified into three types; i. essential conditions; usual conditions and incidental conditions.
The purpose of this paper is to address the usual conditions according to Albanian and English civil legislation. This paper consists of two main cases. In the first case, the meaning and importance of the usual conditions of contracts according to contractual law in Albania will be addressed. A special attention in this case will be directed to the features of the usual conditions according to the doctrine and judicial practice in Albania, like the legal analysis of some of the examples of these conditions provided by our civil law. In this instance, a concise historical overview is needed to delineate the usual conditions governing civil law in Albania during different periods. In the second case, the usual conditions will be analyzed according to the English civil legislation, in which they are recognized by English doctrine and judicial practice with the term: 'conditions that can be negotiated by the parties. In this case, the meaning and nature of the contractual conditions will be analyzed according to the English legal system, which we should emphasize contains a legal arrangement apparently or at first sight different from the Albanian law, but that is essentially similar. A special importance will be given in this case to the meaning that the English judicial practice has given to these conditions, quoting in the paper several decisions of the English courts of different degrees.
Similar to any other document, this paper will articulate its conclusions and incorporate a bibliography that serves as the foundation for its content.

Keywords: contractual will, usual conditions, permissive norm, court discretion, contractual good faith.

1. Usual conditions of the contract according to the Albanian civil law

One of the conditions that may be included in a contract between parties pertains to "usual conditions". These conditions are established by civil legislation, with legal provisions authorizing their inclusion, and are typically encountered in specialized contracts governed by such legislation. The usual conditions are provided generally in particular contracts that are regulated by the special part of the contract law, while the cases when the general part of the contract law provides for such conditions are rarer.
Starting from the fact that the usual conditions of the contract are provided with dispositive or permissive norms, it follows that these conditions are characterized by the following basic features:
i. It is not necessary for the parties to expressly include these conditions in the contract. The contract remains fully valid if it includes all essential conditions as required by law.

ii. The usual conditions, even though they are provided by the civil legislation with permissive provisions, are mandatory for implementation by the parties and the court in case of legal conflict, if the parties have not provided otherwise by agreement on the content of these conditions;
iii. *These conditions are typically stipulated by law for each specific type of contract and are applicable even if they are not explicitly provided in the contract.* In other words, if the parties do not stipulate these conditions in the contract, they are presumed to be included because they are stipulated by law for that type of contract.
iv. *The usual terms give the parties the opportunity to make provisions or choices different from those stipulated by the law through the permissive norm.* When the parties to the agreement choose to provide differently than what is determined by the content of a legal norm that expresses a common condition, then this condition no longer exists, but is transformed into a case condition;
v. Practically, usual conditions can be found in the Albanian Civil Code within permissive legal norms that conclude with phrases such as "unless otherwise stipulated" or "unless there is a contrary agreement.
As an illustrative example of usual conditions found in the general part of contract law, we can reference Article 590 of the Civil Code. According to Article 590 of the Civil Code" Bailiff is solidary obliged over the main debtor for the execution of the obligation, except when differently provided by agreement". The formulation of this provision clearly designates it as a usual condition. This determination is evident from the presence of the distinguishing expression, as stated in civil legislation: 'except when it is provided otherwise by agreement. In application of the basic features that characterize the usual conditions for this legal provision, we can say that, if the parties are silent and do not mention such a condition in the contract, this condition is mandatory for implementation by the parties and the court, as it is provided for in the law in the form of a permissive rate.
But, if the parties by agreement between them choose to provide differently than what is provided in Article 590 of the Civil Code, for example, providing that the Bailiff is not jointly and severally obliged to execute the entire obligation of the debtor, but is obliged to execute it together with the debtor, each executing ½ of the value of the obligation or providing that the Bailiff is obliged to execute the debtor's obligation, only when it is proven that the debtor has not managed to execute the obligation himself, since he has no solvency, etc., then the usual condition provided for by Article 290 of the Civil Code, no longer exists and becomes an incidental condition.
For its part, the third paragraph of Article 696 of the Civil Code provides that: "*When the contract provides for the payment of a compensation for the withdrawal, this has effect when the payment is made, unless there is a contrary agreement.*". From the wording of this provision, it can be concluded that it has the same features as Article 590 of the Civil Code, providing for a common condition of the contract, because it contains the phrase or clause: "unless there is an agreement to the contrary", if the parties do not mention it in the agreement this condition is mandatory for implementation, being taken for granted as it is provided for in the Civil Code, and the parties have the right to choose and provide by agreement, otherwise than this provision provides, determining for example, that the parties have right to withdraw from the contract

without paying any compensation, then this condition does not exist, as it has been excluded by the parties with their free will.
In the special part of the contract law there are a large number of provisions that provide for the usual conditions of the contract. Here we will only cite three of them, specifically articles 708, 711, the second sentence of the first paragraph and 719 of the Civil Code, which all refer to the sales contract, while the rule for meaning and interpretation theirs is the same, since all the legal provisions that provide for the usual conditions, have the same features that are cited above.
Thus, Article 708 of the Civil Code provides: "The costs of the sales contract and other related costs are the responsibility of the buyer, except when the agreement provides otherwise." Even this provision from its wording is found to provide for an usual condition, because it contains the typical expression of such a condition: "unless the agreement provides otherwise" and if the parties do not mention this condition in the contract, it is taken for granted as if it is provided for in it and consequently the costs of the sales contract remain with the buyer. But the parties may choose to provide otherwise, stipulating that such expenses shall be shared equally between the seller and the buyer or shall be paid in full by the seller, and in such cases, this usual condition does not exist for this contract, being transformed into a case condition.
The second sentence of the first paragraph of Article 711 of the Civil Code provides that: "The items must be delivered together with accessories, additions and fruits from the day the contract is concluded, unless the parties have provided otherwise in the contract." From its wording, it follows that this legal provision also defines a common condition of the contract, because it contains the typical expression that the law provides for these conditions, if the parties do not mention this condition in the contract, it is taken for granted that it is provided for in and the seller must deliver the items together with the accessories, additions and fruits from the day of the conclusion of the contract, but the parties can provide otherwise by agreement stating, for example, that the seller will deliver the items without their accessories or without the fruits that they have drawn from the day of the conclusion of the contract, extinguishing this condition and transforming it into a condition of the case[1].
Article 719 of the Civil Code states that: " *The seller shall deliver the property items, released of any title or claim of third parties, unless it has been foreseen differently in the contract* ", *providing for what is known in contract law as* "warranty in case of eviction", which our legislator, perhaps wrongly, has chosen to provide with a permissive and not a prescriptive norm, as he should have done in our opinion. Even this provision from its wording is found to contain a common condition, which means that, when the parties do not mention it in the contract, it is taken for granted that it exists in the contract and consequently the seller must deliver the items unloaded from each right or claim of third parties, but the parties may by agreement provide otherwise, determining that the seller is not responsible for the rights or legal claims that third parties may raise against the buyer on the purchased item, a possibility that in our opinion does not the parties should have been told and this provision should not have been of a permissive nature but of a binding nature. However, notwithstanding our opinion, if the contracting parties agree that the seller shall deliver the goods in discharge of liability for claims which third parties may raise against them, this agreement is

