Conference proceedings

ICSNS XXIII - 2022

TWENTY-THIRD INTERNATIONAL CONFERENCE ON: "SOCIAL AND NATURAL SCIENCES – GLOBAL CHALLENGE 2022"

22 September

Copenhagen

Organized by

International Institute for Private- Commercial- and Competition Law (Austria)

in Partnership with

Bielefeld University of Applied Sciences (Germany), Keiser University (USA), Institute of History and Political Science of the University of Białystok (Poland) and School of American Law (Greece)

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Book of proceedings

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Edited by: Dr. Lena Hoffman

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Editor: Lena Hoffman

Copenhagen - 22 September 2022

ISBN: 978-9928-259-24-5

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Analysis of the famous person's impact on consumer behavior - Case of Albania

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Abstract

The rapid evolution of market conditions and strong competition between companies force them to constantly try to find competitive strategies to promote their product to the right customer and to create strong emotional connections with them, which will create high levels of consumer confidence and increase their financial performance. In the 21st century, the "famous person" effect is seen as the key element of business activity to ensure the credibility and satisfaction of target consumers. This work aims to study the involvement of famous people in advertising a product as a marketing strategy. The purpose of this article is to analyze whether the use of advertising with the participation of a famous person is an effective way to encourage consumer behavior for more purchases and whether this strategy proves to be successful for each agency. The study is based on primary data, following the creation of a questionnaire on a selected sample of 157 Albanian consumers. Furthermore, the most important factors in the purchase of a product have been identified, which are: reliability, friendliness, and familiarity with the famous person. At the end of the analysis, it was concluded that the meaning that a famous person attributes to the advertising of a product is the main factor affecting the purchase of a product or the reception of a service by different consumers.

Keywords: Famous person, marketing strategy, consumer behavior, sale.

I. Introduction

Today the world has become more competitive, and customers are more receptive to the countless displays, images, and advertisements that can be found in magazines, newspapers, billboards, websites, radio, and television. Several companies strive to capture a small portion of a consumer's time to introduce him/her to the unique features of the product they are offering. The majority of individuals are constantly exposed to media advertisements on a daily basis, which causes them to become desensitized to all forms of advertising. Therefore, a famous person becomes the key that companies use to attract different consumers. For this process they usually nominate famous person to allow them to be part of their advertising campaign. Popular personalities can become big sellers, and whenever consumers meet an actor

or beloved sports personality who advertises a product, that product immediately gains credibility (Choi and Rifon 2012).
According to the Oxford dictionary, "a famous person" is an eminent person in his or her field of expertise. It can be in the field of sports, cinema, theater, politics, social life, or science (Giridhar, 2012). The word famous person refers to a person known to the public (actor, sports personality, entertainer, etc.) for his/her accomplishments in areas other than the product or business they represent (Friedman and Friedman, 1979). Famous people can inspire consumers desires, hopes and dreams (Rockwell and Giles, 2009). Additionally, "a famous person" might represent a brand through forging bonds and establishing relationships with customers (Thomson, 2006). Meanwhile, McCracken's (1989) definition of famous person endorsers is "Any individual who enjoys public recognition and uses that recognition in the name of a commodity by appearing with it in an advertisement. This definition is useful because it recognizes that famous people carry their own cultural connotations when they are depicted in advertisements, regardless of the promotional role needed." The use of famous people is an established marketing and advertising tool (Kaikati, 1987). Companies choose to use a famous person to promote their products to give their brand an edge over the competition. Nowadays the world of advertising has changed, compared to the classical way, it has transformed into a modern way.
The purpose of this paper is to emphasize the significance of using a famous person in consumer product and service advertising and to demonstrate the effect it has on the sale or purchase of those goods and services. The study's hypotheses were also advanced in order to show how famous people's, reliability, and recognition of famous people have on advertisements. Furthermore, like every study, this work also has limitations, which are mainly considered for the generalization part of the data, as it was carried out only for consumers in the city of Tirana. In order to more thoroughly comprehend the famous person phenomena under research, it would be preferable if further, comparable studies were conducted on diverse responder groups with a variety of factors.

II. Literature review

Marketing through the famous person

Consumer behavior is a term that can be used in general to refer to the actions and decisions that influence consumer shopping behavior (Solomon et al., 2017). Consumer behavior mainly includes purchasing activities, consumption and disposal actions, and behavioral, mental, and emotional responses related to the decision to make a purchase (Zhang & Benyoucef, 2016). However, its understanding of the digital platform is entirely possible through some analytical software. Every consumer's behavior depends on many factors that are very important to any marketing management team in any business or organization that directly deals with consumers. The study of consumer behavior (CB) is crucial for businesses because it enables them to comprehend and forecast the buying behavior of consumers on the market.
CB encompasses not only what consumers purchase but also their motivations, methods of purchase, frequency of purchase, and methods of consumption and disposal. The goal of a company is to attract and keep consumers, hence one of the

most crucial topics in business school, according to Professor Theodore Levitt, is the study of consumer behavior.

The concept of marketing transformed over time. Famous person marketing refers to the development and dissemination of advertising using opinion leaders and influencers rather than the company's brand itself.They lead by example rather than word of mouth to persuade people to purchase a product (Referral Rock Learn, 2020). The effect of a famous person's involvement in product evaluation has gained significance in recent years, showing that famous person influences their fans, as studied in previous studies (Sliburyte, 2009; McNamara, 2009). New social media platforms such as Facebook, Instagram, and Twitter, as well as television shows, are reaching a worldwide audience. Famous people, are those people who have built a following around what they are passionate about, on the other hand, are much more likely to promote products that they have thoroughly vetted or will lose their customers. . For this the buyer trusts them (Cobain, 2020). As Cobain mentions in his study, famous person-created marketing content plays an important role in shaping shopping behavior. When consumers believe that the famous person reflects their idealized self-concept and image, the ad rating is positive and increases the purchase of the product (Choi and Rifon, 2012).

Famous person advertisements tend to increase the value of the company's stock, as such advertisements also influence investors' perception of investing (Agrawal and Kamakura, 1995). approval of a product. The key is to match the famous person with the right product and position both of them in the right advertising campaign. A successful combination can produce enormous profits and a swift shift in how the public's perception a corporation. Selecting a famous person is a crucial choice that requires careful consideration of several factors, including appearance, appeal, and popularity. If done incorrectly, it can instantly destroy a brand. As a result, advertising through these characteristics will generate numerous benefits for companies which include building credibility, promoting trust, and attracting consumer attention, all of which will result in sales for that brand.

(Goanta and Ranchordás, 2020) in their book examine the concept of influencers (famous people) and provide an overview of how they operate legally and influence taking into account the variety of business models these characters follow. They also dealt in more detail with specific elements or factors for understanding the nature of the famous person, which can help influence a company's business. (Zak S., 2020). (Sokolova and Kefi, 2020; Zafar et al., 2020) claimed in their study that advertising through bloggers and other famous people influences consumers buying intentions. Unlike traditional TV and radio famous people, other famous people have become famous thanks to their active efforts to create content, including photos, stories and videos (Hang and Zhang, 2018; Zafar et al., 2020). Recognizing that a famous person's engagement can add to any brand's content, businesses have become increasingly dependent on them (Shan et al., 2020). Popularity is a dimension raised by the exploratory study by (Nguyen & Tran, 2019), which states the fact that famous person are people with a potential source and credibility, which can influence customers' attitudes, perceptions, and intentions.

Two separate studies were conducted by Agraëal and Kanakura (1995) and Mathur, Mathur, and Rangan (1997) to estimate the financial value of a famous person's endorsement deals with a company's expected productivity. Unexpectedly, the

results of both studies demonstrate the importance of using famous testimonials (Erdogan, 1999). McCraken (1989) researched that the use of a famous person is one of the most appropriate methods of transferring the meaning of the brand, due to the perception that the cultural background of the famous person, is transferred from the famous person to the product and then to the customer, is very efficient.
Studies by (Atkin and Block 1983; Petty et al, 1983; Ohanian, 1991) of famous person engagement reveal that compared to a non-famous person, consumers have generated more accepting behaviors towards marketing and greater target purchase. Other research shows that famous person advertisements are more effective in influencing than other types of advertisements with ordinary clients and qualified professionals (Seno and Lukas, 2007).

Marketing through a famous person in Albania
Companies in Albania, national and international, use different marketing techniques to get closer to their target customers. Bejo, G, (2018) states that the business environment has become quite dynamic, but given that the appropriate data for audience measurement is not yet available in Albania, the company makes an unwise choice to spend money on their purchase. Albania was under a communist rule for roughly 50 years, during which time there was only one television station, state television, and no advertising was permitted because there was no private sector. However, due to the total isolation of the country and the total lack of forms of advertising in the country, the consumer has been influenced by advertising and the Albanians have been aware of this by accessing the televisions of Western countries (Mai, 2004). Researchers suggest that the media are reported as the most trusted local entity by Albanian citizens (Bertelsmann Stiftung, 2018, p. 18). INSTAT (2011) reports that Albanian citizens mainly use their free time to watch TV and videos with an average of 2 hours and 20 minutes, while OSFA (2014) in their national survey found that Albanians spend on average 2 hours in front of the TV and 40 minutes. As the media landscape in Albania has changed rapidly over the past two decades (2000 to present), advertising has also changed. Additionally, insufficient studies can be identified in Albania, in particular on advertising and consumer behavior.

The Albanian case of advertising through a famous person - Pasta Diamond
Also in our country, there are concrete examples of Albanian companies that have recently made a series of advertisements with the participation of one or more well-known Albanian personalities, which has significantly increased overall sales after advertising for famous people. Pasta Diamond factory is one of the major investments made in recent years in the Balkans. This factory was born as a well-thought-out project after the great success of Mielli Diamond. Since the mill's capacity was too high, a line was dedicated to the grinding of durum wheat semolina. This flour is used in the preparation of pasta at the Pasta Diamond factory. The pasta factory is equipped with the latest generation machinery and technologies for the production of pasta. The production capacity is 72 tons in 24 hours, enough to supply all the Balkans and beyond. Pasta Diamond was the first Albanian pasta company to export to European countries, Saudi Arabia and Africa. Recently, their marketing has focused on advertising in which the participants are the famous Albanian artists Alban Skënderaj and Miriam Cani, who have also become the official image of the

company. From the data provided by the company itself, it is clear that the total sales in kg for the Diamond pastry shop in 2020 were 894243.5 kg, while in 2021 when advertising through these famous characters began, sales multiplied to 3044263, 5 Kg. Ultimately, it is claimed that the famous person's engagement directly influenced the company's sales.

III. Data methodology

The author consulted books, journals, and other comparable scientific works by foreign and Albanian writers linked to consumer behavior and the influence of a famous person on sales and consumer behavior in order to complete this descriptive and analytical work and to clarify the research problem. Since the information gathered was primary in nature, Google Forms were used to collect all of the replies that were useful to the questions. In this particular case, 157 Albanian consumers were included in the sample that was chosen for the study.The sampling procedure used in this study is the random sampling method: the data collected by the questionnaires were collected and analyzed through the statistical program SPSS (Statistical Package for Social Sciences), while the validity of the questionnaires was verified through Cronbach's Alpha. Furthermore, the collected data were subjected to statistical analysis to accept or reject the hypotheses advanced for the study, for which the Chi-square test, Anova was used. The questionnaire was constructed in such a way as to obtain all the important information necessary for carrying out this study. The questionnaire consisted of 9 questions and 10 statements for which a total of 157 responses were received providing information on demographics and consumer behavior towards products advertised by a famous person. The data provided by the questionnaire were then analyzed by the SPSS statistical program from which the results for each of the main components studied through this survey were also extracted.

IV. Data analysis

40 casual consumers in the city of Tirana were given the questionnaire that was originally created during the first phase, also known as the pilot phase. With a confidence coefficient alpha of 0.717 for 40 respondents, the reliability of employing this questionnaire to conduct this study is deemed to be satisfactory. At the conclusion of this phase, it was gathered the sample's data, to which 157 different Tirana residents responded. The reliability coefficient alpha revealed to the study that the validity of this questionnaire is at a good level to comprehend how the use of celebrity endorsements in advertisements affects consumer behavior. Demographic data analysis for the questionnaire.

❖ **Age Group**

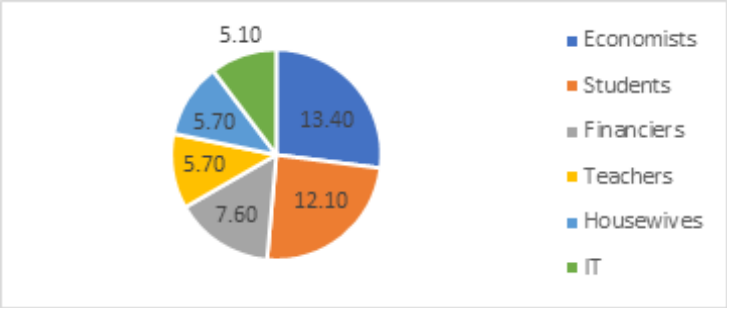
How old are you?					
	Age Group	**Frequency**	**Percent**	**Valid Percent**	**Cumulative Percent**
	18-25 years old	55	35.0	35.0	35.0
	26-33 years old	51	32.5	32.5	67.5
	34-41 years old	20	12.7	12.7	80.3
	42-50 years old	22	14.0	14.0	94.3
	50+	9	5.7	5.7	100.0
	Total	157	100.0	100.0	

Table. 1: *Data analysis for the Age Group variable (Source: Questionnaire)*

The survey of 157 different consumers showed that the majority of the respondents belonged to the age group of 18-33 years with a figure of 67% in total or 106 people (35% age group 18-25 years and 32.5% age group 26-33 years). The rest of the respondents in the 34-41 age group are 12.7% (20 people), 42-50 years old are 14% (22 people) and over 50 years old were 5.7% (9 people).

❖ **Profession**

Another variable studied through the questionnaire is the profession of the people interviewed, from which it emerged that the people belonged to 47 different professions, specifically: Administrator, Public Administration, Agent / Operator, Commercial Analyst, Accountant, Architect, Elevator Engineer, Lawyer, Blogger, Designer, Director, Economist, Electrician, Pharmacist, Financier, Plumber, Nurse, Chemical Engineer, Lawyer, Cashier, IT, Coordinator, Laboratory Technician, Carpenter, Mechanic, Sales Manager, Teacher, Programmer, Psychologist, Social Worker, Customer Service, Salesman, Driver, Housewife, Marketing Specialist, Student, Technologist, Military and a single person who had no profession. The graph below (graph 1) shows that most of the people interviewed were Economists 13.4% or 21 people, Students 12.1% (19 people), Financiers 7.6% (12 people), Teachers and Housewives 5.7% (from 9 people) and IT 5.1% (8 people). While the rest did not comment on their profession.



Graph 1: *Distribution of data for the variable Profession (Source: Questionnaire)*

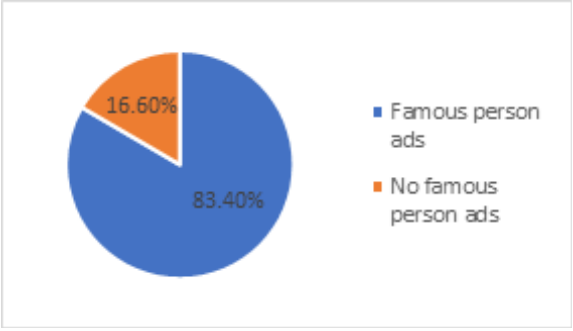
- **Analysis of data relating to consumer behavior towards advertising**

How often do you come across ads with a famous person?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very often	63	40.1	40.1	40.1
	Often	60	38.2	38.2	78.3
	Very little	27	17.2	17.2	95.5
	Never	7	4.5	4.5	100.0
	Total	157	100.0	100.0	

Table 2: Analysis of famous person advertising frequency data (Source: Questionnaire)

From the table above (Table 2) related to the question "How often do you come across ads where the attendees are a famous person?", it can be seen that the majority of respondents, 40.1% or 63 people, answered: very often and 38.2% or 60 people replied that they often encountered famous person advertisements, 17.2% or 27 people answered very little, and 4.5% or 7 people replied that they never met stumbled upon ads with a famous person.

Concerning the question "Which advertisement attracts your attention the most?", Consumers responded massively; specifically 83.4% or 131 of 157 people surveyed that famous person ads attract more attention than famous person ads (16.6%). The findings are shown in the graph below, which supports the assertion that consumers are more drawn to advertisements featuring a celebrity.



Graph. 2: *Distribution of data "Which ad attracts your attention the most?" (Source: Questionnaire)*

With regard to the inquiry of "Do you trust advertising with public figures / famous person," the results revealed that more than half of the surveyed consumers, or 58.6%, indicated that they occasionally believe in advertisements involving famous individuals. The remaining 22.3% of respondents said "Not at all," and 19.1% said "Yes always." This demonstrates that customers are extremely drawn to advertisements in which famous people appear, giving them a high level of credibility.

Two questions especially relating to celebrity endorsements in advertising were examined after the broader questions about consumer behavior were analyzed.

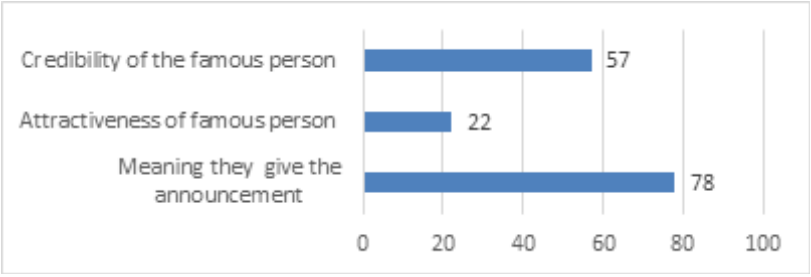
Table 3: *Famous person Advertising Data Analysis (Source: Questionnaire)*

Have you recently seen commercials in which the image is of a famous person Albanian character?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	136	86.6	86.6	86.6
	No	21	13.4	13.4	100.0
	Total	157	100.0	100.0	

The answers to the first question addressing advertising using well-known figures revealed that 136 respondents, or 86.6% of the total, had seen recent commercials for businesses featuring well-known Albanian figures. Only 21 out of 157 individuals had not seen such advertisements. Following analysis of this question, it was also determined how much these advertisements influenced consumers' decisions to buy the company's products. Of the 136 respondents who had followed this company's announcements, the majority of them, 43.3% (59 people), responded that these advertisements significantly influenced consumers' decisions to buy this company's products. 20.7% (28 persons) and the remaining 36% (49 people) did very little or nothing at all. In conclusion, it can be stated that using a famous individual to promote a company's products directly impacts the selling of those goods in increasing quantities.