valid and this usual condition provided by this provision does not it no longer exists, becoming a condition of the case.
Regarding the usual conditions, it is worth emphasizing the fact that, in addition to being provided for by enabling legal provisions, if the parties have not made an agreement on these conditions in the concluded contract, they will be applied to their contract, because they are provided for in a legal provision that regulates the legal relationship between them. But if the parties do not want to apply these usual conditions, they must provide in the contract concluded between them, the exception or avoidance from the application of these conditions provided by law, in the manner and form that was clarified, in detail in the examples the above[2].
The usual conditions of the contract were also provided by the Civil Code of 1982 with legal provisions, which were binding on the parties if they did not foresee in the concluded contract the change of the content of these provisions. Even the theory and judicial practice of the time considered these conditions as not necessary for the existence of the contract, but considered as taken for granted if the parties did not mention them in the concluded agreement, having the possibility that they do not apply these conditions, through of establishing clauses with different or opposite contents than what the usual conditions provided.
The 1956 Law "On Legal Actions and Obligations" contained usual terms of the contract, both in the provisions governing the general part of the contract and especially in the provisions governing separate contracts. The doctrine of contract law of the time accepted as usual conditions those provided by the law with legal provisions. These conditions were applicable even if the parties had not made an agreement on these conditions, as they were provided for in the legal provisions. If the parties wished not to implement the above conditions, they should have expressed in the contract their non-implementation, providing in the terms of the contract a content different from that provided by legal provisions for the usual conditions [3].
Even the Civil Code of Zogu provided in some of its provisions the usual conditions of the contract, which were regulated by permissive norms. These conditions were considered to be part of the contract because they were provided in the legal provisions, even if the parties did not mention them, expressly in the contract, and the parties had the right to make provisions different from those provided by the usual conditions. The theory of contract law that dealt with the general part of the contracts of this period did not pay special attention to the usual conditions of the contract, leaving it to the contract theory that dealt with the special contracts, where in fact even the most large of these conditions.

2. Usual terms under English contract law

English contract law pays great attention to the terms of the contract to which the parties agree, otherwise known as usual conditions and incidental conditions. Such a thing happens due to the fact that this right, regardless of its completion in recent years with a large number of laws, still continues to be based to a large extent on judicial precedent. According to it, the conditions of the contract can be divided into two groups. *The first group are those that are drawn up by each of the parties and then presented to each other for negotiation in order to conclude a contract*. This set of conditions is

commonly known as *miscellaneous clauses"*, where in the English language the term is called *"boilerplate clauses"*.

The second set of conditions includes a number of standard conditions and clauses that a business is required to include in all contracts it enters into with third parties. These conditions are usually formulated as written additions to the contract or included in the standard documentation that the business sends on its behalf, in any case that it seeks to enter into a contract. It is understood that these conditions are drawn up in advance by the business party and that the other party has the right to choose to accept them or not, and such conditions are recognized by the Civil Code in Albania with the term general conditions, but under the English legal system the party who is sent these conditions has the right to add her own conditions and send them to the other party for acceptance[4].

In the case of the first conditions, it is important to treat them in the context they have. Here we will focus on the treatment of negotiable conditions by two well-known authors of English contract law. The first is author Richard Christou, who in his book: *"Negotiable Terms of Contract: Practical Terms"*, focuses his discussion on negotiable terms on the structure and agreement between the parties as a whole. In relation to this issue, this author, among other things, states that:

"...The term ``negotiated terms of contract'' is more broadly used to describe the terms found in almost all commercial contracts, indicating the way in which a contract is usually concluded, including the right of the parties to in separate transactions that they have agreed to establish the essential terms of the contract. The negotiated terms regulate, control and in some cases change the substantive terms and the manner of their operation and entry into force. There is thus an essential part of every contract, without which the fundamental rights of the parties to the contract would have no meaning. ... [5]".

The second group of authors who deal with the negotiable terms of the contract, are the authors C. Murray, D. Holloway and D. Timson-Hunt, who in the publication *"Schmitthofff's Export Trade The Law and Practice of International Trade"*, who, among other things, express:

"The importance of good drafting of general business conditions for international sales contracts cannot be denied. They are particularly important both in the standard conditions of sales contracts for export, and for the standard contracts used in these cases. Disputes can be avoided when the seller is able to refer to the buyer a condition provided in the terms of business, which is at the mercy of the will of the buyer in the act of his acceptance, as well as the fact that these terms will apply in all transactions that the seller will perform in the future. ... [6]".

Below we will deal, in summary, with the usual conditions that are of fundamental importance for the drafting of a contract under English contract law. Their treatment is important not only to compare them with Albanian contract law, but also to better understand the negotiable conditions of a commercial contract.

a) General condition.

[4] See also: McKendrick, E, *"Contract Law, Text, Cases and Materials"*, Oxford University Press, Oxford 2020, pp 381-382.

[5] See also: Richard Christou, *"Negotiable contract terms: practical terms"*, 7th edition, Sweet & Maxwell, 2015, pages 239-242.

[6] See also: C. Murray, D. Holloway and D. Timson-Hunt, in *"Schmitthofff's Export Trade (The Law and Practice of International Trade)"* 12th edition, Sweet & Maxwell, 2012; page 87.

Many sellers provide in their contracts a general condition, as one of the standard terms of the contract, which implies that *such a condition is not disputed by them that it will be effective and enforceable in every case.* Thus *in the case of Butler Machine Tool Co Ltd v Ex-Cell-O Corporation Ltd, 1979*, the sellers included such a general condition in the standard terms of contract, to the effect:
"All the conditions provided in the contract are accepted according to the terms defined by it. These terms and conditions take precedence over any terms and conditions that the buyer may present."[7]
This general condition provided in this case was not effective to achieve the goal, because the sellers by accepting the conditions proposed by the buyer by signing the contract, had entered into a contract giving preference to the terms set by the buyer. While the general condition may not be effective in a specific case, it should be included in the standard terms and conditions of the contract.
b) The seller's right to retain ownership of the assets sold.
The purpose of this right is to protect the seller in the event of the buyer's insolvency. While such a condition is common in the seller's standard terms and conditions, this does not mean that its placement makes it possible for it to achieve its purpose in every case. Judicial practice in this matter is difficult. The right of retention of title over goods sold gained importance as a result of *the decision of the London Court of Appeal in Aluminum Industrie Vaasen BV v Romalpa Aluminum Ltd, 1976,* where the right of retention of title over goods sold was established to be effective, not only to reserve to the seller the right of ownership of the goods sold to the buyer, but also to receive the proceeds from the sale of the goods made by the buyer, when such proceeds came from the goods that the seller had sold buyers. The above condition in this case was stipulated as follows:
"The right of ownership of the items delivered by A.I.V. will only be transferred to the buyer, while this right remains the owner of the items sold by A.I.V., regardless of any circumstances. Until the date of payment of the price of the sold items, the buyer, if A.I.V. wishes, is obliged to keep the items in such a way that clearly shows the ownership of A.I.V. A.I.V and the buyer agree that, if the buyer adds new items to the sold items, mixes the sold items with other items, A.I.V will become the owner of these items, until full payment is made by the buyer. do A.I.V. Finally, A.I.V and the buyer agree that the ownership of the above items shall be transferred to A.IV and that the transfer of ownership shall be deemed to have taken place at the moment it has added the new items to the sold items or mixed them with other items. [8]".
c) The right to increase the prices of sold items
This right becomes important for sellers in cases of long-term contracts and in cases where there is a long time between the conclusion of the contract and the time when the buyer pays for the goods and services provided by the seller. This condition was the subject of discussion between the parties *in the case of Butler Machine Tool Co Ltd v Ex-Cell-O Corporation Ltd, 1979,* which defined a variable or variable price or the seller's right to increase the price of the goods sold. . As this case shows, it is not only important to ensure that the terms of the contract are clearly drafted, but also to ensure that they are incorporated into the contract as the parties have concluded.

[7] See also: The case of Butler Machine Tool Co Ltd v Ex-Cell-O Corporation Ltd, 1979.
[8] See also: The decision of the London Court of Appeal in Aluminum Industrie Vaasen BV v Romalpa Aluminum Ltd, 1976.

d) *Payment of interest.* The inclusion of a stipulation in the contract regarding the payment of interest by the buyer, in cases where the buyer fails to pay for the purchased asset within the contractually specified timeframe, stems from the historical limitation in English law. Previously, English law did not permit sellers to seek interest as a component of compensation for the buyer's delay in paying for the purchased asset. As a result, it became imperative for the contracting parties to incorporate a provision in the contract, mandating interest payment by the buyer in the event of delayed payment. However, with the enactment of the "On late payment of commercial obligations" Law in 1998 the necessity for such a provision has diminished. Article 1 of this law, provides:

"It is an implied term of the contract to which this law applies that every matured obligation created by the contract contains the recognition of a simple interest in accordance with this law".

Article 2 of this law provides that it applies to "every contract for the supply of goods and services, where the buyer and the seller mutually exercise commercial activity, except when otherwise provided in the contract. An obligation is considered "accrued" when it consists of an amount that entitles the seller to interest or remuneration based on the contracts that are in force.

e)) Force majeure condition

The condition of force majeure is that which gives the right to the parties to suspend or terminate the continuation of the contract due to the occurrence of an event that is beyond the control of the parties and which stops, prevents or delays the performance of the contract

The concrete purpose of a force majeure condition is contingent upon the manner in which the parties choose to articulate it within the contract, often entailing complex negotiations. The inclusion of a force majeure clause in a contract is typically motivated by the constrained application of the doctrine of contractual impossibility. Recognizing the courts' general reluctance to intervene in contractual terms once a contract is being executed and their inclination toward affording greater flexibility to one party, contracting parties seeking a degree of flexibility in contract performance must come to mutual agreement to incorporate a force majeure clause within the contract. An example of a force majeure clause is found in Article 22 of the contract in *Toepfer vs. Cremer* case, which provides:

"Sellers shall not be liable for delay in delivery of goods wholly or partly caused under the Law "On Goods", by strike, state of emergency, riot or civil strife, labor unrest, breakdown of machinery, fire or any other cause which constitutes force majeure. If the delay in the delivery of the goods occurs for one of the above reasons, the senders must notify their buyers by telegram, fax, email, within 7 days from the occurrence of the event, but no later than 21 days from the end of the fulfillment period. obligation. The notification must contain the reasons for the delay in the delivery of the goods.'[9]

f) Choice of applicable law

The choice of applicable law becomes important in cases where the parties entering into a contract belong to different countries or have different citizenships. Let us take an example of a contract entered into between a seller in England and a buyer in France. The seller wants English law to be applied to the regulation of the contract, while the buyer will by all means request that French law be applied. This raises the

[9] See also: Article 22 of the contract in the case of Toepfer v. Cremer.