Analysis of data relating to the factors that influence the purchase of a product

The table below (graph 3) lists the factors that influence consumer behavior in buying a product or paying for a service. It is noted that the 2 factors that the interviewees have most selected are the credibility of the famous person and the meaning they give the announcement. The majority of respondents out of 78 people or 53.5% of the sample chose the significant factor they attribute to the ad, and 57 people, or 40.1% the credibility factor they assigned to the ad. The least selected factor is the attractiveness of a famous person of 22 people or 14%.



Graph. 3: *Distribution of data for the variable "influencing factors" (Source: Questionnaire)*

Thus, the Meaning that a famous person attaches to advertising a product remains the main factor influencing the purchase of a product or the reception of service by various consumers.

The interviewees were asked to evaluate the factors based on their importance and effectiveness to influence the purchase of a product, whose data distribution was

achieved through the method of coding scoring such as: Strongly agree = 1 point, Disagree = 2 points, Not sure (Neutral) = 3 points, Agree = 4 points, Strongly agree = 5 points.

The first-factor "Background of the famous person" the consumers interviewed rated more with the number 3 - o Neutral in the measure of 27.39%, followed by the value 4 o Accept in the measure of 23.57%. The rest 16.56% rated it with the number 5 (strongly agree), 16.56% with the number 2 (disagree), and 15.92% with the number 1 (not at all d 'agreement). The second factor "Reliability of the profile of the famous person" are the consumers interviewed who rated more with the number 5 (More than agree) to the extent of 32.48% and 4 (Agree) to the extent of 27, 39%. The rest 15.29% rated it with the number 3 (neutral), 12.74% with the number 2 (disagree), and 12.10% with the number 1 (strongly agree). The third-factor "Familiarity with the famous person" the consumers interviewed rated even more with the number 5 (More than agree) to the extent of 36.94% and 4 (Agree) to the extent of 25.48%. The rest of 17.83% rated it with the number 3 (neutral), 10.19% with the number 2 (disagree), and 9.554% with the number 1 (strongly agree). The fourth-factor "Pleasantness of the famous person" was rated more by consumers with the number 4 (I accept) to the extent of 29.94% and 5 (Strongly agree) to the extent of 29.30%. Another part of 20.38% rated it with the number 3 (neutral), 13.38% with the number 2 (disagree), and 7.006% with the number 1 (strongly agree). Consumers have evaluated the fifth-factor "Compatibility between product and famous person" mainly with the number 4 (agree) to the extent of 32.48% and 3 (neutral) to the extent of 25.48%. While the last factor "Additional meaning given to the product by advertising" consumers rated more with the number 4 (I agree) to the extent of 25.48% and 5 (Strongly agree) to the extent of 26.11%. From this evaluation, it emerged that all the main factors were very important in purchasing a product for most of the respondents.

- **Analysis of famous person advertising claims**

Table 4 presents all of the famous person advertising claims and their descriptive data for which the following results were obtained.

Affirmation	Min	Max	Mean	Std.Dev
A famous person in ads help me remember products faster	1	5	4.01	0.813
I perceive famous person's involvement as very effective in influencing the purchase of a product.	1	5	3.76	0.887
Sympathy for a famous person has a lot of influence on the decision-making process for purchasing a product.	1	5	3.92	0.866
The credibility of a famous person influences the decision-making process for purchasing a product.	1	5	4.03	0.964
Knowing a famous person affects the decision-making process for purchasing a product	1	5	3.68	1.033

The Famous Person adds value to the product and this influences the decision-making process for purchasing a product	1	5	3.73	1.028
The bad image of a public figure affects the decision-making process for purchasing a product.	1	5	3.71	0.994
I see the inclusion of a famous person in a product advertisement as something that adds more value to the product by making it more desirable.	1	5	3.61	0.998
I also recommend my friends to buy famous person-approved products	1	5	3.50	1.060
Product-Famous Person Matching Affects Decision Making for Buying a Product Affects Decision Making for Buying a Product	1	5	3.64	0.968

Table 4: *Data analysis of advertising claims (Source: Questionnaire)*

Similar to what was stated above, the analysis revealed that having a well-known individual in an advertisement was an efficient approach for customers to remember things more quickly when they were purchasing. The perceived worth of the product was increased due to the influence of the well-known person's fame, credibility, recognition, and image during the purchasing decision-making process. As a result, they would consent to tell their friends about these famous person-endorsed goods, reiterating the significance of the relationship between the two parties.

Test Statistics				
	The Famous Person in commercials helps me remember products faster.	The credibility of a famous person influences the decision-making process for purchasing a product.	Knowing a famous person affects the decision-making process for purchasing a product.	Product-Famous Person Matching Affects Decision Making for Buying a Product Affects Decision Making for Buying a Product
Chi-Square	122.968[a]	100.484[a]	53.287[a]	74.051[a]
df	4	4	4	4
Asymp. Sig.	.000	.000	.000	.000
a. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 31.4.				

Table 5: *Chi-Square test for hypothesis testing (Source: Questionnaire)*

The table above shows the results achieved for the 4 hypotheses raised, for the verification of which the Chi-Square test was used.

H0: Famous person's presence in ads does not help them remember products faster.
Ha-1: Famous person's presence in advertisements helps them remember products faster.
H0: Famous person's credibility does not affect the decision-making process for purchasing a product.
Ha-2: Famous person's credibility influences the decision-making process for purchasing a product.
H0: Knowing the famous person does not affect the decision-making process for purchasing a product.
Ha-3: Knowing the famous person affects the decision-making process for purchasing a product.
H0: The match between the product and the famous person does not affect the decision making process for purchasing a product
Ha-4: Product-famous person pairing affects the decision-making process for purchasing a product
In conclusion, it can be observed from the research used to test the hypotheses presented that using a well-known individual in commercials aids consumers in remembering products faster. While the main factors influencing the decision-making process for purchasing a product are: the credibility of the famous person, its recognition, and the compatibility of the product with the famous person.

V. Conclusions and recommendations

Famous people are recently seen as alternatives that provide greater reassurance that influences consumer behavior as they provide the consumer's mind with information and a level of credibility about the products they wish to purchase. Advertising of products and services has become a necessary need for various companies because it directly affects the purchasing behavior of consumers. The behavior of every consumer depends on many factors that are very important to any marketing management team, company or organization that deals directly with consumers. The factors that most influence consumer behavior are: economic factors (personal income, perspective income, saving decision, household income, inflation), internal factors (perception, motivation, selectivity, advertising, brand awareness, past experiences), cultural factors (values, beliefs, religion, social class) and social factors. person-product is done well, this can lead to huge profits and an immediate change in the public perception of a company. Badly done, it can destroy a brand overnight. From the results obtained through the questionnaire to gain consumer insight into famous person marketing, the majority of respondents are attracted to advertisements featuring famous people, although some of them feel that this type of marketing has had a significant impact on their marketing decisions. Purchase, another part of still not trusting these types of advertising, which has an impact on consumer behavior. Listing the factors that influence the purchase of a product or the reception of a service by different consumers "The meaning that a famous person attaches to the advertising of a product" remained the main factor, followed by credibility,

sympathy, and familiarity with the famous person. It was also observed that all these factors interact quite complexly.

Due to the many challenges that the Albanian business constantly faces, several companies are trying to find new ways to be as competitive as possible in the market. Faced with this situation, these companies need to start seeing advertising through characters. at the heart of their business model, as this directly affects the decision-making process of whether or not to purchase a product. The "famous person" effect is seen as the key to a business, to ensure credibility and consumer satisfaction target. The support that famous people provide to companies is an active promotional tool, so they should focus on selecting the most suitable character for their product in order to gain more attention and drive consumer buying behavior. Companies are mainly recommended to choose those famous people who have a good reputation, who are more reliable in product presentation, and those who possess experience in the respective required field.

VI. References

Ada O.(2020).Impact of Famous person Endorsement on Customer Buying Behavior.

Cobain D. (2020). How Influencer Marketing Affects Consumer Buying Behaviour

Friedman, H. and Friedman, L. (1979)."Endorser Effectiveness by Product Type". Journal of Advertising Research, Vol.19, No.5.

Giridhar, K.V. (2012). Effect of Famous person Endorsement on Consumer Buying Behaviour and Branding of a Brand- Zenith. International Journal of Business Economics & Management Research, 2 (7).

Goanta, C. and Ranchordás S., (2020). The regulation of social media influencers: an introduction, Edward Elgar Publishing.

Nguyen, T. T. N. (2020). Gender Differences in Determinants of Customer Satisfaction in Beauty and Cosmetic E-commerce. Journal of Asian Finance, Economics and Business, 7(10), 811–822.

McCracken, G. (1989). "Who is the Famous person Endorser? Cultural Foundations of the Endorsement Process", Journal of Cons.

Pappu Rajan, (2021). Consumer Buying Behavior.

Referal Rock Learn, (2020). How Influencer Marketing Can Build Your Brand, 2-8.

Schect (2003). Impact of famous person endorsement on consumers buying behavior.

Sokolova, K., & Kefi, H. (2020). Instagram and YouTube bloggers promote it, why should I buy? How credibility and parasocial interaction influence purchase intentions. Journal of Retailing and Consumer Services.

Shan et al.(2020). The web of influencers. A marketing-audience classification of (potential) social media influencers.

Zak S., H. M.(2020). The role of influencers in the consumer.

Zhang, K. Z., Xu, H., Zhao, S., & Yu, Y. (2018). Online reviews and impulse buying behavior: The role of browsing and impulsiveness. Internet Research, 28 (3), 522–543.

The High Judicial Council Transparency in Decision Making Process - The case of Albania

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Abstract

The 2106 Judicial Reform addressed a number of problems identified in the Albanian judiciary system such as: i) the independence and efficiency of the judiciary; ii) the professionalism and integrity of judges; as well as iii) the high level of corruption in the system. Pursuant to this, new judicial governance bodies were established to deal with the judicial governance. Compared to the previous High Council of Justice (HCJ – *Këshilli i Lartë i Drejtësisë*), the High Judicial Council, established by the 2106 Judicial Reform, acquired more power/ responsibilities with regard to judicial governance institutions. The new legislation, adopted by the 2016 Judicial Reform, established a set of rules guaranteeing the openness of High Judicial Council work and emphasizing the transparency of this institution, as an element that increases both accountability and public trust.
The purpose of this paper is to analyze the transparency of the High Judicial Council decision-making process. By analyzing the legal framework and the HJC current work practice, this paper analyzes the transparency of the HJC work in deciding whether and to what extent the principle of transparency has been respected. The paper argues that 4 years after establishment, still, the High Judicial Council transparency in decision-making is not at a satisfactory level. The High Judicial Council should further consolidate its work practices towards transparency in decision-making, giving the public the opportunity to access, understand and trust this institution.

Keywords: The High Judicial Council, Transparency, Decision Making Process, The case of Albania.

1. Introduction: 2016 Judicial Reform in Albania

Since July 2016, the judiciary system in Albanian is undergoing a deep and comprehensive reformation. The 2016 Judicial Reform, approved unanimously by the Albanian Assembly, aimed to: i) increase the integrity of the judicial system, through the removal of corrupt judges from the judiciary and establishment of an independent, impartial, and accountable judiciary governance institution and ii) improve the quality of justice, through increasing efficiency, professionalism, access to citizens, and transparency.[1]
In order to achieve these two broad goals, a new legal framework was adopted.[2] The 2016 Judicial Reform "legal package" laid down the legal basis for:

- the creation of the responsible structures that will carry out the vetting process of judges/prosecutors. The vetting process aims to remove from the judiciary system the corrupted judges/prosecutors by assessing three criteria: wealth, integrity and professionalism;[3]
- strengthening the status of judges, accountability and the disciplinary process, as

3 Law 84/2016, "On the transitional re-evaluation of judges and prosecutors in the Republic of Albania" [2016] OJ 180.

well as professional training and the career system;[4]
- establishment, organization and functioning of new judicial governance bodies;[5] and
- establishment, organization and functioning of the specific structure responsible to investigate and trial offenses for corruption and organized crime.[6]

The judicial reform has entered its 6th year. Currently, the vetting process of judges is ongoing. As of 14 September 2022, 183 judges/prosecutors have been confirmed in office and 220 judges/prosecutors have been dismissed. 79 judges/prosecutors voluntarily have resigned.[7]

Also, the new judiciary governance bodies have been established and are consolidating their practice. The new institutions for the self-governance of the judiciary, as established in 2018, include the new High Judicial Council (HJC), High Prosecutorial Council (HPC); the Justice Appointment Council (JAC) and High Justice Inspector (HJI).

The High Judicial Council (HJC), as the main institution responsible for the judiciary governance, has been functional since 2018. During these four years, the HJC has been very active in addressing problems produced by the 2016 judicial reform, which mainly relate to the functionality of the courts. Based on analyzing of current legislation in force and HJC decisions, this paper attempts to analyze the HJC working practice aiming to show the level of transparency in decision-making not only in relation to the implementation of formal legal obligations, but also with the primary goal to provide a comprehensive and reliable information to the public.

The paper consists of this introduction and 4 sections. The second section describes the model of judiciary governance bodies established by the 2016 Judicial Reform. The third section discusses the issues of transparency in the governing structures of the judiciary. The fourth section analyzes the legal provisions on transparency, their practical implementation and highlights some problems encountered by the HJC. The paper argues that 4 years after establishment, still, the High Judicial Council transparency in decision-making is not at a satisfactory level. The High Judicial Council should further consolidate its work practices towards transparency in decision-making, giving the public the opportunity to access, understand and trust this institution.

2. The 2016 Judicial Reform and the judicial governance body

The Analytical Document for Judiciary System, which analyzed in depth the judiciary system, identified many problems referring to the existing body of the High Council of Justice (HCJ) such as: i) composition; ii) selection of the members;iii) competence;

[4] Law 96/2016, 'On the status of judges and prosecutors in the Republic of Albania' [2016] OJ 208 as amended.

[5] Law 115/2016, 'On Governance Institutions of the Justice system' [2016] OJ 231 as amended.

[6] Law 95/2016 'On the organization and functioning of institutions for combating corruption and organized crime' [2016] OJ 194, as amended. The newly established institutions to investigate and trial offenses for corruption and organized crime are as follows: the Special Prosecutor's Office against Corruption and Organized Crime; the National Bureau of Investigation; as well as the Court of First Instance and Court of Appeal for Organized Crime and Corruption.

[7] Reporter.al, "Vetingu". Available at: https://reporter.al/vetingu/. Accessed 14 September 2022.

iv) organization and operation.[8] All of these issues had created a judicial governance structure which was easily influenced by politics. For these reasons, the HCJ did not enjoy either citizens' trust or judges/prosecutors support. The Analytical Document emphasized that the HCJ, during its activity, "did not enable the creation of a judicial body with professional and moral integrity convincing to the public".[9]

The identification of the abovementioned problems and most importantly, the political influence over the HCJ brought the need to design and establish a new judicial governance body. The new structure, responsible for judicial governance, had to be independent, impartial, and carry out its activities in full transparency with the aim to restore public trust in the judiciary.[10] In its designation, the Albanian historical and legal context were taken into consideration, including the problems encountered during the HCJ activities.

The constitutional[11] and legal[12] changes enabled the establishment of a new judiciary governing body which changed: i) the composition of the institution; ii) the procedures for electing its members, iii) the way of functioning, as well as iv) increased the responsibilities of this structure vis-à-vis the judiciary. The remaining part of this section discusses briefly these novelties introduced by 2016 Judicial Reform, with a specific reference to the HJC.

Firstly, the 2016 Judicial Reform changed the composition and the way of election of the judiciary governance body. The HJC is composed of 11 members from which: 6 members are judges elected by the General Assembly of Judges; 5 members are elected by the Assembly representing civil society, lawyers and lecturer of faculty of Law and School of Magistrate.[13] Contrary to previous regulation where the President and Ministry of Justice were part of judiciary governance body (HCJ), the HJC is more independent from the political influences in terms of composition.[14] Furthermore, the election procedure has been regulated in detail by law guaranteeing independence, impartiality and full transparency.[15]

8 Group of High Level Experts. 2015 "Analysis of the Justice System in Albania: Document open for evaluation, comments and proposals". Available at:https://euralius.eu/images/Justice-Reform/Analysis-of-the-Justice-System-in-Albania.pdf. Accessed 12 September 2022, pp. 56-60

9 Ministry of Justice. 2015 "Analytical Document- Detailed information for each sector of Justice System". Available at: https://drejtesia.gov.al/wp-content/uploads/2017/10/Analiza_e_sistemit_te_drejtesise_FINAL-1.pdf. Accessed 12 September 2022, p. 62

10 Explanatory Report on draft law "On Governance Institutions of the Justice system" Available at: http://www.reformanedrejtesi.al/sites/default/files/290616relacion-qeverisja-e-gjyqesorit.pdf. Accessed 1 September 2022, p. 4.

11 Law 16/2022, 'For a change to the Law 8417/1998, "The Constitution of the Republic of Albania" as amended' [2022] OJ 37, Art 148.

12 Competences stipulated in the Constitution are explained further by the following laws: nëLaw 115/2016, 'On Governance Institutions of the Justice system' [2016] OJ 231 as amended, Law 96/2016, 'On the status of judges and prosecutors in the Republic of Albania' [2016] OJ 208 as amended, Law 98/2016, 'On the organization of the judicial power in the Republic of Albania' [2016] OJ 209 as amended.