issue known as conflict of laws. What will happen in such a case? The answer depends on the will of the parties. The law allows the parties to choose the law that will govern the contract they have entered into. Article 3 of the European Union Regulation no. 593/2008, "On the applicable law in contractual obligations", commonly known as "Rome Regulation 1", provides:
"A contract may be governed by the law chosen by the parties. The choice may be made expressly by the terms of the contract or may result from the circumstances of the case. By their choice, the parties can provide that this law can be applied to a part of the contract or to the whole contract".
An interesting treatment of this issue has been made by the well-known English author A. Briggs in the paper *"Introduction on the conflict of laws",* in which it is stated that:
"...The regulation implements the principle of the autonomy of the parties, in fact its content refers to the freedom of the parties to choose the law as one of the basic principles applied in contract law. The regulation is clear in this regard, allowing the parties to choose the applicable law, within the limits allowed by law, but requires the fulfillment of two requirements: the choice must be made by the parties and it must be provided for, expressly in the terms of the contract or to be clear from the circumstances of its implementation. This would avoid the argument that the parties as reasonable people must have made a choice or were bound to agree on the determination of the applicable law. The right to choose the applicable law is a right which, like any other right, must be exercised and if it is not exercised it is considered lost. ...[10] ".
g) Selection of the arbitration court as the competent body for resolving disputes
Parties who wish to have their disputes that may arise from the performance of the contract be resolved by arbitration rather than by court should carefully draft a clause to that effect. It is not necessary to draft the arbitration clause in detail, it is sufficient that they provide two examples of the arbitration clause, one taken from an international arbitration institute and the other from a contract concluded between the parties referring to cases of recent years . The clause taken from an international arbitration institute is the provision of the UNCITRAL Model Arbitration which provides:
"Any dispute, objection or claim relating to this contract, or relating to its non-performance, termination or invalidity, shall be resolved by arbitration in accordance with the UNCITRAL Arbitration Rules in force".
The condition taken as a model case in this paper is the arbitration condition reached between the parties *in the case of Alfred McAlpine Construction Ltd v Panatown Ltd*, which provides:
"When the employer or the contractor requests that any dispute or dispute as defined in Article 5 be referred to arbitration, both the employer and the contractor shall send written notice of the matter to the other party and such dispute or dispute shall be referred to the court." of the arbitration together with the final decision on the appointment of the arbitrator by agreement of the parties or if they do not agree on the appointment of the arbitrator within 14 days from the date of sending the above notice, a person will be appointed as an arbitrator at the request of the employee or the

[10] See also: A. Briggs; *"Introduction to the Conflict of Laws",* Third Edition, Oxford University Press, pages 233-234.

contractor , according to the List defined in Appendix 1 of the contract conditions.[11]"
h) Determination of the competent court for resolving disputes
If the parties have chosen the court for the resolution of the disputes that may arise between them, then it must be determined by them which will be the competent court for their resolution. In the civil system, the law gives the parties considerable freedom to choose the competent court. Regulation of the European Union no. 1215/2012, dated December 12, 2012 "*"on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters"*, known as "Brussels Regulation 1" provides:
"If the parties, regardless of their nationality, have agreed that a court or courts of a Member State shall have jurisdiction to resolve any dispute that exists between the parties or that may exist in the future, in relation to the legal relationship created between them, the court or courts shall have such jurisdiction, unless the agreement is absolutely void, according to the legal provisions of the Member State. This jurisdiction will be the only jurisdiction, unless the parties have provided otherwise".
The jurisdiction agreement must also:
i. be made in writing or prove to exist in writing;
ii. to be done in a form which is in accordance with the previous practices that the parties have implemented between them;
iii. in international commercial contracts to be made in a form that is compatible with the possibility of its use by each of the parties or that they should have known its use according to the rules of international trade[12].
i) Variable terms of the contract
A condition which is included in the contract and which deals with unforeseen events, which make the implementation of the contract more difficult than the usual contract is called a variable condition. An example of such a condition can be found in Superior Overseas Development Corporation v. British Gas Corporation, in the following terms:
i. If at any time during the contract extension period, a substantial change occurs in relation to the economic circumstances of the implementation of the agreement, when the party estimates that these changes cause economic difficulties in the implementation of the contract, the parties will discuss together any possible adjustment of the terms of the contract regarding the price or other conditions, which are justified to be changed on the basis of the fairness of the relations between the parties or to alleviate the difficulties caused by these changes.[13].
j) The condition that determines that the parties have provided, expressly in the contract, all its elements. Such a condition is based on fact and is intended to prevent a party from claiming that the written contract is not the only document containing the terms of the contract and that there are in fact other terms that the parties have agreed upon outside of the contract and are violated by the other side. The purpose is to prevent liability that may arise for breach of contract outside the terms or conditions of the contract entered into by the parties. The provision of an express provision in the contract of all its conditions can be useful for another reason, specifically to eliminate any kind of responsibility from the incorrect description of the facts of the contract.

[11] See also: Condition 39.1 of the contract *in the case of Alfred McAlpine Construction Ltd v Panatown Ltd*, 2001.
[12] See also: Article 25 (1) of the Regulation of the European Union no. 1215/2012, dated December 12, 2012 *"on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters".*
[13] See also: McKendrick, E, *"Contract Law, Text, Cases and Materials",* Oxford University Press, Oxford 2020, pp. 392-394.

For example, *in the case of Deepak Fertilisers and Petrochemicals Corporation v. ICI Chemical & Polymers Ltd*, this condition is described in these terms[14]:
"This contract expressly includes all terms agreed to by the parties in the agreement as set forth in detail in the Articles and Appendices of this agreement and there is no agreement, agreement, promise or condition, oral or written. , expressed or implied relating to the contract agreed upon by the parties above. This contract can be changed in the future only in writing and with the agreement of both parties".

Conclusions

According to the civil legislation in Albania, the usual conditions of the contract are those conditions that are provided by permissive or dispositive norms of the civil legislation. Due to their nature, the usual conditions contain the following features: i. It is not necessary to provide, expressly by the parties in the contract and if they are not provided in the contract, the contract is fully valid, if it contains all the essential conditions provided by the law; ii. The usual conditions, even though they are provided by the civil legislation with permissive provisions, are mandatory for implementation by the parties and the court in case of judicial conflict, if the parties have not provided otherwise by agreement on the content of these conditions; iii. These conditions are provided, usually by law, in each particular contract and are applicable even if the parties have not provided for them in the contract. iv. The usual terms give the parties the opportunity to make predictions or choices different from those provided by the law through the permissive norm. c. From a practical point of view, the usual conditions can be found in the Civil Code in permissive legal norms that end with the expression: "unless otherwise provided by agreement" or "unless there is a contrary agreement".
Regardless of the fact that the usual conditions according to the Albanian civil legislation are provided with permissive norms, which gives the parties the opportunity to choose to determine a solution different from the one provided by the legal provisions, in practice the parties rarely use this opportunity. This is also the main reason why in the judicial practice in Albania, there are very few judicial conflicts related to the meaning and content of these conditions and the reason why this judicial practice is missing in this paper.
Common terms under English law are known as 'terms negotiated by the parties'. As typical terms that can be negotiated by the parties under English contract law we can mention; a) the general condition containing the terms of the contract established by the seller in each sales contract; b) the right to retain ownership of the sold items, which stipulates that the ownership of the sold item remains with the seller, until the seller receives the sale price in full; c) the right to increase prices; d) the interests to be paid by the buyer in favor of the seller, which are foreseen in the event that the buyer pays the price of the items, after the date specified in the agreement of the parties; e) the condition of force majeure; f) the choice of the applicable law, which determines that for the implementation of the contract between the parties, English law will apply; g) the election as a competent body for the settlement of disputes between the parties of the arbitration court; h) the choice of jurisdiction by determining as the