13 Law 115/2016, 'On Governance Institutions of the Justice system' [2016] Official Journal 231, as amended by Law 47/2019 [2019] OJ 113, Arts 9-59.

14 Law 8811/2001, 'For Organization and Functioning of High Council of Justice' [2001] OJ 9 (abrogated), Arts 3-13.

15 Law 115/2016 as amended, Art 2

Secondly, the HJC was supplemented with additional power concerning the judiciary governance and its direction. Consequently, the HJC has the following competences:

- to decide on all issues concerning the status of judges, such as appointments, promotion, transfer, ethical and professional evaluation and disciplinary measures;
- drafting and monitoring the implementation of the budget for the judiciary;
- approving and overseeing standards of judicial ethics, rules of conduct for judges and overseeing their implementation;
- the approval of the judicial map and the total number of the judges;
- the management of judicial administration;
- the administration of the courts, the physical infrastructure, the system of management of court case;
- maintaining the statistical system of the judiciary and measuring performance;
- strategic and budget planning for the judiciary in cooperation with the Minister of Justice;
- proposing or giving opinions on legislative changes that affect judicial activity; and
- increasing accountability and transparency to the public, media and Assembly.[16]

Thirdly, the 2016 Judicial reform redesigned working practice of the judicial governance institutions. The High Judicial Council is organized and performs its activity in plenary meetings or permanent committees.[17] The High Judicial Council organizes its work through 4 permanent committees: a) Strategic Planning, Administration and Budget Committee; b) Disciplinary Committee; c) Committee of Ethical and Professional Performance Evaluation; d) Career Development Committee.[18] Each permanent committee takes decision in their respective fields. Furthermore, committees, based on their fields, prepare draft acts to be adopted by the Plenary Assembly of the Council, which they propose to the latter for approval.[19] In certain cases, As stipulated by Article 62/14 Law 115/2016 as amended, the High Judicial Council may establish ad hoc committees to address specific matters.[20]

It should be noted that there is not a defined unique standard model to be recommended to all countries concerning judiciary governance bodies. Instead, certain principles on the organization, functioning, competences, accountability and transparency have been elaborated by ENCJ which enable the independence, effectiveness and efficiency of these institutions.[21] In the case of Albania, during the *travaux preparatoire* of the judicial governance bodies (HJC) structure and competences,[22] the following international standards have been taken into considerate: i) European Charter on the Status for Judges;[23] ii) UN Basic Principles on the Independence of the Judiciary;[24]

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[16] Law 115/2016 as amended, Arts 61 and 62; Explanatory Report on draft law " On Governance Institutions of the Justice system'". *op. cit*. p. 4

[17] Law 115/2016 as amended, Art 61(1).

[18] Law 115/2016 as amended, Art 62(3).

[19] Law 115/2016 as amended, Art 62(1).

[20] Law 115/2016 as amended, Art 62 (14).

[21] ENCJ. 2021. "Compendium on Councils for the Judiciary". Available at: https://www.encj.eu/node/606. Accessed 1 September 2022, p. 4

[22] Explanatory Report on draft law "On Governance Institutions of the Justice system'. *op. cit*. p. 7

[23] Council of Europe, *European Charter on the Status for the judges.* DAJ/DOC (98) 23.

[24] Basic Principles on the Independence of the Judiciary. Available at: https://www.ohchr.org/

iii) Bangalore Principles of Judicial Conduct;[25] iv) Magna Carta of Judges;[26] and v) Opinion 1 (2001) of the Consultative Council of European Judges.[27]
Since 2018, the HJC has addressed many problems that the judiciary system encountered for the implementation of 2016 Judicial Reforms. Nevertheless, still, restoring public trust and guaranteeing an independent judiciary, based on the system of meritocracy, professionalism, integrity and efficiency remain 'Achille wheel'.

3. International Standards and the Principle of Transparency in the Judicial Governance Bodies

The judicial proceedings and matters concerning the administration of justice are matters of public interest, for which the society and citizens must be kept informed.[28] The governing bodies must be accountable to the public for transparency and most importantly at the service of citizens.[29] The transparency procedures and the reasoning of decisions are seen as ways to guarantee accountability and increase confidence in the judiciary.[30]
As explained in the previous section, there is no unique model concerning judicial governance bodies. Instead, a set of rules on the professional and ethical behavior has been approved.[31] Consultative Council of European Judges (CCJE) recommends that judicial governance bodies "should act with transparency and be accountable for its activities, in particular through a periodical report suggesting also measures to be taken in order to improve the functioning of the justice system"[32]. Furthermore, the CCJE emphasizes that "as an essential element of the public confidence in the justice system, the Council for the Judiciary should act with transparency and be accountable for its activities".[33] In the same vein, the European Network of Councils for the Judiciary (ENCJ) recommended judiciary councils to "be accountable for their activities by submitting periodic and public reports which transparently show the principles on which they perform their functions and the outcomes from activities'.[34]

en/instruments-mechanisms/instruments/basic-principles-independence-judiciary. Accessed 1 September 2022.

[25] Bangalore Principles of Judicial Conduct. Available at: https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf. Accessed 1 September 2022.

[26] Consultative Council of European Judges. 2010. "Magna Carta of Judges". CCJE (2010)3 Final.

[27] Consultative Council of European Judges. 2001. "Opinion no 1 (2001) of the Consultative Council of European Judges (CCJE) for the Attention of the Committee of Ministers of the Council of Europe on Standards Concerning the Independence of the Judiciary and the Irremovability of Judges". CCJE (2001) OP N 1.

[28] ENCJ. 2014. "Report on Independence and Accountability of the Judiciary". Available at https://www.encj.eu/images/stories/pdf/workinggroups/independence/encj_report_independence_accountability_adopted_version_sept_2014.pdf. Accessed 1 September 2022, pp. 58; 66.

[29] ibid, p. 56.

[30] Ibid, p. 64.

[31] ENCJ. 2021. "Compendium on Councils for the Judiciary". Available at: https://www.encj.eu/node/606. Accessed 2 September 2022, p. 10.

[32] CCJE. 2021. "Opinion No. 24 (2021): Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems". CCJE(2021)11.

[33] ibid.

[34] ENCJ. 2021. "Compendium on Councils for the Judiciary". Available at: https://www.encj.eu/

According to the Bucharest Declaration, councils for the judiciary or similar independent bodies, "in order to maintain the rule of law, must do all they can to ensure the maintenance of an open and transparent system of justice".[35] In this context, it is required that "Councils for the Judiciary or similar independent bodies should in discharging their responsibilities: (i) ensure transparency in the way in which the Council discharges all its functions; (ii) provide sufficient information to the public and the media, to ensure the accurate perception of the administration of justice by the public; (iii) report regularly on how it has discharged its functions".[36]
The 2016 judicial reform emphasized the importance of transparency in the judicial governing body in two aspects. Firstly, transparency has a positive impact on the accountability of the judiciary. Secondly, transparency plays an important role in increasing and restoring public trust in the judiciary.[37] For the newly established judicial institutions, in addition to independence and impartiality, transparency was at the center of their activities and decision-making process.[38]

4. The HJC transparency in decision making process and future challenges

Law 115/2016 'On Governance Institutions of the Justice system' as amended has recognized the principle of transparency as one of the basic principles, alongside with the principle of independence, accountability, and efficiency, on which the governance of the judiciary should be based.[39] Law 115/2016 regulates into details HJC plenary meetings and decision making-process which is based on the principle of transparency.
Furthermore, the HJC transparency in its activities and the obligation to be transparent is regulated as well by: i) Law 119/2014 "On the right to information";[40] ii) "Strategic communication plan for the judicial system";[41] and iii) Regulation "On the communication of the Judicial Council with the media".[42] The remaining part of this section will provide several examples showing whether and to what extent the principle of transparency, in decision making-process has been respected by the HCJ.
The Law 115/2016 stipulates that plenary meetings have to be open for the public. Article 69 of the Law 115/2016 regulates the documentation of the plenary meeting of the High Judicial Council. Accordingly, every plenary meeting of the High Judicial Council should be properly documented through: i) audio recording and b) minutes of the meeting with a summary of discussions. The audio recording of the plenary

node/606. Accessed 2 September 2022, p. 10.

[35] ENCJ. 2009. "Resolution on Transparency and Access to Justice". Available at:https://encj.eu/images/stories/pdf/opinions/resolutionbucharest29may_final.pdf. point 1.

[36] ibid, point 3.

37 Group of High Level Experts. 2015a. "Strategy on Justice System Reform". *op. cit*. pp. 12-14

38 Explanatory Report on draft law " On Governance Institutions of the Justice system' *op. cit*. p. 4.

[39] Law 115/2016, 'On Governance Institutions of the Justice system' [2016] Official Journal 231, as amended by Law 47/2019 [2019] OJ 113, Art 2.

[40] Law 119/2014 "On the right to information" [2016] Official Journal 160.

[41] HJC Decision no 590/2020, "For Approval of Communication Strategic Plan for Judicial system". Available at: http://klgj.al/wp-content/uploads/2020/12/PLANI-STRATEGJIK-I-KOMUNIKIMIT-P%C3%8BR-SISTEMIN-GJYQ%C3%8BSOR.pdf. Accessed 1 September 2022.

[42] ibid.

meeting has to be published on the HJC website of the Council within 24 hours from the day of the meeting;[43] whereas the minutes of the meeting with a summary of discussions have to be published on the HJC website, after being approved by the next plenary meeting of the Council.[44] Furthermore, Article 69 (4) of the Law 115/2016 stipulates that the minutes of the meeting with a summary of discussions of every meeting have to contain at least the following information: i) members present in the discussions for each issue of the agenda; ii) issues of the agenda; iii) self-recusal of members of the Council and relevant reasoning; iv) main aspects of issues discussed and proposals for decisions; v) the voting outcome, the voting manner for each member and the reasoning of the vote by each member, and vi) decisions. To protect privacy and confidentiality, Law 115/2016 as amended requires the possibility to edit the audio recording or minutes of the meeting by deleting any reference to concrete names, except for the names of the members of the Council and the names of the judges against whom the disciplinary measure of suspension and dismissal has been taken.[45]

Another novelty of the judicial reform is the openness of the HJC working practice. The Regulation "On the communication of the Judicial Council with the media" foresees the obligation to cover in the form of "press announcement" most important issues discussed during the plenary meeting.[46] Furthermore, upon a request approved in advance, any interested person, accredited media representatives or non-profit representatives can participate during the HJC plenary meeting.[47] Journalists are allowed to take photos or videos based on prior request and certain conditions.[48]The calendar of meeting announcements is found on the HJC website, under the section "Announcement" and provides important information concerning the date and time of the meeting. However, the meeting agenda is not published.[49] Participants are informed about the meeting agenda in the beginning of the meeting by the chair.[50]

While audio recordings are published on the HJC website within 48 hours from the meeting, respecting the requirement to "delete any reference to concrete names", there is a delay concerning the publication of the minutes meeting. According to Article 69 of the Law 115/2016 as amended, the minutes of the meetings are approved at the next meeting. In practice, this rule is not respected. From an observation at the HJC website and other studies, it appears that some minutes of the meeting are collected and approved in one meeting[51]. The Albanian Helsinki Committee has found that some cases relating to the disciplinary proceedings have not been published on the

[43] Law 115/2016 as amended, Art 69 (2)

[44] Law 115/2016 as amended, Art 69 (2-3)

[45] Law 115/2016 as amended, Art 69 (2-3).

[46] HJC Decision 592/2020 "For Approval of Communication Strategic Plan for Judicial system". *op. cit*. Art 8.

[47] ibid.

[48] ibid

[49] HJC. 2022. "Events for September 2022". Available at: http://klgj.al/evente/. Accessed 10 September 2022.

[50] HJC. 2022. "The minutes of Plenary Session". Available at: http://klgj.al/wp-content/uploads/2022/06/MBLEDHJE-E-KLGJ-s%C3%AB-Dat%C3%AB-31.05.2022.pdf. Accessed 10 September 2022.

[51] http://klgj.al/wp-content/uploads/2022/06/MBLEDHJE-E-KLGJ-s%C3%AB-Dat%C3%AB-31.05.2022.pdf Accessed 10 September

HJC official website.[52] Such practice undermines the principle of transparency as a basic principle and puts into question the credibility of the 2016 Judicial Reform.

Article 70 (1) of the Law 115/2016 as amended stipulates that rules concerning the calling of the meeting, the agenda, the quorum, the decision-making and the documentation of the plenary meeting of the High Judicial Council, are applicable to the possible extent, as well for the meetings of the HJC permanent committees.[53] The High Judicial Council shall adopt detailed rules for the organization and functioning of the committees.[54] While the plenary meetings are open and audio recording or the minutes of meeting are published online, permanent committees meetings are not open. Furthermore, audio recording or the minutes of meetings of the permanent committees are not published online. Article 62(16) of the Law 115/2016 requires only the publication of the annual report for each permanent committee. This report shall be published on the HJC official website within January of each calendar year.

As explained so far, generally the HJC has respected legal obligations concerning transparency. The HJC *modus operandi* concerning transparency has been highly appreciated by the EC Progress reports EU.[55] The 2020 EC Progress Reports reaffirmed that HJC Plenary sessions have been open to the public and recorded and recognized that the minutes are publicly available.[56] The 2020 EC Progress Reports recommend that such practices accountability and transparency needs to be continued and further consolidated.[57]

While the legal framework offers several guarantees regarding transparency, further measures need to be taken to consolidate.

Firstly, Article 69 (2-3) of the Law 115/2016 as amended has specifically provided the right of administration to edit the audio recording or the minutes of the meeting by deleting any reference to concrete names. The only exception is for the judges against whom the disciplinary measure of suspension and dismissal has been taken. This practice to delete "any reference to concrete names" does not provide enough information for the public and consequently raises questions about transparency.

Secondly, while the plenary meeting decisions are published on the official website and easily accessible and understandable, other preparatory documents of the meetings are not published.[58] Another problem relating with the plenary meeting decisions publicly announced on the official website is the absence of HJC member

[52] Komiteti Shqiptar i Helsinkit. 2022. "Mbi veprimtarinë e Këshillit të Lartë Gjyqësor dhe Këshillit të Lartë të Prokurorisë, si dhe administrimit të dhjetë gjykatave me ngarkesën më të lartë në vend për periudhën e monitorimit dhjetor 2020 – tetor 2021". Available at https://ahc.org.al/wp-content/uploads/2022/08/raport-mbi-veprimtarine-e-keshillit-te-larte-gjyqesor-dhe-keshillit-te-larte-te-prokurorise-si-dhe-administrimit-te-dhjete-gjykatave-me-ngarkesen-me-te-larte-ne-vend.pdf. Accessed 12 September 2022, pp 11-12.

[53] Law 115/2016 as amended, Art 70.

[54] ibid.

55 Commission. 2021 "Albania 2021 Progress Report" (Communication) SWD(2021) 289 final, p. 21; Commission. 2020. "Albania 2020 Progress Report" (Communication) SWD(2020) 354 final, p. 11.

[56] Commission. 2020. "Albania 2020 Progress Report" (Communication) SWD(2020) 354 final, p. 11

[57] ibid

[58] On the HJC official website are published only the decisions. See for more details in: http://klgj.al/akte-normative-nenligjore/

signatures.[59] From a quick look at the decisions, it is not clearly expressed who is in favor or against but it is required to read the minutes of the meeting carefully to understand HJC member vote.[60] These problems have been identified as well by the Albanian Helsinki Committee during the monitoring work process of the High Judicial Council and High Prosecutorial Council.[61] Still, no improvement concerning this issue has been done so far.

Thirdly, permanent committees need to be more transparent in their work activities. As stipulated by Article 61(1) of the Law 115/2016, the HJC exercises its activity through plenary meetings and permanent committees.[62] Pursuant to Article 62 of the Law 115/2016, permanent committees take decisions within the areas stipulated by law or propose to the HJC plenary meeting the approval of decisions that fall under the competence of plenary meeting.[63] Despite the legal requirement concerning transparency of permanent committees to possible extent like HJC plenary meetings, the practice is quite different[64]. The draft decisions and their reasoning are not accessed by the public. Furthermore, the quality of reasoning is not the same for all the decisions.[65] In this context, further measures need to be taken to increase more transparency of permanent committees.

Fourthly, although in very few cases, HJC noncompliance with legal requirements concerning transparency and collaboration with media, undermines the public trust. A media outlet sued the HJC for not respecting the principle of transparency[66]. More specifically, the HJC did not publish on the official website the minutes of meeting during the deliberation over a potential candidate for the High Court on the grounds of confidentiality. After several attempts by the media to obtain the minutes of the meeting, based on Article 65 of Law 115/2016 as amended and Law 119/2014 "On the right to information", the case went to the court. The Court decided in favor of the media and urged the HJC to deliver the minutes of the meeting to the media and publish it online on the official website.[67] Due to the importance of the process to fill out the vacancy at the High Court, the deliberation or decision taken for evaluating potential candidates need to be published. Otherwise, the process is compromised leaving doubts for political influence or breaching the principle of meritocracy.

In another case, the HJC was highly criticized because it avoided the access of media

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[59] ibid.

[60] High Judicial Council. 2022. "Individual decision". Available at: http://klgj.al/akte-administrative-individuale-2/

61 Komiteti Shqiptar i Helsinkit. 2022. "Mbi veprimtarinë e Këshillit të Lartë Gjyqësor dhe Këshillit të Lartë të Prokurorisë, si dhe administrimit të dhjetë gjykatave me ngarkesën më të lartë në vend për periudhën e monitorimit dhjetor 2020 – tetor 2021".*op. cit* , pp. 40-42.

[62] Law 115/2016 as amended, Art 61(1).

[63] ibid

[64] Law 115/2016 as amended, Art 70(1)

65 Komiteti Shqiptar i Helsinkit. 2022. "Mbi veprimtarinë e Këshillit të Lartë Gjyqësor dhe Këshillit të Lartë të Prokurorisë, si dhe administrimit të dhjetë gjykatave me ngarkesën më të lartë në vend për periudhën e monitorimit dhjetor 2020 – tetor 2021".. *op. cit.* pp. 41- 42.

[66] Vladimir Karaj. 2021. "E drejta e informimitdhe 'sekretishtetëror'; KLGJ dorëzohet pasi u padit në gjykatë". Available at: https://www.reporter.al/2021/10/08/e-drejta-e-informimit-dhe-sekreti-shteteror-klgj-dorezohet-pasi-u-padit-ne-gjykate/

[67] ibid

during a plenary meeting based on the lack of IT technical capacities[68]. The meeting agenda included, *inter alia*, establishment of the working group for drafting a standard guideline for media. While in the beginning the HJC announced that the respective media is welcomed, it changed its attitude the next day after the meeting started. The main justification was that the online platforms users are limited[69].
Also, the Albanian Helsinki Committee has identified one case where the HJC plenary meetings were held in closed doors. The topic of HJC plenary meeting was verification of courts chancellors in duty. The HJC main justification for not publishing the minutes of meeting or audio recording related to the principle of confidentiality, personal data and state secrets.[70]

5. Conclusions

After the 2016 Judicial Reform, the High Judicial Council is the main judicial governance body. Despite exercising its duties to guarantee an independent and impartial judicial system, the HJC has an important role in restoring public trust through maintaining a strong relationship of trust with the public and media by giving to them comprehensive information concerning the decision-making process. Therefore, the HJC must exercise its competences in an open and transparent manner to increase the public trust.
The legislation currently in force for the judicial system provides several guarantees to respect the principle of transparency in the HJC decision making process. Pursuant to these legal requirements, the HJC has established a working practice where the plenary meetings are open to the public; audio recording and the minutes of meeting are published on the official website. While this practice is welcomed, there are several cases where the HJC *modus operandi* leaves doubts concerning the judiciary's independence. On the other hand, further steps need to be taken to consolidate the principle of transparency in the HJC decision making process.
Firstly, the legal requirement stipulated to Article 69 (2-3) of the Law 115/2016 as amended "to edit the audio recording or the minutes of the meeting by deleting any reference to concrete names" needs to be revised. This practice to delete "any reference to concrete names" does not provide enough information for the public and consequently raises questions about transparency concerning appointment process, career promotion or disciplinary measures.
Secondly, HJC permanent committees should increase the level of transparency. Pursuant to Article 62 of the Law 115/2016 as amended, permanent committees take decisions within the areas stipulated by law or propose to the HJC plenary meeting the approval of decisions that fall under the competence of plenary meeting.[71] Despite the legal requirement concerning transparency of permanent committees to

[68] Edmond Hoxhaj. 2021. KLGJ I mbyll derën medias gjatë mbledhjes për 'standardet' e medias". Available at: https://www.reporter.al/2021/07/06/klgj-i-mbyll-deren-medias-gjate-mbledhjes-per-standarded-e-medias/
[69] ibid
70 Komiteti Shqiptar i Helsinkit. 2022. "Mbi veprimtarinë e Këshillit të Lartë Gjyqësor dhe Këshillit të Lartë të Prokurorisë, si dhe administrimit të dhjetë gjykatave me ngarkesën më të lartë në vend për periudhën e monitorimit dhjetor 2020 – tetor 2021". *op. cit.* p. 42.
[71] Law 115/2016 as amended, Art 62(1).

possible extent like HJC plenary meetings[72], the practice is quite different. The draft decisions and their reasoning are not accessed by the public. Furthermore, the quality of reasoning is not the same for all the decisions.[73] In this context, further measures need to be taken to increase more transparency of permanent committees.

Thirdly, while the plenary meeting decisions are published on the official website and easily accessible and understandable, the preparatory documents that are distributed to members and are discussed in the meetings are not published. In this context, further measures need to be taken to make them accessible by the public.

Fourthly, the non publication of the audio recording or the minutes of meetings, although in very few cases, due to confidentiality or personal data protection and contrary to the law 115/2016, has to be limited.

References

Bangalore Principles of Judicial Conduct. Available at: https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf. Accessed 1 September 2022

Basic Principles on the Independence of the Judiciary. Available at: https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-independence-judiciary. Accessed 1 September 2022

CCJE. 2021. "Opinion No. 24 (2021): Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems". CCJE(2021)11

Commission. 2020. "Albania 2020 Progress Report" (Communication) SWD(2020) 354 final

Commission. 2021 "Albania 2021 Progress Report" (Communication) SWD(2021) 289 final, p. 21; Commission. 2020. "Albania 2020 Progress Report" (Communication) SWD(2020) 354 final

Consultative Council of European Judges. 2010. "Magna Carta of Judges". CCJE (2010)3 Final

Consultative Council of European Judges. 2001. "Opinion no 1 (2001) of the Consultative Council of European Judges (CCJE) for the Attention of the Committee of Ministers of the Council of Europe on Standards Concerning the Independence of the Judiciary and the Irremovability of Judges". CCJE (2001) OP N 1

Council of Europe, *European Charter on the Status for the judges.* DAJ/DOC (98)

Edmond Hoxhaj. 2021. KLGJ I mbyll derën medias gjatë mbledhjes për 'standardet' e medias". Available at: https://www.reporter.al/2021/07/06/klgj-i-mbyll-deren-medias-gjate-mbledhjes-per-standarded-e-medias/

ENCJ. 2009. "Resolution on Transparency and Access to Justice". Available at:https://encj.eu/images/stories/pdf/opinions/resolutionbucharest29may_final.pdf

ENCJ. 2014. "Report on Independence and Accountability of the Judiciary". Available at https://www.encj.eu/images/stories/pdf/workinggroups/independence/encj_report_independence_accountability_adopted_version_sept_2014.pdf. Accessed 1 September 2022

ENCJ. 2021. "Compendium on Councils for the Judiciary" Available at: https://www.encj.eu/node/606. Accessed 2 September 2022

Group of High Level Experts. 2015. "Strategy on Justice System Reform". Available at: https://euralius.eu/images/Justice-Reform/Strategy-on-Justice-System-Reform_24-07-2015.pdf. Accessed 1 September 2022

Group of High Level Experts. 2015. "Analysis of the Justice System in Albania: Document open for evaluation, comments and proposals". Available at:https://euralius.eu/images/Justice-Reform/Analysis-of-the-Justice-System-in-Albania.pdf. Accessed 12 September 2022

[72] Law 115/2016 as amended, Art 70

73 Komiteti Shqiptar i Helsinkit. 2022. "Mbi veprimtarinë e Këshillit të Lartë Gjyqësor dhe Këshillit të Lartë të Prokurorisë, si dhe administrimit të dhjetë gjykatave me ngarkesën më të lartë në vend për periudhën e monitorimit dhjetor 2020 – tetor 2021".*op. cit.* pp. 41-42.

HJC Decision 590/2020, "For Approval of Communication Strategic Plan for Judicial system". Available at: http://klgj.al/wp-content/uploads/2020/12/PLANI-STRATEGJIK-I-KOMUNIKIMIT-P%C3%8BR-SISTEMIN-GJYQ%C3%8BSOR.pdf. Accessed 1 September 2022
HJC. 2022. "Events for September 2022". Available at: http://klgj.al/evente/. Accessed 10 September 2022.
HJC. 2022. "The minutes of Plenary Session". Available at: http://klgj.al/wp-content/uploads/2022/06/MBLEDHJE-E-KLGJ-s%C3%AB-Dat%C3%AB-31.05.2022.pdf. Accessed 10 September 2022
Komiteti Shqiptar i Helsinkit. 2022. "Mbi veprimtarinë e Këshillit të Lartë Gjyqësor dhe Këshillit të Lartë të Prokurorisë, si dhe administrimit të dhjetë gjykatave me ngarkesën më të lartë në vend për periudhën e monitorimit dhjetor 2020 – tetor 2021".Available at https://ahc.org.al/wp-content/uploads/2022/08/raport-mbi-veprimtarine-e-keshillit-te-larte-gjyqesor-dhe-keshillit-te-larte-te-prokurorise-si-dhe-administrimit-te-dhjete-gjykatave-me-ngarkesen--me-te-larte-ne-vend.pdf. Accessed 12 September 2022
Law 7895/1995, 'Criminal Code of the Republic of Albania' [1995] OJ 2 as last amended,
Law 8136/1996, 'For School of Magistrate' [1996] OJ 21 (abrogated)
Law 8417/1998, "The Constitution of the Republic of Albania" as amended' [2022] OJ 37, Law 9877/2008 'For Organization of Judicial branch in the republic of Albania' [2008] (abrogated)
Law 8678/2001 'On the Organization and functioning of Ministry of Justice in the Republic of Albania' [2001] OJ 27 as last amended by Law 40/2017 [2017] OJ 85
Law 8811/2001 'For Organization and Functioning of High Council of Justice' [2001] OJ 9 (abrogated)
Law 9049/2003 'On the declaration and audit of assets, financial obligations of elected persons and certain public officials' [2003] OJ 31 as last amended,
Law 9367/2005 'On the prevention of conflicts of interest in the exercise of public functions' [2005] OJ 31 as amended
Law 49/2012, 'For Organization and Functioning of Administrative Court and adjudication of administrative disputes' [2012] OJ 49 as amended
Law 119/2014 "On the right to information" [2016] Official Journal 160.
Law 84/2016 "On the transitional re-evaluation of judges and prosecutors in the Republic of Albania" [2016] OJ 180.
Law 95/2016 'On the organization and functioning of institutions for combating corruption and organized crime' [2016] OJ 194, as amended
Law 96/2016 'On the status of judges and prosecutors in the Republic of Albania' [2016] OJ 208, as amended
Law 98/2016 'On the organization of the judicial power in the Republic of Albania' [2016] OJ 209, as amended
Law 115/2016, 'On Governance Institutions of the Justice system' [2016] Official Journal 231, as amended by Law 47/2019 [2019] OJ 113
Law 16/2022, 'For a change to the Law 8417/1998, "The Constitution of the Republic of Albania" as amended' [2022] OJ 37
Ministry of Justice. 2015. "Analytical Document- Detailed information for each sector of Justice System". Available at: https://drejtesia.gov.al/wp-content/uploads/2017/10/Analiza_e_sistemit_te_drejtesise_FINAL-1.pdf. Accessed 12 September 2022
Explanatory Report on draft law "On Governance Institutions of the Justice system". Available at: http://www.reformanedrejtesi.al/sites/default/files/290616relacion-qeverisja-e-gjyqesorit.pdf. Accessed 1 September 2022
Reporter.al, "Vetingu". Available at: https://reporter.al/vetingu/. Accessed 14 September 2022.
Vladimir Karaj. 2021. "E drejta e informimit dhe 'sekreti shtetëror'; KLGJ dorëzohet pasi u padit në gjykatë". Available at: https://www.reporter.al/2021/10/08/e-drejta-e-informimit-dhe-sekreti-shteteror-klgj-dorezohet-pasi-u-padit-ne-gjykate/

Profitability of Insurance Companies in Albania

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Abstract

The objective of this paper is the explanation of the profitability of insurance companies (represented by ROA), which operate in the Albanian insurance market, through internal factors such as company size, capital volume, liabilities, liquidity, growth rate and fixed assets. The growing importance of companies of insurance in Albania, as part of the development of the non-banking financial sector as a whole; as well as the importance of profitability as one of the main measures of a company's performance company are the reasons for the development of this paper. The methodology used for the achievement of the objectives of the paper is the use of quantitative methods of correlation and multiple linear regression with panel data. The data used in the paper are provided through reliable official sources such as annual reports of companies insurance, AMF reports and documents filed with the NRC.
In this paper, 7 companies operating in the Albanian market have been studied insurance, which includes both non-life insurance companies and companies life insurance, for the period 2017-2021. The results of the paper showed that the factors growth rate, liabilities, liquidity and fixed assets are the main factors which affect the profitability of insurers in our country, where the growth rate is e positively related to profitability, while liabilities, liquidity and fixed assets are negatively related to profitability. Company size and volume I capital are positively correlated with the profitability of companies insurance, but their impact is statistically insignificant.

Keywords: Profitability, Insurance Companies, Albania.

1. Introduction

The good performance of a company determines the performance of the company in the market where it operates, the growth and consolidation of the market in general, giving as a final result
and the development of the economy as a whole. For this reason, the measurement and evaluation of performance of any company is one of the most curved topics in the literature financial. The importance of this topic multiplies further, when we are dealing with companies that operate in the insurance market and this fact because: 1) insurance companies transfer risk to the economy 2) provide a mechanism to encourage savings and 3) promote investment activities in the economy. The three main measures of a company's performance are profitability, size and company continuity. Profitability shows the company's ability to ensure a rate of return on its assets and investments. Size of the company is an indicator of the company's success in growing, reinvesting profits and using borrowed funds. The company's continuity shows its ability to have a stable development, even in conditions where the economy or industry where it operon is not in growth stages (Al-Shami, 2013). In this paper I will focus in the study of profitability, as one of the measures of the companies'

performance
insurance. Considering the structure of the financial system in our country, as well as the challenges faced by insurance companies in the development and consolidation of non-banking financial system, it is necessary for insurance companies to operate profitably, so that the whole system receives the required development. Measurement of the financial performance of the insurance market and the factors that influence this performance is a topic that presents theoretical and practical interest, both from the point of view of financial system researchers, as well as from the point of view of actors in the system. Profitability is one of the most important objectives of financial management, since one of the main tasks and goals of financial management is increasing shareholder wealth. At this point profitability is one of the main determinants of a company's performance (Malik, 2011).
What are the factors that affect the profitability of the insurance market? The main question on which this topic is built. Factors that can affect profitability of insurance companies, can be internal factors or external factors. This paper topic will focus on the influence of the factors of internal in the profitability of the insurance market, to study how influence the factors that are dependent on the companies' own decision-making insurance in their profitability.
The second question that will be asked in this topic is how these factors affect profitability of companies operating in the insurance market. The answer to this question can be asked not only through logical reasoning, but also through a quantitative assessment by building a suitable model for this purpose. The finding of reasonable answers to these questions is the focus of this master's degree topic. The answers to these questions, as well as the argumentation of these answers together with the recommendations given in this paper aim to provide a clear framework of factors that affect the profitability of insurance companies.

2. **Literature review**

Recent research (Naveed, Zulfqar, & Ahmad, 2011) has shown that the efficiency of financial intermediaries and the transfer of risks, can affect economic growth, while at the same time their lack of solvency leads to crises systematic, which bring unfavorable consequences for the economy as a whole. However, the importance of financial institutions, such as insurance companies, lies in the fact that they finance and stimulate economic activity and contribute to the stability of the financial system in particular and the stability of the country's economy in general. In thus, insurance companies are important for both businesses and for individuals, as they channel the funds bringing the economy to the state of previous, in cases of damage. So insurance companies bring to society as economic benefits as well as social benefits, preventing losses, reducing uncertainty, fear and increasing employment. In this way, you can it is said that today's business world, without financial institutions like insurance companies would be unstable, because on the one hand, it is a normal phenomenon that some business units are in surplus and some others are in deficit and vice versa businesses do not have the capacity to take on all the risks that they face the uncertainty of the environment where they operate.
Renbao Chen (Chen & Wong, 2004) has emphasized that high profits provide both means (greater availability of funds), as well as the incentive for new investments

(higher rate of return). Insurance companies have a dual responsibility, they must be profitable, so that they can make new investments as well they must be profitable in order to have the necessary solvency for it return other parts of the economy to the previous state after the occurrence of the damage. Insurance companies play a key role in promoting commercial businesses and
infrastructure, and even further insurance companies promote stability financial and social, mobilize and channel savings, help activities commercial and entrepreneurial and improve the quality of life of individuals and well-being of society as a whole (Malik, 2011). Michael Koller in his research (Koller,2011) identified that insurance companies transfer risk by channeling
funds from one unit to another (so they carry out financial intermediation). This means that insurance companies help a country's economy first by transferring and share the risk, which creates a feeling of protection against the occurrence of events uncertainty, secondly insurance companies, like other financial intermediaries, channel financial resources from one unit to another. Insurance companies are categorized into life and health insurance companies and property and liability insurance company (non-life). These two categories differ from each other in terms of operational and investment activities, sensitivity and the duration of the obligations. Life and health insurance companies are referred to as function as financial intermediaries, while property insurance companies e obligations function as risk takers (Chen & Wong, 2004).

2.1. The concept of profitability

According to Swiss Re sources (Swiss Re, 2008) the profit of insurance companies, is primarily determined by operational performance (losses and expenses, which are dependent on the prices of the products, the risk assumed, the management of complaints and administrative and marketing expenses); and second by performance of investments, which depends on asset allocation and asset management. The term profit, can be used both in the economic concept and in the accounting concept, to show the excess of income over expenses for a given period. From on the one hand, profit is one of the main reasons for the continuity of any organization business. On the other hand, profit is one of the main objectives of financial management of the organization, because one of the goals of financial management is the maximization of wealth and profitability of owners (Nguyen, 2001). The term profitability it is a relative measure where profit is expressed as a ratio and generally as a percentage (%). Profitability expresses the ratio between an absolute amount of profit to some factors. The term profitability ratios is defined as a class of financial matrices, which are used to assess the ability of a business to generate income on high compared to other relevant expenses and costs, within a period of set time. There are other scholars such as William H. Greene and Dam Segal (Greene & Segal, 2004) who argue that the financial performance of insurance companies expressed by indicators such as annual income, return on investments, net premiums earned, return on capital, which are considered as measures of performance investments. However, (Koller, 2011) has argued that profitability is the most important indicator, because it shows the ability of insurance companies to increase their income level. There are several ways to measure profitability such as return on assets (ROA), return on equity (ROE), return on invested capital (ROIC). ROA shows how much profitable has been a

company in relation to its total assets. ROA shows how much efficient has been the direction of a company in the use of its assets for it generated profit, while ROE shows how much profit the company generates with the money that shareholders have invested. ROIC is an indicator, which evaluates the efficiency of a company in the allocation of capital in profitable investments. This indicator shows how much well a company uses its funds to generate high returns. Comparison of ROIC at the company's average cost of capital (WACC), indicates whether capital I the company is being used efficiently or not. Most researchers, who are taken on the subject of the profitability of insurance companies, they state that the key factor that expresses profitability is ROA, defined as the ratio of profit after tax (EAT).