[14] See also: Article 12 of the contract concluded between the parties in the *case of Deepak Fertilisers and Petrochemicals Corporation v. ICI Chemical & Polymers Ltd.*

competent body for the resolution of disputes the English courts.
From the comparison that can be made between these two pieces of legislation, it is concluded that the English civil legislation mentions some of the typical cases of common conditions, while the Albanian civil legislation defines, concretely, what these conditions are, nominally, without leaving the possibility for the parties to may also predict other common conditions. The choice made by English contract law seems fairer, because it gives more freedom to the will of the parties to provide for any kind of contractual condition, which does not violate the will of the parties or the public interest.
In contrast to the contractual practice in Albania, the contracting parties in England often choose to provide for usual conditions in the contract and this is the reason that the English judicial practice is rich in their treatment, where some of the decisions are also cited in this paper. Finally, what can be said about these conditions is that, although Albanian and English contract law treat them in different ways, according to both of these laws the essence of their treatment is the same, because both rights accept that the usual contractual conditions are those that the parties with their free will can negotiate and provide a solution different from what the civil law has done.

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Administrative acts of the local Director of the State Cadaster Agency for Real Estate in the Republic of Albania

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Abstract

Administrative Acts are generally appointed by the science of administrative law, all types of acts issued by state administration institutions (IASH) during the exercise of their mandated activities. The local director of the State Cadaster Agency (ASHK) is responsible for the preservation of documentation and for all other aspects of the organization and administration of this office or directorate. This local office or directory belongs to a registration area. Law no. 111/2018 "On the Cadaster", defines the administrative acts (AA) of the local Director of ASHK in the Republic of Albania (RSH). The content of this paper consists in the analysis of the administrative acts of the Sales Director of ASHK as well as the problems that arise during and after the execution of these acts. Specifically, the main focus of a crime paper: 1. Law no. 111/2018 "On Cadaster"; 2. Analysis of the types and content of the administrative acts of the local Director of the ASHK for real estate (PP) in the country; 3. Evidence of problems that arise during and after the performance of the above-mentioned acts. Finally, attention will be paid to what needs to be done in the future to solve the problems of the administrative acts of the local Director of the ASHK. The paper is developed in the plan of a theoretical, analytical, argumentative and legal approach. The method used in this paper is the empirical one. I researched the reality of the topic in question, interpreting it as objectively as possible.

Keywords: administrative act, institutions of state administration, local director of ASHK, certificate of ownership, order of refusal, suspension, limitation and correction, appeal, compensation, general director of ASHK.

1. Introduction

Administrative Act (AA) is generally named by the science of administrative law, all types of acts issued by state administration institutions (IASH) during the exercise of their mandated activities.

The content of this paper is analyzed in paragraph no. 2 the importance of administrative acts and the need to recognize them. In Albanian legislation, the term "administrative act" is rarely used or not at all. The same applies to the administrative practice of state administration institutions. Specifically, in the Constitution and in other laws in force, administrative acts are named as: decisions, orders, directives, instructions and regulations. During the exercise of their activity, IASHs use terms such as: circulars, letters, permits, protocols, etc.

There are many economic-social relations that are regulated through the executive activity of the state administration institutions. As a result, the AAs issued by these institutions have different contents and sizes. The administrative acts foresee: - the organizational and creative character of the IASH itself; - the forms and methods of leading and strengthening the state and its legitimacy, etc.

The paper continues with paragraph no. 3 which based on law no. 111/2018 "On Ca-

daster", analyzes the AA of the local Director of the State Cadaster Agency (ASHK) for real estate in the country. These acts are as follows: - Certificate of Ownership; - Order of Refusal and Suspension; - Restraint Order; - Correction Order; - Registrar's decisions and Appeals.
The evidence of the problems that arise during and after the execution of the above-mentioned administrative acts is the content of paragraph no. 4 of the paper.
Finally, the analysis of the work will focus on what should be done next to solve these aforementioned problems. These solutions will be in the content of the last paragraph no. 6 brought in the form of recommendations.

2. The legal significance of the Administrative Act

AA is the result of the creation, change or extinction of the legal consequences carried out by IASH in the various relationships regulated by the relevant legal acts. As a result, AAs have an important role in the organization of political, economic, social and cultural life. These acts also strengthen a state in relation to its leadership abilities, protect the freedoms and rights of citizens, of the various organizations that operate in it, etc.In Albanian legislation, the term "administrative act" is rarely used or not at all. The same applies to the administrative practice of state administration institutions. Specifically, in the Constitution and in other laws in force, administrative acts are named as: decisions, orders, directives, instructions and regulations. During the exercise of their activity, IASHs use terms such as: circulars, letters, permits, protocols, etc.There are many economic-social relations that are regulated through the executive activity of the state administration institutions. As a result, the AAs issued by these institutions have different contents and sizes. The administrative acts foresee: - the organizational and creative character of the IASH itself; - forms and methods of running the state, etc. Concretely, for the strengthening of the state and its legality, the activity of IASH and economic enterprises, acts are issued regarding the strengthening of discipline in production, financial, contractual, etc.Many other AAs contain the direction and coordination of the work of IASH and economic enterprises. Also, these administrative acts serve to organize the state apparatus in accordance with the requirements and duties of the state administration. Example: - various acts on the duties and mode of operation of State Administration Institutions and economic enterprises; - various acts on the creation, merger or division of IASH, etc.Based on the above analysis, it results that administrative acts have a special legal importance. The reasons for this importance are as follows:- from some of the administrative acts, other AAs are issued. Examples are the administrative acts of: - ministers; - leaders of central bodies; - local government institutions, etc. VKM are basic AAs from which orders, instructions or regulations are issued for determining the details of further tasks that must be performed by the bodies as well as their employees.- some of the AAs serve as legal facts, for the creation, change or extinction of certain legal relationships. Examples are: - VKM for the transfer of enterprises from the subordination of one ministry to the subordination of another; - the joint orders of the two ministries for merging activities. These orders contain certain rights and obligations for the subordinate bodies.

- Based on some of the AAs, civil legal relations are created. Examples are: the signing of contracts with the purchasing and financing companies of the respective ministries and facilities, the determination of the quantity, quality, types and division into groups of goods that will be produced and distributed.
- Based on some of the AAs, criminal cases are initiated in cases where the rules contained in them are violated. Examples are the violation of the rules: of the storage of data that constitute a state secret; - technical insurance; of circulation, etc. KPA in its article 130 determines that: "AAs are executed only after entry into force...". By means of this article, we understand that an AA produces legal effects only when it enters into force. Administrative acts must be implemented voluntarily by the subjects addressed to them. When this will be absent, as a result, based on the forms that the law in force has provided for execution. It happens that the latter carries out by force, when compulsory intervention of the state is required against the subject who does not apply the effects of the AA.

3. Administrative acts of the local Director of the State Cadaster Agency in the Republic of Albania

The local director of ASHK is appointed by the general director of the State Cadaster Agency (the latter directs ASHK, which is the main institution responsible for the registration of immovable properties that functions with self-financing and is subordinate to the institution of the Prime Minister) and answers to him for the preservation of documentation and for all other aspects of the organization and administration of the ASHK of that registration area (the latter is called a geographically defined area, which is under the administrative responsibility of a local office or directorate of the State Cadaster Agency.
Example, the local Director of ASHK: - determines the duties of the office employees; - starts and follows the initial registration of real estate until its completion; - issues certificates of ownership, rent or interests of others registered in the card, to the entity that requests and enjoys this right; - issues a written notification and orders each entity to submit the documents for the registration of immovable assets (RPP) to the office/local directorate of ASHK, when the subject intentionally did not submit them for registration; - rejects a registration when the documents of ownership, rent, etc. are not complete, as well as if the actions required according to the PP registration law have not been carried out;...etc.
Law no. 111/2018 "On the Cadaster", with the term "cadaster", "cadastral register" or "real estate register" defines the public, manual and digital register. The latter is composed of the set of cards (or KPPs) and cadastral maps (or HTRs), where data on ownership, real rights, geographical position, dimensions and monetary value for PPs are recorded.
Based on the aforementioned law, the administrative acts of the local Director of the State Cadaster Agency for PP in the country are as follows: - Certificate of Ownership; - Order of Refusal and Suspension; - Restraint Order; - Correction Order and Compensation Decision; - Registrar's decisions and Appeals.
Certificate of Ownership (CP)

In the law no. 111/2018 "On the Cadaster", it is foreseen that the local Director of ASHK issues CF (or ownership verification (VP) when the process of initial registration for the relevant cadastral area has not yet been completed), rent or other interests registered in card on the PP, to the person who requests the certificate or verification and who enjoys this right. Based on the request of the owner or lessee of a PP, to whom no certificate of ownership or lease has been issued (but only proof of ownership) after the completion of the initial registration process for the respective cadastral area, the local Director of ASHK issues a CP or a rental certificate (CQ) to the owner, as the case may be. This certificate reflects all the written information contained in the relevant KPP. This information has a direct effect on the property.

CP is AA in the form of a decision, which is issued at the request of different applicants, addressed to the relevant institution, which is the State Cadaster Agency (ASHK). The applicant's request is not part of this act. This request serves as a reason, as an incentive for the above-mentioned institution to issue the act, but it should not be thought that ASHK can maintain an indifferent or indifferent attitude towards the request.

The certificate of ownership is presented as an individual administrative act, a beneficial decision because it is addressed to certain persons (those who requested it), and leads to the emergence of legal consequences for the benefit of these persons, in this case the legal owners.

The certificate of ownership in terms of its effect in space is an administrative act that has power in a certain territory as it is issued by local state bodies such as the local offices/directorates of the respective ASHK.

For the local office/directorate of the relevant ASHK, for the execution of the administrative act such as the certificate of ownership, the law recognizes less direct imposing powers. This means that the law gives the right to this public authority to stop further actions by a subject that does not fulfill legal obligations, such as an immovable property may not be registered when the related taxes and duties have not been paid or when the urban planning conditions for its construction have not been met.

The ownership certificate is also an official and declarative administrative act. Official because it identifies the position of the administration (in the specific case of ASHK) for the verification of facts, legal circumstances, human events, etc. Declarative because it recognizes a right (as in the specific case, the recognition of ownership), which can also have legal effects.

The same conclusions listed above in relation to the certificate of ownership also apply to the verification of ownership (VP). The latter has the same values (is equal) with CP. The only differences between these two administrative acts are that: 1. VP is issued when the initial registration process for the respective cadastral area has not yet been completed; 2. for each real estate card, not only a certificate of ownership or other real right over the property is issued, but it is issued as often as the legitimate interested party requests it.