2.2. Factors affecting the profitability of insurance companies

The profitability of insurance companies can be affected by a large number factors, which can be classified as internal factors, industry factors and macroeconomic factors. In most of the financial literature dealing with the subject of profitability of insurance companies, profitability is studied in function of internal factors. Profit variation among insurance companies over the years, in a certain place, leads you to think that internal factors or a firm's specific factors play a major role in determining profitability. It is therefore important to determine what these internal factors are and what is the nature of their impact, in order to help companies e insurance to take measures to increase their profitability. There are many foreigners authors who have studied the factors that affect the profitability of companies insurance, both life and non-life companies. Authors like Sylwester Cossack in Poland (2011), Jay Angoff and Roger Brown in the United States America (2007), Al-Shami in the United Arab Emirates (2013), Swiss Re in
Egypt (2008) etc. have studied the factors that affect the profitability of companies non-life insurance. Other authors such as Adams, Hardwick and Zou in the Kingdom of United (2008), Sandra e Lianga in Canada (2007), Wright in the United States of America (1992) etc. have studied the factors that affect the profitability of life insurance companies. Most of these researchers, as for the companies life insurance, as well as for non-life insurance, focus on internal factors, where the factors that are more taken into consideration are the age of the company, the size of company, debt ratio, growth rate, capital size, sensitivity of assets and liquidity ratio.

3. **Methodology**

The methodology used in a study is one of the main components of the achievement of study objectives. In order to achieve the aforementioned objectives in paper, an analysis will be made on the profitability of the companies insurance in our country and the factors that affect it, based on the data quantitative and building an econometric model, using the Eviews7 program.
The data used in this paper are secondary data, obtained from KKR, annual reports of insurance companies and AMF, i.e. data obtained from official and reliable sources. In addition, another advantage of data secondary, as opposed to primary ones, is that they can be easily proven by
third parties, which also increases the reliability of the data (Stewart & Kamis, 1984). The model, which studies the relationship between the profitability of insurance

companies and factors that influence it, is a multiple regression model with panel data. The Panel data analysis method is an increasingly current form and in extension, used by analysts and researchers, in various fields of science. Panel data analysis provides regression analysis the dimension of development in time and space. The spatial dimension is given by the use of samples, cross- sectional, observation. These can be countries, states, firms, goods, groups population, even specific individuals, while in our case they are companies insurance companies operating in Albania. While the dimension of development in time ia gives the observation of a set of variables that characterize this group, in a space of certain, which in our case are profitability and the factors that influence it. The use of Panel analysis has a number of advantages, which we can mention: the diversity of the subject under study, the realization of complex studies, combining time series with cross-section observations provides more information, more variation, more degrees of freedom etc (Brooks, 2008). Data analysis panel offers the possibility of building three types of regression a) Model with coefficient constant b) Fixed effects model and c) Random effects model. On the other hand, the Hausman test is used in panel analysis to determine which of the models, with fixed effects or random effects, is better.

The general regression model, which will be built in this paper, is as follows below:

$ROA_{i,t} = \alpha 0 + \ln\alpha 1MK + \ln\alpha 2VK + \alpha 3D + \alpha 4\ AQ + \alpha 5L + \alpha 6NRr + \mu i,t$ (1) where:

ROA- the dependent variable, the profitability of insurance companies

$\alpha 0$- constant value

MK - the size of the company expressed by total assets in logarithmic value

VK- the volume of capital expressed by the accounting value of capital in logarithmic value

D- liabilities expressed by the ratio of liabilities to capital

AQ- fixed assets expressed by the ratio of fixed assets to total assets

L- liquidity expressed by the current ratio

NRr- growth rate expressed by the change in percentage of signed premiums gross

$\mu i,t$ - the error term

In accordance with what the recommended studies guide during the review literature, the hypotheses that will be studied in this paper are:

H1: There is a positive relationship between the size of the insurance company in Albania and their profitability

H2: There is a positive relationship between the volume of capital and the profitability of insurance companies in Albania

H3: There is a negative relationship between liabilities and profitability of companies insurance in Albania

4. Data analysis and interpretation

In this part, the analysis of the influencing factors on the profitability will be presented insurance companies in our country. These factors have been subjected to analysis descriptive, correlation analysis and panel multiple regression analysis. Below are the aforementioned analyzes and their results. The table above presents some descriptive

statistics for the factors affecting profitability of insurance companies as well as for profitability, represented
from ROA, taken in total both for the cross section and for the period.

	Fixed assets	Liabilities	The size of the company	Equity volume	Liquidity	Growth rate	ROA
Average	0.125827	1.305064	21.57140	20.78488	6.337284	0.086693	-0.002
Median	0.123355	1.132017	21.32095	20.46779	5.662618	0.090716	0.020
Max	0.412115	3.462019	23.06227	22.02148	27.82843	0.335887	0.081
Min	0.022285	0.353759	20.28591	19.80254	0.440913	-0.29494	-0.500
St.Deviation	0.099577	0.789245	0.884033	0.811577	6.530994	0.147042	0.1067
Number of observation	25	25	25	25	25	19	24

During the last 5 years, the average rate of profitability of companies of insurance in our country was -0.3% with a standard deviation of 0.1. These data show that there is moderate variation between companies' profitability of insurance taken in the study. This table also presents the data foraverage value, median, maximum and minimum value and standard deviation as well for the factors considered as influencing the profitability of insurance companies in our place. The average of 0.12 for fixed assets indicates that fixed assets constitute on average 12% of the total assets of the insurance companies taken in the study.
The standard deviation of 0.099 shows that the variation of fixed assets between companies of obtained in the study is moderate. For the obligations1 factor, the average 1.31 shows that for the insurance companies taken in the study exceed the liabilities by 1.31 times capital. The standard deviation of 0.78 indicates that there is a significant variation between companies studied for this factor. Factor the size of the company has a average of 21.57, which shows that the total assets for the companies under consideration is an average of 2.3 billion ALL and standard deviation of 0.88, which shows that there is a significant variation between the companies surveyed for this factor.
Capital volume factor4 has an average of 20.78, which shows that the average volume of capital of insurance companies is 1.06 billion ALL and standard deviation of 0.81, which shows that this factor also has a significant variation between companies taken in the study. Liquidity factor has an average of 6.34, which shows that the companies taken in the study cover an average of 6.34 times their liabilities short-term from current assets. The standard deviation of 6.53 indicates that there is a high variation among insurance companies considered for this factor. The growth rate factor has an average of 0.087, which shows that the gross premiums of insurance companies under consideration have increased by an average of 8.7% during the period 2008-2013, while the maximum increase reaches 33.5% and it minimum at 29.5%. The standard deviation of 0.14 indicates that there is a variation of significantly among insurance companies for this factor.
H1: There is a positive relationship between the size of the insurance company in Albania

and their profitability

Correlation between Company Size and ROA

The independent factor	Correlation coefficient	t-statistic	P
The size of the company	0.168505	0.725275	0.4776

From the table above we see that the relationship between the size of the companies insurance and their profitability is positive. However, statistics t and confidence level p show us that this relationship is not statistically significant.

H2: There is a positive relationship between the volume of capital and the profitability of insurance companies in Albania

Correlation between Equity Volume and ROA

The independent factor	Correlation coefficient	t-statistic	P
Equity volum	0.352124	1.596166	0.1279

The positive correlation coefficient indicates that the relationship between capital volume and profitability is fair and even relatively strong. With a level reliability 15%, this relationship is statistically significant, therefore the hypothesis of above is accepted.

H3: There is a negative relationship between liabilities and profitability of companies insurance in Albania

Correlation between Liabilities and ROA

The independent factor	Correlation coefficient	t-statistic	P
Liabilities	-0.597070	-3.157799	0.0054

The t-statistic and p-probability tell us that there is a statistically negative relationship of important between liabilities and profitability of insurance companies. Like therefore, the above hypothesis is accepted. The correlation coefficient of -0.597 shows that this connection is strong.

5. **Conclusion**

The objective of this paper was to study the internal factors, which affect the profitability of insurance companies in Albania. To arrive The objectives of the paper were an analysis through panel techniques for 7 of companies operating in the Albanian insurance market for the period 2016- 2021.

One of the first important conclusions of this paper is that the companies of insurance companies in our country operate with an average negative profitability. The reason

for this result can be explained by the fact that the insurance market in our country is still undeveloped, where the average per capita spending on insurance for Albanians reach $10, at a time when the average per capita cost of insurance for countries developed is $600 (Zyka & Stringa, 2010).

In addition to external factors, which affect the development of insurance companies in Albania as the weak culture of citizens towards insurance, the small market and no many opportunities, etc., there are also factors that depend on the insurance companies and their behavior in the market. Insurance companies in Albania have a tough "war". prices, which distorts the market and damages fair competition. On the other hand the insurance market in Albania has a high degree of concentration, most pronounced in life insurance and less emphasized non-life insurance, which affects the efficiency of sector and its profitability.

In this paper, the influence of the factors the size of the company, the volume of capital, liabilities, liquidity, fixed assets and growth rate in profitability insurance companies in Albania (represented by ROA). The results of the analysis multiple panel regression showed that there was a statistically significant relationship between growth rate, liquidity, liabilities and fixed assets with the profitability of the insurer, while the impact of factors the size of the company and capital volume was not statistically significant.

The negative relationship between the level of liquidities and liabilities with the companies ROA of insurance in our country and the positive relationship between the growth rate and ROA, e proven by this paper is consistent with the hypotheses raised at the beginning of the work. Maintaining high liquidity has the opportunity cost of investments which can were realized with these funds, negatively affecting the profitability of insurers. The high level of liabilities exposes the insurer to capacity risk paying, negatively affecting its profitability.

The increase in gross written premiums, which represented the growth rate of insurance companies, there was a positive relationship with the profitability of these last. The increase in premiums increases the finances of the insurer, strengthens its positions in the market, it does more competitive and better able to take advantage of new opportunities, influencing positively also in increasing their profitability. The result of the paper did not confirm the raised hypothesis that fixed assets influence positively in the profitability of insurance companies in our country. The model of regression showed that fixed assets had a negative relationship with ROA of companies insurance in our country and their increase led to a decrease in the insurer's ROA. Despite being statistically insignificant, the variables company size and the volume of capital had a positive relationship with the profitability of the insurer in the country ours, which is consistent with the hypotheses raised at the beginning of the paper.

References

Adams, M., Hardwick, P., & Zou, H. (2008). Reinsurance and Corporate Taxation in the. Journal of Banking and Finance .

Al-Shami, H. A. (2013, Korrik 24). Universiti Utara Malaysian Electronic Theses and Dissertation. Retrieved Maj 13, 2015, from Universiti Utara Malaysian: etd.uum.edu

AMF. (2013). Raporti Vjetor 2013. Tirana: Autoriteti Mbikqyrjes Financiare

Brooks, C. (2008). Introductory Econometrics for Finance. UK: Cambridge University
Bryman, A. (2004). Social Research Methods
Burca, M., & Batrinca, G. (2014). The determinants of financial performance in the Romanian insurance market. International Journal of Academic Research in Accounting, Finance and Management Sciences .
C, B. (2008). Introductory Econometrics for Finance. UK: Cambridge University
C, H. (2005). The Effect of Competitive structure on the relationship between leverage and profitability.
Chen, R., & Wong, K. A. (2004). The Determinants of Financial Health of Asian Insurance Companies. The Journal of Risk and Insurance , 469- 499.
Dahmash, F. N. (2015, January 20). Size Effect on Company Profitability: Evidence from Jordan. Retrieved May 10, 2015, from Accounting Department, the world Islamic Sciences & Education University, Amman, Jordan : file:///C:/Users/Acer/Doënloads/30614-153324-1-PB%20(3).pdf
Flamini, V., McDonald, C., & Schumacher, L. (2015). The Determinants of Commercial Bank Profitability in Sub-Saharan Africa . International Monetary Fund.
Harrington. (2005). The Effect of Competitive structure on the relationship between leverage and profitability.
Koller, M. (2011). Life Insurance Risk Management Essentials.
Kozak, S. (2011). Consolidation and Efficiency of the Non-Life Insurance Sector in Poland. Electronic Journal of Polish Agricultural Universities , Vol 13.
Lane, D. (2010). Pearson's Correlation. Retrieved Maj 28, 2015, from Hyperstat: http://davidmlane.com/hyperstat/A34739.html
Naveed, A., Zulfqar, A., & Ahmad, U. (2011). Determinants of Performance: A Case Of Life Insurance Sector of Pakistan. International Research Journal of Finance and Economics, Eurojournals Publishing, Inc .
Onaolapo, A., & Kajola, S. (2010). Capital structure and firm performance: Evidence from Nigeria . European Journal of Economics, Finance and Administrative Sciences
Titman, S., & Ëessels, R. (1988). The determinants of capital structure choice. Journal of Finance.
Yuqi, L. (2007). Determinants of Banks© Profitability and Its Implication on Risk Management Practices: Panel Evidence from the UK. University of Nottingham .
Ëright, K. (1992). The Life Insurance industry in the United States an analysis of economic and regulatory issues. Country Economics Department the ëorld Bank policy research ëorking paper.

Historical overview of the legislation on the execution of criminal judgments in Albania

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Abstract

The legislation on the execution of criminal judgments considered in its entirety has undergone many changes starting with the period of the Monarchy in Albania until the democratic changes of the early 90s. Initially, in the legislation of the kingdom, the ways of executing criminal judgments are provided in detail, where this legislation is characterized by the western spirit of the legislations of the time. At that time, but also afterwards, the criminal penalties were quite severe, with the death penalty being the most extreme punishment. Meanwhile, after the liberation of the country, it is found that our material criminal legislation and the one on the execution of criminal judgments underwent significant changes, bringing the severity of punishments, especially for political punishments. Moreover, the manner of execution of the judgments was characterized by a cruel spirit towards the condemned. However, it must be said that the codes of 1952 and 1953 were still characterized by the western nuance in terms of delivering judgments and their execution. But with the Code of 1979, it can be observed that there is a deterioration and degradation of the rights of convicts, especially those with a political profile. Only after the 90s did our criminal legislation manage to embrace the values and tradition of the western Substantive and Procedural criminal law. Meanwhile, currently the legislation on the execution of criminal judgments is abundant, providing the rules and ways of executing criminal judgments. This paper will bring a clear picture of the evolution of our criminal legislation on some of the main punishments and the ways of their execution over the years.

Keywords: sentence, execution of judgment, code of criminal procedure, criminal code, convicted.

I. Legislation of the period of the Albanian kingdom

The period of the King Zog I is characterized by the Criminal Code of 1928[1]. In this Code on the types of punishments, it was stipulated that the sentence of life imprisonment and the sentence of severe imprisonment for a period of more than five years, had the effect of banning the convicted from the office. Meanwhile, a prison sentence for a period of more than three years had the effect of being banned from public offices for a time equal to the time of imprisonment assigned to him.
According to this Code, if the sentence of death or life imprisonment was converted into a prison sentence of thirty years, the punishment had the effect of placing the convict under a special supervision of the Public Security Authority for a period of 10 years from the end of the imprisonment sentence. It was also provided for that those sentenced to life imprisonment and those sentenced to more than five years of imprisonment, during the time of serving the sentence were under the effect of a legal ban on the administration of their property. Together with this ban, it was stipulated that this category of convicts would lose paternity and the authority of the husband over the wife for the entire period of serving the sentence.
According to this Code, the death penalty was carried out by hanging on a rope and not by firing squad, and this sentence could also be given to women, even pregnant

women, who waited until they gave birth and were executed two weeks after giving birth[2].
The Criminal Code of 1928 on life imprisonment provided that this punishment was carried out in special facilities for the first seven years, and after this period the person sentenced to life imprisonment was allowed and obliged to work together with other prisoners with deprivation of liberty, but provided that he was not allowed to talk with other convicts.
Meanwhile, those sentenced to severe imprisonment had the obligation to perform forced labor in special facilities. The Criminal Code of 1928 also stipulated the light imprisonment, which was given in the cases of those convicted of criminal misdemeanors for a period of one to two years. This type of sentences was carried out in special facilities where the convict had the right to be released from prison during the day with the condition of working and at night he remained locked up in prison. Penalty of internment were set for a period of one month to ten years of imprisonment. With this sentence, the detainee had the obligation to stay in a place defined in the court's judgment.
Meanwhile, in the Criminal Code of 1928, it was stipulated that the prison sentence brought consequences in terms of the exercise of professions or crafts, leading to the suspension of these activities. Any conviction for offenses committed by abusing a public office or by abusing a profession or craft, for the exercise of which a government license was required, resulted in debarment from office or suspension from the exercise of the profession or craft.

II. The period of 1944 - 1953

The main regulation of this period regarding the execution of criminal decisions is Decree-Law[3] of the Presidium of the People's Assembly no. 390 dated 10.01.194 on the "*Execution of Sentences*". Looking at the provisions of this Decree-Law, it can be said that it is the first legal regulation, which is very similar to the recent legal regulations on the execution of criminal judgments.
In the first part of this law, several principle provisions are provided, starting with Article 1, which stipulates that the execution of the sentence begins when the court's judgments becomes final. Meanwhile, in a general overview of this legal act, there are no rules regarding the execution of security measures.
Meanwhile, Article 2 provides that it is the President of the court before which the judgment was given, who takes the initiative for the execution of the judgment by sending a copy of the decision to the enforcement bodies. The bodies charged with the execution of the judgment are expected to be the departments of internal affairs of the People's Councils of Prefectures, Sub-prefectures or cities. It is also stipulated that the Ministry of Internal Affairs keeps the evidence on the execution of judgments throughout the State and for this purpose, all the bodies charged with the execution of sentences must send the Ministry of Internal Affairs the notes that will be requested.
In the second part of the Decree-Law, the rules on the execution of sentences according to their types are provided.
The death penalty was executed by shooting or hanging on a rope, according to the disposition given by the court in the judgment. In cases where a request for pardon has been submitted by the person sentenced to death, it is provided that the execution of the sentence will be postponed until the judgment on the request for pardon has been made. Article 7 of the Decree-Law stipulates that the death penalty is executed in a bar or in a closed place, where there was no access by the public, unless otherwise ordered by the Ministry of Internal Affairs.