Refusaland Suspension Order

Based on the law no. 111/2018 "On Cadaster", the local Director of ASHK refuses to perform registration or other actions on a PP, requested by the interested party, by means of a Refusal Order, in cases when: - there is a lack of documentation of owner-

ship, rent, etc; - there is failure to perform the actions required according to the legislation in force for the registration of PPs.
The order of rejection is an administrative act, which, as stated above, is issued upon the request of different interested parties, addressed to ASHK. The request of the interested party to issue the act is not a constituent part of the act. This request is the cause or incentive for the institution to issue the act. IASH should not be indifferent or disrespectful to the request addressed to it.
The rejection order is also an individual administrative act, beneficial because it is addressed to certain persons, and it leads to the rejection of the requests of various persons or bodies, as a result and to the prohibition of legal consequences for the benefit of these persons, in this case the legal owners.
The rejection order, as regards its effect in space, is an administrative act, which has power in a certain territory as it is issued by the local IASH, such as the local offices/ directorates of the respective ASHK.
Based on Law no. 111/2018 "On the Cadaster", the local Director of ASHK refuses for a specified period of time to make the registration or other actions on a PP, requested by the interested party, by means of a Suspension Order, in installments when: - documentation of ownership, rent, etc. is missing or has not been submitted; - there is failure to perform the actions required according to the legislation in force for the registration of PPs.
The order of suspension is the act issued by the local Director of ASHK, upon the request of different applicants, addressed to the relevant institution, which is the State Agency of Cadaster. This request contains the reasons for the risk of property that are provided by law. The suspension order has a term of 30 days. The request of the applicant is not a component part of this act, as is the case for the Refusal Order of the local Director of ASHK. This request serves as a reason, as an incentive for the above-mentioned institution to issue the act, but it should not be thought that ASHK can maintain an indifferent or indifferent attitude towards the request.
The suspension order is also presented as an individual administrative act, a beneficial decision because it is addressed to certain persons (those who have requested it), and leads to the rejection of the requests of other persons or institutions, and therefore also to the prohibition of legal consequences in benefit of these persons, in this case the legal owners.
The order of suspension, as regards its effect in space, is an administrative act, which has power in a certain territory as it is issued by the local IASH, such as the local offices/directorates of the respective ASHK.
Restraining Order
The restriction is an order of the local Director of ASHK. to restrict registration or other actions on a certain real estate. The restriction differs from the Restrictive Agreement, which is an act of restriction on the use of PP. When the document containing the restrictive agreement is presented to the registrar, he records it in the relevant section of the card that is subject to the restrictive agreement and then deposits it in the file.
The local director of the ASHK issues an order for the registration of the restriction of the PP, lease or mortgage, in the relevant section of the KPP, with or without the

request of the interested person, after instructing those persons to be heard he thinks fit, to prevent any fraud, unfair or inadequate action. The duration of a restriction is: - 30 days from the date of notification; - until the realization of any certain event; - until a second order is issued. The local director of ASHK issues a restriction when he sees that the owner's right to act on the PP, lease contract or mortgage is limited. Then the local Director of the State Cadaster Agency notifies the owner in writing about this restriction. In this case, no document that does not comply with the restriction order should be registered, without the registrar's order or the court's decision. When it is proven that there is no reason for any restriction on the property with a notarized request by the interested person, the registrar orders its removal or change. The owner who is affected by the limitation has the right to address the court, which then decides on the case.

The restriction order is an administrative act that is issued with or without the request of different interested parties, addressed to the ASHK. The request of the interested party to issue the act is not a constituent part of the act. This request is the cause or incentive for the institution to issue the act.

The restriction order is also presented as an individual administrative act, beneficial because it is addressed to certain persons (those who have requested it), and leads to the rejection of the requests of other persons or institutions, and therefore also to the prohibition of legal consequences in favor of to these persons, in this case the legal owners.

The restriction order, as regards its effect in space, is an administrative act, which has power in a certain territory as it is issued by the local IASH, such as the local offices/directorates of the respective ASHK.

Order of Correction and Decision of Compensation

The local director of ASHK corrects material errors in CPs, KPPs and HTRs of PPs in the following cases: - when errors or omissions are found that do not materially affect the interests of an owner; - when the person submits the court decision that verifies a fact of ownership by virtue of the statute of limitations; - at any time with the decision of the interested persons; - when after a survey, it turns out that a size or a surface shown in the KPP or in the HTR of the PP is incorrect. In this case, the local director of ASHK notifies in advance all the persons listed in the register, who are interested or affected by this proposed correction. The general director of ASHK (who monitors the work of all ASHK in the country) can review the registrar's decision to correct the real estate card.

Based on the law no. 111/2018 "On the Cadastre", when it happens that as a result of the registration of an irregular information, at the request of each interested party, we have caused damages, the local Director of ASHK takes a decision for damages. The latter must be approved by the General Director of ASHK, who determines the amount of compensation. The latter is calculated in accordance with the regulation that accompanies the law in force for RPP, specifically no. 111/2018.

Registrar's Decisions and Appeals

Disagreements regarding the exercise of rights for the implementation of duties are presented to the General Director of ASHK. In these cases, before making a decision, he must ask the local director of ASHK for his opinion in writing. The latter must

implement the decisions and orders of the general director of ASHK. After the decision is taken by the latter, 30 days must pass from the date of receiving the notification of this decision, order, determination or agreement, that the complaining party can notify the local director of ASHK by means of a specific form, for the purpose to appeal to the relevant court against the aforementioned decision, order, determination or settlement. After receiving the notice of appeal, the local director of ASHK prepares and sends to the relevant court: - a copy of the information of the general director of the State Cadastre Agency and of the appellant; - a copy of the information of any other person who is in the register and which seems to him to be related to the complaint; - a short report on the matter in question. In cases where the complaining party asks the local director of ASHK to pass the case to the court, the latter deposits with this director the money needed to cover the costs of preparing the documents. The same 30-day deadline applies when an appeal is made to the general director of the State Cadastre Agency against the decision of the local director of the ASHK.

4. Problems of the administrative Acts of the local Director of the State Cadaster Agency

The problems that arise during and after the performance of some administrative acts of the local director of ASHK are as follows:
- As it was analyzed in the above paragraph of this paper, by means of the refusal order, the local director of ASHK refuses to do the registration or other actions on a PP, requested by the interested party, for the cases of provided by law. In case the interested party does not agree with this rejection order, he enjoys the right to appeal the latter to the general directorate of ASHK. The official deadline for the latter's response is 30 days. In the event that the interested party again does not agree with the answer given by the general directorate of the State CadastreAgency, he enjoys the right to address the judicial power, specifically the court institution, to appeal the above-mentioned administrative acts. In practice, it happens that the 30-day deadline for giving an answer by the general directorate is never applied by the latter. This 30-day period usually lasts between 2-3 months. As a result, this delay brings damage to the interests of those interested in real estate. Unfortunately, until now, measures have never been taken for these delays by the superior institution, which in this case is the Prime Minister's Office.
- As was analyzed in the above paragraph of this paper, the suspension order is the act issued by the local Director of ASHK, upon the request of different applicants, addressed to the relevant institution, which is the State Agency of Cadastre. This request contains the reasons for the risk of property that are provided by law. The suspension order has a term of 30 days. When this deadline expires, the real estate turns out to be vacant again and therefore at risk, in case the interested parties have not submitted to ASHK the relevant court decision required by the law for the suspension of all possible actions on the property (the duration of the suspension provided for in this court decision is until the case is resolved). In practice, it happens that this judicial decision is never taken within the aforementioned 30-day deadline. The reasons for this delay are: - non-respect of deadlines between years by the magistrates; - the absence