In the procedure of execution of the death sentence, it was provided for that the Public Prosecutor or the Military Prosecutor, a delegate of internal affairs, the doctor and a secretary would participate. A record is kept on the execution of the death sentence, which is signed by all the persons who were present. A copy of the record of execution was sent to the court and became part of the trial file.

The penalty of Loss of citizenship was given in cases where the convicted person is not found in the territory of the Republic of Albania. It was envisaged that that the court that handed down the sentence of loss of citizenship would notify the Ministry of Internal Affairs and the latter would take note of its evidence, taking all the necessary measures to prevent the convict from returning to Albania.

The penalty of Deprivation of liberty were divided into sentences with deprivation of liberty for life with forced labor, sentences with deprivation of liberty with forced labor and sentences with deprivation of liberty. It was envisaged that these sentences would be executed in special establishments and workplaces designated by the Ministry of Internal Affairs.

Article 12 of the Decree-Law provided that in relation to the execution of the above-mentioned punishments, the measure of punishment, sex, age and state of health of the convicted person, the type of offense for which he was convicted, the danger of the person to the State and the people, occupation, profession and other qualities of the convicted person were taken into account. Based on the above-mentioned criteria, when possible, separate sections for different categories of convicts could be created near special establishments and workplaces.

The penalty of forced labor without deprivation of liberty was executed by placing the convict under the obligation to perform work in public works. Public works are assigned by the bodies of internal affairs, the people's councils of prefectures, sub-prefectures or cities, and these bodies also deal with the supervision and control of the performance of the work.

Penalty of loss of political and civil rights consisted in not exercising a number of political and civil rights. Regarding the execution of this sentence, it was stipulated that the court that issued the sentence notifies the Ministry of Internal Affairs, and the latter transcribes or places in its registers the extremities of the sentence, notifying all the interested bodies.

Penalty of losing the state office or another public office consisted in not exercising the state office or any kind of public office. The court that handed down this judgment notified the institution or enterprise where the convicted person worked at the time of committing the criminal offense, simultaneously requesting the immediate execution of the judgment.

Penalty of prohibition of practicing the profession or another activity was executed by the internal affairs body of the People's Council of the Prefecture, Sub-Prefecture or the city, in the district of which the convicted person practices his profession or another activity. In cases where the convicted person does not obey the notification of the internal affairs body to stop the profession or activity, then the company, workshop or shop is forcibly closed.

The penalty with a fine is executed by the court bailiff. The bailiff may charge the village or municipality people's council to collect the fine and court costs. As for the method of payment of the fine, it was envisaged that the court can determine the payment of the fine in installments, depending on the economic situation of the convicted person, but in these cases, the fine must be paid within a period of six months.

III. The period 1954-1979

The Criminal Procedure Code of 1953 provided for rules regarding the execution of judgments. This Code stipulated that the court's judgment is put into execution immediately after it becomes final. In cases where an appeal or objection has been made against the judgment, the decision takes the final form from the day it is put into effect by the Supreme Court. This means that according to this Code, in cases where the case was being considered in the Supreme Court, the judgment was not final, but the status of a final decision was taken after the trial in the Supreme Court was completed.

For the death penalty judgments, it was foreseen that the convicted person could apply for pardon to the Presidium of the People's Assembly. The execution of the death sentence was suspended until the consideration of the pardon petition by the Presidium of the People's Assembly was completed. However, in the cases of trials held for terrorist offenses, this Code categorically prohibited the right to ask for forgiveness and at the same time provided that the death penalty is executed immediately after the judgment is handed down.

Regarding the penalty of fine in this Code, it was stipulated that the fine and court costs are extracted from the property of the convicted by the court bailiff. The bailiff may ask the executive committee of the local people's council to collect fines or court costs through him. It was stipulated that the payment of the fine could be postponed or divided into installments and the term of payment of the fine was up to six months, in cases where the convicted person is unable to pay.

The Criminal Procedure Code of 1953 also provided for early release on parole. The basic criterion for benefiting from early release was that the convicted person had served no less than half of the sentence, except in exceptional cases. In cases where the convicted person released early on parole commits another crime as serious as or more serious than the previous crime during the time of the unserved sentence, the revocation of the parole decision was envisaged by executing the remaining part of the previous sentence, along with the penalty for the new offense. The revocation of the decision of early release on parole as well as the revocation of the judgment of conditional sentence was made by the court that delivers the judgment for the new crime.

At this time, the field of execution of criminal judgments was regulated by the provisions of the Code of Criminal Procedure, by law no. 390, dated 10.01.1947 "*On Execution of Sentences*", but also with the Instruction of the Minister of Internal Affairs on the administration of prisons and camps no. 32, dated 11.01.1952[4].

To come later in time with the decree no. 3584, dated 12.11.1964 "*On the execution of criminal judgments*" as amended by decree no. 5046, dated 31.03.1973, stipulating rules regarding the execution of criminal judgments. Thus, in the general provisions of Decree no. 3584, dated 12.11.1964 "*On the execution of criminal judgments*" provides that the court, upon receiving the final criminal judgment, has the obligation to send it for execution to the bodies in charge of execution. On the other hand, the bodies charged with the execution of the criminal judgment have the obligation to notify the court that issued the decision regarding the execution of the judgment. However, in the aforementioned Decree it was stipulated that the control over the execution of the judgments is exercised by the prosecutor.

Thus, it was stipulated that the *death penalty* was executed by the internal affairs bodies by shooting the convicted person, except in cases where the court judgments stipulates execution by hanging on a rope. In cases where a pardon request is submitted by the person sentenced to death, the execution of the judgment is suspended until

[4] Sufaj F., "*The system of punishments in Albania during the communist regime*" (1945-1990), PhD dissertation, Tirana 2012, page 62.

the consideration of the pardon petition is completed. In the execution of the death penalty, the civil or military prosecutor, the doctor and a secretary participated, depending on the case. A record was kept on the execution of the death penalty, which was signed by the persons present at the execution. A copy of the record was sent to the court that issued the final judgment and the record became part of the trial file.
Regarding the *penalty of deprivation of liberty* in decree no. 3584, dated 12.11.1964 "*On the execution of criminal judgments*" it was stipulated that the judgments containing sentences with deprivation of liberty are executed by the internal affairs bodies of the country of the court that issued the final judgment. Imprisonment was usually imposed in places of re-education through labor.
The decree no. 3584, dated 12.11.1964 "*On the execution of criminal judgments"* for judgments that contained a penalty of internment or deportation, stipulated that they will be executed by the bodies of internal affairs, where the convicted has his residence, as well as by the bodies of the designated country for internment. The penalty of internment was executed by accompanying the convict to the place designated for deportation. The penalty of deportation was executed by notifying the convict to leave his place of residence. In case the convict does not leave, then he was escorted out of his place of residence.

IV. Legislation from 1979 to the early 90s

The Code of Criminal Procedure of 1979, stipulated that the court's judgments takes final form, in cases where no appeal or protest has been made within the legal term, as well as when the decision is unappealable. Meanwhile, in cases where an appeal or protest has been filed against the judgment, the judgment becomes final when the appeal court upholds the appealed judgment. This Code stipulated that the execution of the final judgment could be suspended for up to two months, and the President of the Supreme Court and the Prosecutor General had the right to suspend, respectively. The cases of judgments with immediate execution were stipulated, which are the judgments of innocence, the exemption of the accused from penalty as well as the judgments to dismiss the case, where as a rule these judgments are executed immediately after their announcement.
Even in the Criminal Procedure Code of 1979, as well as the one of 1953, the right enjoyed by the person sentenced to death was envisaged, to address a petition for pardon to the Presidium of the People's Assembly. However, the 1979 code stipulated as a further guarantee that the judgment of the death penalty, regardless of whether or not a petition for pardon was made, was not executed without first being examined by the Presidium of the People's Assembly[5].
Regarding the execution of judgments in the Code of Criminal Procedure of the Socialist People's Republic of Albania of 1979, it was stipulated that the court that issued the judgment, within three days from the date of receipt of the final form, sent the judgment for execution. Depending on the types of judgments, different bodies are stipulated for their execution, such as the court that issued the judgment, the enforcement office, the internal affairs bodies, the Presidium of the People's Assembly, but also the executive committee of the district people's council.
Judgments on imprisonment, death penalty, internment and deportation, judgments on the appointment of medical and educational measures, on the appointment of placement of the minor in an educational institution, were responsible for the

[5] Seferi Holta, "*Execution of criminal judgments and some aspects of implementation in practice*", doctoral dissertation, page 55, Tirana 2022.

execution by the internal affairs bodies. Meanwhile, the judgments of penalty of the removal of honorary titles and decorations, the prohibition of the exercise of a certain activity or skill or the removal of the right to vote, are executed by the Presidium of the People's Assembly as well as by the Executive Committee of the People's Council of the District. The prosecutor was the body that controlled the execution of decisions.

V. Legislation after the democratic changes in Albania

With the democratic changes that our country underwent in the early 90s, the first legal acts were approved, such as Order no. 2, dated 5.07.1994 of the Minister of Justice "*On the provision and re-education of convicts in re-education institutions and prisons*". This normative act is recognized as one of the first acts after the democratic changes, which regulate the field of execution of criminal judgments and more specifically the regulation of the rights and treatment of those sentenced to imprisonment[6].

Then, with the approval of the Criminal Procedure Code of 1995[7], in addition to radical changes in the part of the main principles of criminal procedure, preliminary investigations and trial, important changes and adjustments were also observed in the part of the execution of criminal judgments. This is because the legislator of the time embraced the models of the codes of the western countries, being characterized by a guarantor spirit in terms of protecting the freedoms and rights of the defendant as well as the convicted.

In Article 2 of the Code of Criminal Procedure of 1995, regarding the principle of legality, it is provided that the procedural provisions determine the rules for the methods of criminal prosecution, investigation and trial of criminal offenses, as well as the execution of court judgments. Therefore, it is noted that in relation to the execution of criminal judgments, the bodies must be subject to the rules provided both in the code of criminal procedure and various laws on the execution of criminal judgments.

At this time, a number of other laws were approved, among which Law no. 8328, dated 16.04.1998 "*On the rights and treatment of those sentenced to imprisonment*" guaranteeing by law the rights and treatment enjoyed by those sentenced to imprisonment. Another law approved at this time is Law no. 8331, dated 21.04.1998 "*On the execution of criminal judgments*", which provided rules regarding the terms and methods of execution of criminal judgments.

Then, at the beginning of the 2000s and following, a series of laws were adopted and a series of by-laws were issued which provided for regulations in the field of execution of criminal judgments in relation to problems encountered during the execution phase of criminal judgments.

VI. Conclusions

The criminal legislation in general and that of the execution of criminal judgments in our country has known an important evolution coming up to our days. Currently, this legislation in fulfillment of the various obligations that our country has undertaken is characterized by the tendency to guarantee the rights of convicts, but at the same time, it also stipulates clear rules on the ways of executing criminal judgments. However, recently there has been a trend of frequent changes in the legislation in the field,

[6] "*Execution of criminal judgments - Problems of Albanian law and practice*", publication of the Albanian Helsinki Committee and the United States Agency for International Development (USAID), ILAR printing house, Tirana 2004, page 14.

[7] Approved by Law no. 7905, dated 21.03.1995 "*On the Code of Criminal Procedure of the Republic of Albania*".

which has brought many complaints from various convicts, especially regarding the recent changes in relation to the so-called special regime of imprisonment. In this aspect, the Albanian authorities for the execution of criminal judgments, on the one hand, must guarantee the need not to harm the public interest, but on the other hand, they must also guarantee the rights of persons who are subject to the restriction of rights.

VII. Bibliography

Decree of King Zog I, dated 01.01.1928.

Hoxha Enkela, "*Some thoughts regarding the execution of criminal judgments as well as a comparative view with some of the countries of Western Europe*", PhD dissertation, Tirana 2021.

Sufaj F., "*The system of punishments in Albania during the communist regime*" (1945-1990), PhD dissertation, Tirana 2012.

Decree no. 3584, dated 12.11.1962 "*On the execution of criminal judgments*".

Regulation of the Ministry of Internal Affairs, no. 01-78, dated 25.IX.1985, "*On the provision and re-education of convicts in re-education wards and prisons*".

Law no. 6069, dated 25.12.1979 "*On the approval of the Code of Criminal Procedure of the People's Socialist Republic of Albania*".

Seferi Holta, "*Execution of criminal judgments and some aspects of implementation in practice*", PhD dissertation, Tirana 2022.

Implementation of rapid visual evaluation method for the potential seismic hazard of civil structures

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Abstract

Albanian seismic design codes history stretches back to 1952. The first Albanian Seismic Map was issued in 1952, which was part of design codes for seismically resistant structures in Albania. A revision was made in 1963 to improve the seismic design requirements. In 1972, the Albanian Republic Seismic Map was published and in 1978, another amendmenat was issued with the name of KTP 2-78. After a decade, KTP-N.2-89 was published in 1989 as the new earthquake design code and it is currently the official one in the country.
Recent devastating earthquakes in Albania have shown the inadequate seismic performance of existing building stock. In Albania, template designs developed by the General Directorate of Construction Affairs are used for many of the buildings intended for residential as well as governmental services (administrative centers, health clinics, hospitals, schools etc.) as common practice to ensure quality control. These buildings mostly of masonry structures are built before 1990 and represent a high percentage of the building stock.
Seismic risk assessment of the existing building stock in where the regions show high seismic activities display great importance. However, this assessment often takes a great deal of time, expertise and cost. Therefore, using methods which are easier to implement relatively less costly accelerate the process of risk analysis of building stock.
This article aims at gaining international validity by implementing the methodology through building stock in Albania, primarily based on the principles of a rapid structural assessment and detection of buildings with high risk, defined by the current risky building detection regulations in European countries and correlating the risk and damage states while linking the defined thresholds. For this purpose, the effectiveness and the performance of this method will be verified using the collected information of the damaged buildings struck by the Albanian earthquake (November, 2019). The visual rapid evaluation methods will be compared with the rapid evaluation method published by FEMA P-154 (Rapid Visual Screening of Buildings for Potential Seismic Hazards) [2].

Keywords: masonry structures, seismic design codes, visual rapid evaluation methods, reinforcement, earthquakes

1. Introduction

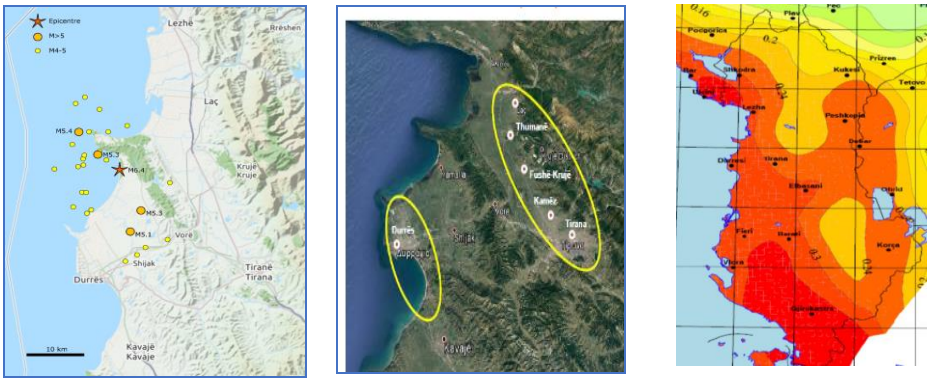
Seismic risk assessment contains valuable information regarding a structure against possible earthquakes. Before facing the seismic hazard, performing the seismic risk assessment may help to mitigate the number of human and monetary losses. FEMA-154, FEMA P-154, HAZUS Methodology and GABHR-2019 are among of valid, trustable and robust methods in the field [1],[2],[4]. However, these risk assessment methods are available in the literature for a long time, the first version of GABHR-2019 was published in 2013 in Turkey, and Albania doesn't have any locally available visual rapid seismic risk assessment method [6]. Since most of the majority of population, structural inventory, important facilities are located in highly seismic active zone to imply the risk assessment to a large inventory of buildings, both Turkey and Albania

which show similarities in building stock, inquire further research activities in the subject.

The first version of the guidelines for the assessment of buildings under high risk was published in 2013 and revised in 2019 in Turkey, which collocates the structures according to visual assessment. This rapid and regional-based method has relatively low cost, can be easily implemented without detailed examination with minimum access to the buildings and doesn't require expertise. In this method, each structure has a base point. Based on a visual assessment of the structure, each deficiency (which is defined by the method) has a penalty point and at the end, a structure has a final risk grade [9]. The seismic risk of the structures and corresponding risk level will be defined based on the implementation of the method in Albanian structures. The implementation of the method will allow the engineers to determine the risk levels of the structures and its thresholds. This methodology will give results for both reinforced concrete frame structures and masonry buildings, as the two most common types in Albania.

2. The Method for Masonry and RC Structures:

The method relays on the implementation of GABHR-2019 visual rapid risk assessment method in Albania while facilitating the real observed collected data observed in the Durres earthquake in 2019. The above explained method which is suitable for RC and masonry structures will be implied to the Albanian structures which got damaged by the Durres earthquake (Fig.1).



a) Location of epicenter and aftershocks in the first twenty days

b) Earthquake-affected area during the Durres earthquake

c) Probabilistic seismic hazard map for horizontal PGA

Figure.1 The affected areas in Durres earthquake

The structural evaluation method consists of a scoring system formed as a result of the observational examination of the structure. First of all, building identification information such as the type of use of the building, the location of the building and the open address are recorded on a form in this scoring system. Then, the type of lateral load resisting structural system, number of stories, visual quality of the building, soft/ weak story irregularity, torsional irregularity, discontinuity of the vertical structural system, quantity of walls, soil class and slope, adjacent building status and existing earthquake hazard is processed on the same form. All these characteristics have a penalty score for the structure.
The data to be collected as a result of the external inspection of the buildings will be recorded using the form given in Annex-2 and Anex-3.
The methods to be used in the definition of the regional risk situation can be applied in areas containing a statistically significant number of buildings, and cannot be used for risk assessment purposes in a single building.
A performance score (◎◎) will be calculated for each building by evaluating the collected data. The results obtained can be used to determine the risk priorities of the regions. The performance score (◎◎) for the building will be calculated by applying Eq. 1:

BP is the base point of the structure and is determined according to the seismic hazard zone which is defined by using soil class and short period spectral acceleration coefficient (SDS) in seismic hazard map of Turkey. The seismic hazard zones are given in Table 1.
SSP is the structural system point of the building and SSP=0 for unreinforced and mixed masonry buildings, SSP=30 for surrounded masonry buildings, and SSP=60 for reinforced masonry buildings. The value of base point (BP) is calculated considering the seismic hazard zones and number of stories in the building and are tabulated in Table 2. The symbols Oi and OPi represent the penalty coefficient and the penalty score of the building which are calculated considering irregularities, discontinuities and all negative effect of structural design. The penalty coefficient is given in Table 3.
Table 1. Seismic hazard zone

Seismic Hazard Zone	**(S_{DS})**	**Soil Class**
I	$S_{DS} \geq 1$	ZC/ZD/ZE
II	$S_{DS} \geq 1$	ZA/ZB
	$1 \geq S_{DS} \geq 0.75$	ZC/ZD/ZE
III	$1 \geq S_{DS} \geq 0.75$	ZA/ZB
	$0.75 \geq S_{DS} \geq 0.5$	ZC/ZD/ZE
IV	$0.75 \geq S_{DS} \geq 0.5$	ZA/ZB
	$0.5 \geq S_{DS}$	All soil classes

Number of Stories	Base Point *(BP)*				Structural System Point *(SSP)*	
	Seismic Hazard Zones				Structural System	
					FS	SWFS
	I	II	III	IV		
1 and 2	90	120	160	195	0	100
3	80	100	140	170	0	85
4	70	90	130	160	0	75
5	60	80	110	135	0	65
6 and 7	50	65	90	110	0	55

Table 3. The penalty coefficient (O_i) for RC structures

Number of penalty	Type of penalty	Case 1		Case 2	
		Degree of penalty	Coefficient value	Degree of penalty	Coefficient value
1	Visual quality	Good	0	Medium/Poor	1/2
2	Soft/weak story	None	0	Available	1
3	Vertical discontinuity	None	0	Available	1
4	Overhangs	None	0	Available	1
5	Torsional irregularity	None	0	Available	1
6	Short column	None	0	Available	1
7	Adjacent building	None	0	Available	1
8	Slope of ground	None	0	Available	1

Table 4. The penalty scores (OP_i) for RC structures

Number of stories	Type of penalty										
	1	2	3	4	5	6	7				8
							Same		Different		
							M	C	M	C	
1 and 2	-10	-10	-5	-10	-5	-5	0	-10	-5	-15	-3
3	-10	-20	-10	-20	-10	-5	0	-10	-5	-15	-3
4	-15	-30	-15	-30	-10	-5	0	-10	-5	-15	-3
5	-25	-30	-15	-30	-10	-5	0	-10	-5	-15	-3
6 and 7	-30	-30	-15	-30	-10	-5	0	-10	-5	-15	-3

5	Torsional irregularity	None	0	Available	1
6	Short column	None	0	Available	1
7	Adjacent building	None	0	Available	1
8	Slope of ground	None	0	Available	1

Table 4. The penalty scores *(OP_i)* for RC structures

Number of stories	**Type of penalty**										
	1	**2**	**3**	**4**	**5**	**6**	**7**				**8**
							Same		**Different**		
							M	**C**	**M**	**C**	
1 and 2	-10	-10	-5	-10	-5	-5	0	-10	-5	-15	-3
3	-10	-20	-10	-20	-10	-5	0	-10	-5	-15	-3
4	-15	-30	-15	-30	-10	-5	0	-10	-5	-15	-3
5	-25	-30	-15	-30	-10	-5	0	-10	-5	-15	-3
6 and 7	-30	-30	-15	-30	-10	-5	0	-10	-5	-15	-3

Table 5. Base points *(BP)* for masonry structures

Number of Story	**Earthquake Danger Zone**		
	Zone I $S_{DS} \geq 1.0$	**Zone II and III** $0.5 \leq S_{DS} < 1.0$	**Zone IV** $S_{DS} < 0.5$
1	110	120	130
2	100	110	120
3	90	100	110
4	80	90	100
5	70	80	90

Table 6. The penalty coefficient *(O_i)* for masonry structures

Number of penalty	**Type of Penalty**	**Case 1**		**Case 2**	
		Degree of penalty	**Coefficient value**	**Degree of penalty**	**Coefficient value**
1	Building Layout	Discrete	0	Adjacent / Adjacent at the Corner	1
2	Material Quality	Good	0	Medium,(Bad)	1, (2)
3	Workmanship of Walls	Good	0	Medium,(Bad)	1, (2)
4	Current Damage	None	0	Exist	1
5	Irregularities in Plan	Regular	0	Irregular, (Extremely Irregular)	1, (2)
6	Horizontal Beam Insufficiency	Over the window/ On the	0	None	1

15	Roof Material	Roofing Tile, Concrete, Tin Plate	0	Earthen	1

The penalty scores defined according to the different irregularity and discontinuity for r structures are given Table 7, 8, 9 and 10.

Table 7. Penalty Scores *(OPi)* of current situation and visual quality for masonry structures

Material Quality (0/1/2)	**Workmanship of Wall (0/1/2)**	**Current Damage (0/1/2)**
-10	-5	-5

Table 8. Penalty Scores *(OPi)* of irregularities in plan for masonry structures

Number of Story	**Geometry**	**Amount of Wall**	**Bond Beam / Lintel**
1	-5	-5	-5
2	-10	-5	-5
3	-10	-10	-5
4	-15	-10	-5
5	-20	-15	-5

Table 9. Penalty Scores *(OPi)* of vertical irregularities for masonry structures

Number of Story	**Spacing Layout**	**Story Difference By Face**	**Soft / Weak Story**
1	0	-5	0
2	-5	-5	-5
3	-5	-5	-5
4	-10	-5	-10
5	-10	-5	-10

Table 10. Penalty score *(OPi)* of building layout and story level for masonry structures

Discrete	**Adjacent Middle-Same**	**Adjacent Corner-Same**	**Adjacent Middle-Different**	**Adjacent Corne Different**
0	0	-5	-5	-10

3. Discussion (Explanation of concepts)

1. Structural system type: By determining the load-bearing system of the building, one of the non-reinforced masonry, enclosed masonry, reinforced masonry, and mixed (masonry wall + reinforced concrete frame) systems will be selected as the building system. The determination of the masonry building type is shown in Annex-3.
2. Number of stories: The number of stories (◎if) will be determined by considering Annex-3.
3. The visual quality of the building: Material type and quality and masonry workmanship will be checked separately, and both of these determinations will be classified as Good, Medium, and Poor. The penalty coefficient will be taken as 0 if the building, material type/quality, and Masonry Wall Workmanship Quality characteristics are Good, 1 will be taken if it is Medium, and 2 will be taken if they are Poor. In addition, it will be determined whether there is any existing damage and the building will be determined as Yes or No damage.
4. Soft/Weak story: It will be determined observationally by taking into account the significant stiffness difference between stories as well as the story height difference. Evaluation soft story/weak story penalty in the building according to the Table 6 and 9; If there is none, the penalty coefficient will be taken as 0, If yes, it will be taken as 1. Detection of soft /weak story condition is shown in Annex-3.
5. Vertical gap irregularity: The vertical gap arrangement according to the vertical placement of the door and window gaps in the building; It will be classified as Regular, Less Regular, and Irregular. The spacing layout evaluation in the vertical direction will be taken as 0 if it is Regular, 1 if it is Less Regular, and 2 if it is Irregular. Detection of vertical gap irregularity is shown in in Annex-3.
6. Insufficient number of walls: The length of the face wall in both perpendicular directions will be determined on the critical story of the building (usually the ground story). Accordingly, the amount of walls (AW) of the building, if the length of the door and window openings on the front or side face on the ground story is less than 1/3 of the face length, much; if the length of the gaps is between 1/3 and 2/3 of the facade length, Medium; If the length of the gaps is more than 2/3 of the facade length, it will be considered as Less. Wall amount determination is shown in Annex-3.
7. Irregularity in plan: The irregularity in the plan will be determined in three ways as Regular, Irregular and Extremely Irregular, according to the plan geometry. If the irregularity in the plan is Regular, the penalty coefficient will be taken as 0, if it is irregular, 1 and if it is extremely irregular, 2 will be taken respectively. Evaluation of the amount of masonry walls on the ground story of the masonry building; If Much, Moderate or Low, the corresponding penalty coefficient will be taken as 0, 1, and 2, respectively. In the evaluation of horizontal beam insufficiency in the building; If the presence of horizontal beam is “On the Wall” or “Over the Window” penalty coefficient will be taken as 0, if not, it will be taken as 1. Detection of Irregularity in the plan is shown in in Annex-3.
8. Roof material: This parameter will only be determined for earthen ceiling masonry buildings. If an earthen ceiling slab is detected, a penalty score of 10 will be taken.
9. Building layout/story levels with adjacent buildings: The location of adjacent buildings can affect seismic performance due to collision. The buildings located on

the side are most adversely affected by this situation, and if the story levels of the adjacent building are different, this negativity increases even more. The situations in which the collision effect is in question will be determined by external observations. The building order and adjacent buildings and story level will be evaluated together. Five different states will be determined for this parameter: split, adjacent and middle-same story level, adjacent and middle-story level different, adjacent and edge/corner-story level same, adjacent and edge/corner-story level different. If the building layout situation is discrete the penalty coefficient will be taken as 0, if the building layout status is adjacent or adjacent at the corner, the parameter value will be taken as 1. The determination of the building layout/adjacent buildings and story levels is shown in Annex-3.

10. Difference in the number of stories according to the facade: It will be determined that the different facades of the building have different numbers of stories. If there is the penalty of the difference in the number of stories according to the facade the penalty coefficient will be taken as 1 otherwise 0. Detection of the story difference according to the facade is shown in Annex-3.

11.Out-of-plane behavior negativities: It will be determined whether masonry building walls tend to show out-of-plane behavior. The negativities that trigger out-of-plane behavior in masonry buildings and which can usually be detected from outside the building can be listed as follows:

a. Weak wall-to-wall and wall-to-story connections (cracks or damage where connections are made, no beam).

b. No slab exhibiting rigid diaphragm behavior (only masonry structures with reinforced concrete slabs will be deemed to exhibit this type of behavior).

c. Very low mortar quality or no mortar (causing the wall to separate in an out-of-plane direction).

If at least three of the negativities that cause the masonry building walls to show out-of-plane behavior are current in the building, it will be accepted that there is a weakness in the out-of-plane direction. Out-of-Plane behavior negativity will be calculated as 1 if the sum of the negativity parameter values 7, 8, 9, and 10 in Table 6 is 3 or more, otherwise, penalty coefficient will be taken as 0. In case of detection of out-of-plane behavior negativity, a penalty score -10 will be taken.

12. Roof material: This parameter will only be determined for earthen ceiling masonry buildings.

13. Natural ground slope: This effect will be taken into account in buildings constructed on slopes above 30º. Otherwise, it will not be considered.

14. Earthquake hazard zones: In accordance with the earthquake ground motion levels, short period spectral acceleration coefficient (SDS) and soil classes specified in Turkish Earthquake Code 2018 (TEC 2018), they will be taken into account as described in GABHR-2019 [5],[6].

15. Short period spectral acceleration coefficient (SDS): It is the map spectral coefficient found for the DD2 earthquake level, which has a 10% probability of exceedance in 50 years and a recurrence period of 475 years [8].

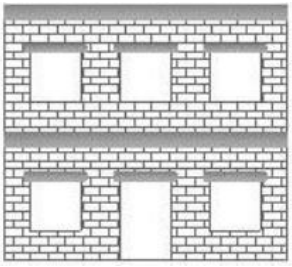
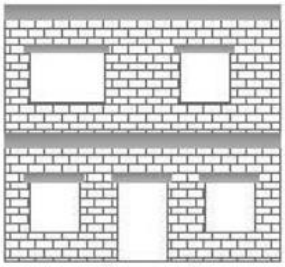
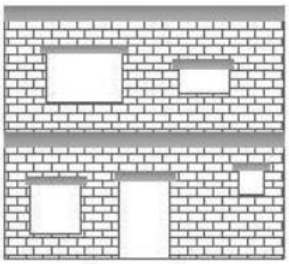
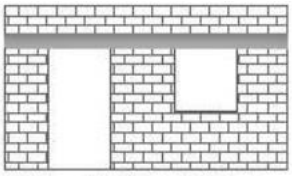
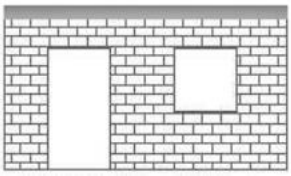
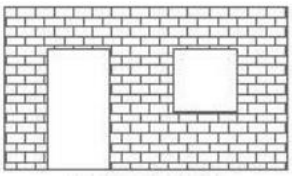
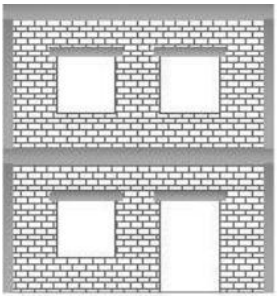
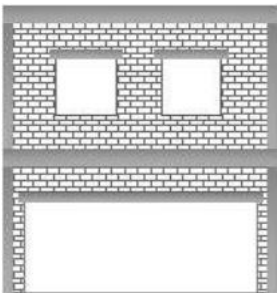
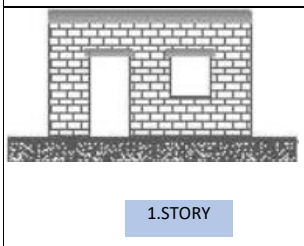
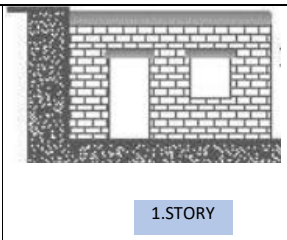
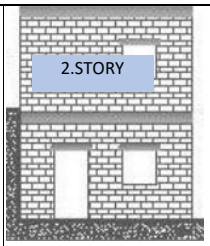
16. Geographical coordinates: It should be determined in accordance with the Turkey Earthquake Hazard Map coordinate system.

17. Soil Classes: Soil classes will be determined according to the definitions in TEC 2018 and GABHR-2019 and Table 5 [5].

The data collection forms for RC and masonry structures are used for classifying the necessary information about the buildings and are presented as Annex-2 and Anex-3 [7]. The visual representations and tables in these forms will be used to create a meaningful building identity in the visual rapid risk assessment method.

ANNEX-2: THE DATA COLLECTION FORMS OF MASONRY STRUCTURES					
DATA COLLECTION FORM FOR MASONRY OR RC STRUCTURES					
BUILDING IDENTIFICATION		Date:			
		Number:			
BUILDING ID NO		BUILDING PHOTO (A CLEAR PHOTO FROM THE FRONT SITE WHICH REPRESENTS THE BUILDING MUST BE ADDED)			
CITY					
DISTRICT					
NEIGHBORHOOD					
AVENUE / STREET					
EXTERIOR DOOR NO					
BUILDING NAME					
SHEET					
BLOCK					
PARCEL (PLOT)					
BUILDING CODE					
ESTIMATED AGE OF BUILDING					
GEOGRAPHICAL COORDINATES	LATITUDE:		LONGITUDE:		
BUILDING TYPE OF USE	☐ RESIDENCE	☐ BUSINESS	☐ INDUSTRY	☐ PUBLIC	☐ ABANDONED
BUILDING TECHNICAL INFORMATION					
TYPE OF RC STRUCTURAL SYSTEM	☐ RC FRAME SYSTEM - FS		☐ RC SHEAR WALL-FRAME SYSTEM - SWFS		
NUMBER OF INDEPENDENT STORIES (n_{sk})					
VISUAL QUALITY OF THE BUILDING	☐ GOOD		☐ MEDIUM	☐ POOR	
SORFT/WEAK STORY	☐ AVAILABLE		☐ NONE		
VERTICAL IRREGULARITY	☐ AVAILABLE		☐ NONE		
HEAVY CONSOLE	☐ AVAILABLE		☐ NONE		
IRREGULARIYT IN PLAN	☐ AVAILABLE		☐ NONE		
SHORT COLUMN EFFECT	☐ AVAILABLE		☐ NONE		
BUILDING LAYOUT	☐ DISCRETE	☐ ADJACENT MIDDLE		☐ ADJACENT CORNER	
STORY LEVEL WITH ADJACENT BUILDING	☐ SAME			☐ DIFFERENT	
SLOPE 0F THE GROUND	☐ ROOFING TILE	☐ CONCRETE	☐ TIN PLATE	☐ EARTHEN	
SITE CLASS	☐ ZA	☐ ZB	☐ ZC	☐ ZD	☐ ZE

ANNEX-3: THE DATA COLLECTION FORMS OF RC OR MASONRY STRUCTURES

EXPLANATIONS FORM (CONT.)ABOUT CIVIL STRUCTURES		
VERTICAL SPACE IRREGULARITY		
		
REGULAR	LESS IRREGULAR	IRREGULAR
CONFINING BEAMS STATES		
		
OVER THE WINDOW	ON THE WALL	NONE
SOFT STORY		
		
SOFT STOREY NON EXIST	SOFT STOREY EXIST	
STORY DIFFERENCE BY FACE		
		
NONE	AVAILABLE	AVAILABLE

Conclusions

The implementation of the rapid visual evaluation method in Albania will provide an important knowledge in the international level. The method is simple and can fill the gap in the literature of the countries like Albania which do not have any available visual rapid risk assessment methods and similar building stock. The method will help the policy and decision-makers in Albania to create disaster management policies. In addition, vulnerable structures can be detected in advance before the next earthquake occur in the country. Sharing the knowledge and experience between the partners from different countries, it will increase the impact of the proposed method in academic level. The main target groups of the method will be the scientific community, public bodies, engineering practitioners, policy makers and decision-makers in Albania. The method describes the risk level of structures and the findings will enlighten the gap between risk and damage level while determining the threshold.