during the last years of a considerable number of judges and prosecutors in the judicial system, due to the reform of justice that has been implemented in the country in recent years. The low number of magistrates has therefore led to a very high number (overload) of court cases that each of them must judge. Delays caused by the judge lead to damage to the interests of those interested in real estate.
- As it was analyzed in the above paragraph of this paper, the local director of ASHK corrects the material errors in CPs, KPPs and HTRs of PPs in the following cases: - when errors or absences are detected that do not materially affect the interests of an owner; - when the person submits the court decision that verifies a fact of ownership by virtue of the statute of limitations; - at any time with the decision of the interested persons; - when after a survey, it turns out that a size or a surface shown in the KPP or in the HTR of the PP is incorrect. Other cases of correction of material errors, different from the above-mentioned cases, carried out by the court (example: correction of material errors contained in a certificate of ownership (or other type of certificate) are as follows: the letters of the name or surname and surname of the owner \ co-owners of the property, cadastral area, neighborhood, property number, etc.). It was mentioned above, the absence during the last years, of a considerable number of judges and prosecutors in the judicial system, due to the reform in justice that is being implemented in the last years in the country. The low number of magistrates has therefore led to a very high number (overload) of court cases that each of them has to judge and delays in judging these cases. Delays caused by the judicial system lead to damage to the interests of those interested in real estate.

5. Conclusions

Based on the analysis of the work on the types and content of the administrative acts of the local Director of the ASHK for real estate (PP) in the country, I conclude that the level of applicability of the AAs of the local Director of the ASHK so far is good . What needs to be done in the future, to improve the level of applicability of the above-mentioned AAs, by solving the problems that arise during and after the execution of these acts (administrative of the local Director of ASHK), follows in the form of recommendations in the subsequent paragraph no. 6.

6. Recommendations

What needs to be done next, to improve the level of applicability (but not only) of the administrative acts of the local Director of ASHK, follows in the form of recommendations as follows:
- As it was mentioned in the analysis of the paper, it results that, by means of the rejection order, the local director of the ASHK refuses to make the registration or other actions on a PP, requested by the interested party, for the foreseen cases by law. In case the interested party does not agree with this rejection order, he enjoys the right to appeal the latter to the general directorate of ASHK. The official deadline for the latter's response is 30 days. In practice, it happens that the 30-day deadline for giving an answer by the general directorate is never applied by the latter. This 30-day period

usually lasts between 2-3 months. As a result, this delay brings damage to the interests of those interested in real estate. Unfortunately, until now, measures have never been taken for these delays by the superior institution, which in this case is the Prime Minister's Office. As a result, for the most efficient, effective and effective implementation of the law no. 111/2018 "On the Cadaster", regarding the improvement of the level of applicability of the administrative acts of the local Director of the ASHK, I recommend that: *in the future, they start taking administrative measures, but not only for these delays on the part of the Prime Minister, in such a way to avoid numerous damages to the interests of the interested parties.*

- As it was mentioned in the analysis of the paper, it results that the suspension order issued by the local Director of ASHK has a 30-day deadline. When this deadline expires, the real estate turns out to be vacant again and therefore endangered, in case the interested subjects have not submitted to ASHK the relevant court decision required by the law for the suspension of all possible actions on the property. In practice, it happens that this judicial decision is never taken within the aforementioned 30-day deadline. The reasons for this delay are: - non-respect of deadlines between years by the magistrates; - the absence during the last years of a considerable number of judges and prosecutors in the judicial system, due to the reform of justice that has been implemented in the country in recent years. The low number of magistrates has therefore led to a very high number (overload) of court cases that each of them must judge. Delays caused by the judge lead to damage to the interests of those interested in real estate. As a result, for the most efficient, effective and effective implementation of the law no. 111/2018 "On the Cadaster", regarding the improvement of the level of applicability of the administrative acts of the local Director of the ASHK, *I recommend that on the part of the superior bodies of the judicial power, in order to avoid delays in the adjudication of cases, in continue to start: - to take administrative measures, but not only, for the delays caused by the negligence of judges and prosecutors; - to take measures to replace the magistrates dismissed due to the reform in justice. As a result, the numerous damages to the interests of the interested parties on real estate will be reduced in the event that delays in adjudicating cases are avoided.*

- As it was mentioned in the analysis of the paper, it results that the local director of ASHK corrects the material errors in the CPs, KPPs and HTRs of the PPs in the cases provided for by the law in force. Other cases of correction of material errors, different from the latter, are carried out by the court. It was also mentioned above, the absence during the last years, of a considerable number of judges and prosecutors in the judicial system, due to the reform in justice that is being implemented in the last years in the country. The low number of magistrates has therefore led to a very high number (overload) of court cases that each of them has to judge and delays in judging these cases. Delays caused by the judicial system led to damage to the interests of those interested in real estate. As a result, for the most efficient, effective and effective implementation of the law no. 111/2018 "On the Cadaster", *I recommend that in order to avoid the delays of the judge in relation to the trial of cases, the legislator should pass the correction of material errors in the ownership certificate, the card and the cadastral map, for competence to the local director of ASHK and not with the court. As a result, the numerous damages to the interests of the interested parties on real estate will be reduced in the event that delays in adjudicating cases are avoided.*

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Abbreviations

State Administration Institutions – IASH
Administrative Act – AA
Decision of the Council of Ministers - VKM
Code of Administrative Procedures - KPA
Ownership Certificate - CF
Property Verification – VP
Rental Certificates – CQ
Real Estate Registration - RPP
Real Estate - PP
State Cadaster Agency - ASHK
Real Estate Card - KPP = Cadastral Card - KD
Census Indicative Map – HTR = Cadastral Map – HK