References

FEMA-154. Rapid visual screening of buildings for potential seismic hazards. Washington DC: Federal Emergency Management Agency; 2002.
FEMA P-154. Rapid visual screening of buildings for potential seismic hazards: a handbook. Washington DC: Federal Emergency Management Agency; 2015.
FEMA-155. Rapid visual screening of buildings for potential seismic hazards: supporting document. Washington DC: Federal Emergency Management Agency; 2002.
Kircher C.A., Whitman R.V. and Holmes W.T., HAZUS earthquake loss estimation methods, Nat Hazard Rev, 7 (2), pp. 45-59, 2006.
Turkish Earthquake Code (TEC2018). "Specification for Structures to be Built in Disaster Areas," Ministry of Environment and Urbanization, Ankara, Turkey, 2018.
GABHR. "Guidelines for the assessment of buildings under high risk," Ministry of Environment and Urbanization, Ankara, Turkey, 2019.
ATC-38 Post-Earthquake Building Performance Assessment Form Applied Technology Council, Redwood City, California, (2002).
Guideline for Post-Earthquake Damage Evaluation and Rehabilitation of RC Buildings, The Japan Building Disaster Prevention Association (JBDPA), (2001).
P. Gülkan, A. Yakut, H. Sucuoğlu, M. S. Yücemen, E. Çıtıpıtıoğlu, Mühendislik Hizmeti Görmüş Yapılar İçin Hasar Tespit Formu, Deprem Mühendisliği Araştırma Merkezi, ODTÜ, Ankara, (1994).

Internal Migration in Albania during 1945 – 1990
The case of Shkodra Region
"Where the patria needs us"

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Abstract

Albania may be considered as a laboratory of studies during communist regime, due to the complete closure of the borders. In addition to the economic, social, cultural or political aspects of life, internal migration in Albania during communist regime was oriented and controlled by the state as well. There were different types of internal movement during 19945-1990, each of them defined according to the objectives set by the government for the development of the specific economic sectors. Literature, data and evidences analysis in the Shkodra Region show that internal migration has been in close relationship to the region's economic development. Shkodra city was the most important urban area of northern Albania and also a pull center for the inhabitants of the rural areas. High rates of urban population growth during 1945-1960 were due to the positive rural-urban migration, while in the following years these rates remained stationary because of the measures undertaken by the state to improve the standard of living in rural areas. The effects of the planned economy, the means of production, legislation and even the literature and media have influenced the dimensions of internal migration. In this article I argue that the features of internal migration in Albania during 1945-1990 were in close connection with the orientation of economic development determined by the state as well as the ideology of the time.

Keywords: Albania, Communist Regime, Internal migration, Planned Economy, Case study.

Introduction

Internal migration of the population between the years 1945-1990 in Albania was shaped by the political frameworks of the communist system of the period, likewise guided by the priorities of economic development according to five-year plans. In the literature of the time, internal migration was referred to as "mechanical movement", which more clearly conveyed the concept supporting this typology of movement of the people in the contemporary ideology. According to Vullnetari (2007) this nomenclature sought to represent the movement as the opposite of a natural process and furthermore as a phenomenon which demanded to be kept under control (Vullnetari, 2007). Emigration and internal migration were strongly discouraged and the rate of urbanization was kept minimal (Artisien, 1987). This approach resulted in residents needing to receive authorizations from the responsible authorities before relocating to urban, mining or industrial centers, a process documented by the receipt of a *residency permit*. The existence of such permits also has at its core the state-controlled movement of people, which was often mandatory. Notions of the depopulation of villages, of the unjustified increase in urban population, of local overpopulations or of the creation of metropoles were regarded as negative

phenomena exclusively pertinent to capitalistic societies. The aims for national industrialization, for the conception of a complex and diversified economy, for the further increase in numbers of the labour force, and for the development of the national defense capacities shaped the movement of the population (Kareco & Skënderi, 1987). In this context, through the years 1945-1990 internal migration was present in all its forms of movement, each controlled from above. The directions of movement were not limited to village – city, but encompassed a range between city – new employment centers of industrial or agricultural production, highland village – lowland village, between villages of the same altitude, as well as city – village movements. The spatial movement of the population was geographically notable for two main directions: horizontal movement, across areas, regions and administrative units of similar altitudes and within them, and vertical movement, between different hypsometric levels (Misja et al., 1987). The features of internal migration were connected to the planned development of the economy and society of the country. The majority of the population was stationed in rural spaces to guarantee the workers for collectivized agriculture, whereas cities were the centers of basic services or of industry (Vullnetari, 2007). During this period significant changes took place in the spread of the population, with an increasing percentage of incoming residents to coastal areas and to the central part in the mainland. The important changes to the way of life in Albania between the years 1945-1990 were closely related with the priority given to the development of light and heavy industry in accordance a model that targeted rapid industrialization. The prioritization of industrial development in the broader economic prospects was also reflected by the composition of centralized five-year plans. This industrialization of Albania was accompanied by urbanization, mostly notable by the increase in population of the bigger cities up to the 1960s, and smaller-scale increases in population of the smaller cities in the following years (Borchert, 1975). In this article I analyze the features of internal migration in Shkodra region, as the main city of North Albania. Through archival research I explore the way economic orientation and decisions made by the government have affected the internal movement of people.

- **Economic development of the region in the period 1945-1990**

The commencement of the planned economy system was characterized by rapid industrialization, by development of the secondary sector, and of the services sector. Population movement was in accordance with these changes and the city of Shkodra, as the main city of norther Albania was part of these changes as well. Throughout the period 1945-1990 the city of Shkodra continued to hold its status as one of the main cities and of the most important industrial centers of Albania. The initial attempts from the new communist regime after WWII were focused on the activation of the construction industry, much needed to rebuild the war-ravaged country. The concrete factory restarted its work on May 1st 1945, though this work was further interrupted on multiple occasions due to the lack of raw materials. The milling industry was similarly reactivated, and the pasta factory, the tobacco factory, the leather factory, and the fabric factory reopened their doors, among many others. The absences of raw materials and the outdated technologies and machinery impacted the continuity of these workshops and factories' initial work. The Central Committee

of the Communist Party of Albania approved in 1946 the directive of "*turning the basis of power and economy over to the working masses*", which was followed by the nationalization of the means of production. The flour, pasta and rice factories of the firms "Dan Hasani", "Vëllezerit Ulqinaku", "Vëllezerit Rroji", "Dragusha e shokë", which were nationalized in accordance with the application of this directive. The nationalization of the cement factory in Shkodra was announced in February of 1947. The alcohol factories of the firms "Nikaj" and "Koliqi", the tobacco factories of the firms "Drini", "Gera", "Shkodra", "Taraboshi", "Rusi e vëlla", "Saralia", "Besa" and "Macedonia", the workshops producing bonbons, Turkish delights, chocolates and candy were all nationalized in Shkodra in the same year (Fishta & Toci, 1983). Given that the main goal was a rapid national industrialization in order for the country to become as self-sustainable as possible, 210 projects were completed in Albania over the third five-year plan in the years 1961-1965. Of these, the completion of the wire factory in Shkodra was notable as the establishment of one of the main industrial objects of the city. The construction of the 250,000 ALL hydro-electric power plant in Vau i Dejës over the Drini river with the help of the Chinese was a significant outcome of the fourth five-year plan for the region of Shkodra. An important part in the region's industrial production structure was played by the food industry with 28.3%, whereas the electrical and mechanical industry contributed over 20% of its total. The entire industrial activity of the northern region was concentrated into a handful of nationally important factories: the electrical industry with the Vau i Dejës and Koman HECs and the wire and electrical cable factory, the wood and paper manufacturing combine, the mechanical-agricultural plant, the fabric factory, the mechanical industry with the "Drini" plant for the production of HEC mechanisms, some food production factories, the leather and shoes factories, the tobacco fermentation plant, etc (Fjalori Enciklopedik Shqiptar, 1985).

Although the national industrialization remained a primary target, special attention was also devoted to the development of agriculture. The Shkodra lowland, as part of the Albanian coastal lowland, is one of the biggest and most important in the country. The fields of Mbishkodër and Nënshkodër became significant centers in Albania's agricultural economy development. (Geco, 1985).

The fertile fields of the lowland played an important role in the national production of cereals, industrial plants, fruit trees, grapes and vegetables, whereas the processing of all this agricultural produce turned Shkodra into one of the main centers for the light food industry, in parallel with the development of the heavy industry. Agriculture occupied 31.7% of the joint industrial and agricultural production, In addition to the cooperatives there were created two scientific research institutes: the Zootechnical Station and the Institute of Corn and Rice. The Shkodra region presented itself through these panoramas of economic development into the early 1970s, whereas in the late 1970s and through the 1980s the city's economy suffered a continuous decline, much like that of the rest of the country. Signs of the economic crisis presented themselves ever more blatantly as the central sparks that led to the upheaval of the dictatorial system. The policy of unconditional employment for every citizen further amplified this decline together with the diminishing of real income, primarily as a structurally unstable economy was incapable of accommodating a net annual addition of 40,000-50,000 individuals to the labor market. This situation concluded with the fall of the communist system in 1990.

- **Internal migration – *Where the Patria needs us***

The internal movement of the population was organized not only in accord with the state's aim to have the population growth under control, but also with regard to the assignment of economic development priorities by the state. In these prioritizations one can discern two main orientations: initially the development of the secondary sector of the economy and later the development of the primary sector. The progress of the urban population growth depending on the orientation of the internal migration can be likewise split into two stages: the first from 1945 to 1960 and the second from 1961 to 1990. Each stage was conditioned by the different economic and social development phases of the city.

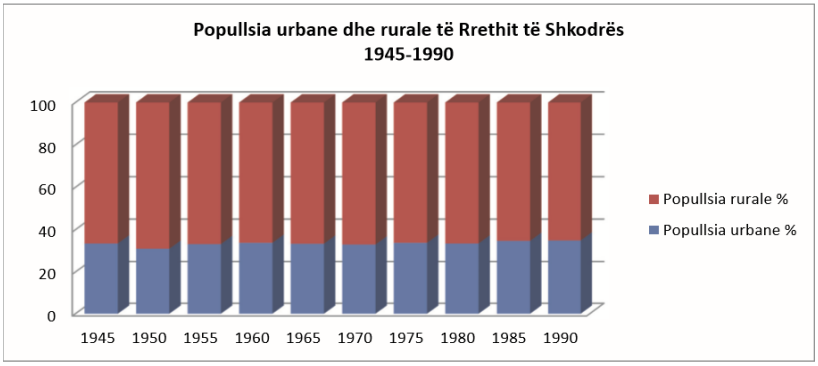
In the first stage (1945-1960), priority was given to the acceleration of the secondary sector development (industry and construction). Internal migration from rural areas into urban ones was controlled and oriented, but not strictly prohibited. The predominant form of internal migration was rural-rural, with a slight dip in the urban population owing to the faster rate of growth of the rural population (Sjöberg, 1991). The Agrarian Reform of 1945-1946 resulted in expanded ownership of private land, due to villagers with little or no land possessions received entire areas confiscated from big landowners, foreign companies and religious institutions (Vullnetari, 2007). The agrarian reform and very likely the measures associated with the economic restructuring played a role in the rural population growth up to 1950. These factors led to the reduction of rural-urban movements and as a consequence the population of the city of Shkodra does not exhibit a size growth during the first five years: on the contrary, it witnesses a decrease by 0.8% (Table 1). At the same time the specific weight of the urban population fell from 33.5% in 1945 to 31% in 1950 (Graph 1).

Year	Population	Average Yearly Growth (%)
1945	34355	-
1950	33018	-0.8
1955	37543	2.6
1960	42451	2.5
1965	47924	2.4
1970	52525	1.8
1975	60691	2.9
1980	66396	1.8
1985	75104	2.5
1991	85436	2.6

Table 1: The population of the city of Shkodra according to population registries in the years 1945-1991.

In the following years the direction of movement changed as priority was given to socialist industrialization, which conditioned the primacy movement of the population from villages to the city. The importance of industry and transport was

further exhibited in the composition of the first five-year plan in 1951. The growth in numbers of the labour force from the village population was considered an important contributor in accelerating the industrialization process and its territorial spread to all the regions of the country (Kareco & Skënderi, 1987). This goal was reached by pulling workers together with their families from rural areas into the industrial centers, which caused an increase in the urban percentage of the population after 1950 and a drop in the rural one (Graph 1).



Graph 1: *Urban and Rural population in Shkodra Region during 1945 - 1990*

Other contributors to this drop were the collectivization of arable lands and the creation of agricultural cooperatives. The facilitations for internal movement had as a direct consequence the increase in specific weight of the urban population from 31% in 1950 to 33.2% in 1955 and to 33.8% in 1960. During the period of the second five-year plan (1955-1960), 80% of the population growth was due to rural migration. Shkodra witnessed a continuous flux of incoming population up to 1960, which served as an indicator of the core of this internal migration, industrial development. Rural-urban migration lost its leading role in urban population growth after 1960. This year marks the beginning of the second stage (1961-1990), characterized by a strategy of restricting internal movement from rural areas into urban ones, thus attempting without success to prevent population movement in this direction (INSTAT, 2004). Given that industrial development and agricultural collectivization, which started in 1946 and finished in 1967 (Fjalori Enciklopedik Shqiptar, 1985) were considered complete, pulling workers from rural areas into urban ones was no longer seen necessary. Agricultural development came to the center of attention, which further decreased the removal of workers from villages, and internal movements became even more centralized. According to Sjöberg (Sjöberg, 1992) the Albanian government policy after 1959 sought to preserve the rural population and keep the urban population at zero net growth, which resulted in a stagnation of the specific weight of Albania's urban population for the decades to follow. The specific weight of the urban population in the Shkodra region was likewise very stable over the following decades (33.4% in 1965 and 34.7% in 1985). The termination of free movement of individuals, particularly from villages to cities, happened in 1961, which corresponds with the diplomatic crisis between Albania and the USSR (Piperno, 2002). The maximal restriction of village-city movement, which peaked in the 1970s and 1980s, came in

part because the totalitarian socialist regime had difficulties in ensuring employment and guaranteeing shelter and supplies (Telo, 1995). Economic, administrative, social and cultural policies were pursued which aimed to eliminate as completely as possible migration from rural areas into urban ones. This robust control was clearly expressed in the active legislation. In the law specifying the provision of residency permits to Albanian nationals with a ruling of the Council of Ministers No. 361, dated January 11th 1988 and aiming to "*not allow the mechanical expansion of cities*", conditions were specified on whose basis the settlement of individuals in cities and industrial and mining centers was possible with a residency permit[1]. This permit was obtained when the individual was selected, named or transferred into permanent employment by the state authorities and this employment could be proved by an official document. The individual's family was also allowed to travel with them in such cases. The law predicted circumstances that could lead to revocation of the residency permit for the individual and (their family): "*upon their request, or mainly of the authority that issued the permit…*" as well as fines in cases of its breach.

Available data indicates that there have been many cases of individuals and families who have breached the residency permit agreement, but in the State Archive in Shkodra only 14 such cases are witnessed. These latter cases represent movements of villager families towards the city who have later been forcefully returned by the police towards their place of origin. The method of data cataloging in the city's statistics office itself indicates the high level of control on the movement of residents. By analyzing the data tables for the years 1979, 1986, 1990 and 1991, among counts of incomers and outgoers by age group, their reasons for relocating and sectors of relocation are also indicated. The reasons for relocating were separated into "with work", "with marriage", "with association", "widowed or divorced", "retirees" and "others", whereas the sectors were grouped into "geology-mining", "industrial enterprises", "construction", "agriculture and forestation", "education", "healthcare", "Ministry of Defense", "Ministry of Interior" and "other sectors". Besides the working age-group of 16-55 years old, high counts of incomers aged 15 or less are also notable, mostly due to the relocation of entire families ("with association"). The number of incoming females due to marriage remains higher than that of males for the same reason. Such detailed cataloging is not found in the tables produced by the Office of Civil Affairs (Office of Statistics of Shkodra) after 1991.

The change in policies followed by the state for the stricter regulation of internal migration after 1960 also sought to improve life in rural and mountainous regions, which clearly differed from life in urban centers. The idea of egalitarian societies propagandized by the state expressed itself in the objectives set forth by the government, including the reduction of territorial inequalities, equalization of regional development levels through public investments or the creation of facilitations for regions considered more left behind. This is why a series of policies were put into place which aimed to prioritize development and growth in the smaller cities, making population growth in the traditionally important cities of Albania such as Tirana, Durrësi, Shkodra and Vlora only account for half of the national population growth rate from 1965 to 1989. Access to social and healthcare services, educational opportunities and shelter however remained much broader in the cities. Shkodra housed the most important regional hospital in Northern Albania, had two polyclinics and 15 ambulances, a stomatology clinic, a maternity hospital and an epidemiologic

center. Shkodra was also an important educational center, as it contained some of the main educational institutions not only of the Northern region, but of national scale. It had 13 8-year schools, 10 professional high schools, 3 general education high schools, 23 daycare centers, 31 kindergartens, the High Pedagogical Institute and a University of Tirana Subsidiary. In spite of the restrictions, cultural life in the city was rich with activities organized by the house of culture, the "Vasil Shanto" palace of culture, the "Migjeni" theater, the "Vllaznia" sports club, etc. After 1970, besides attempts to pull people towards the backward rural and mountainous regions in order to supply workers for collective agriculture, there was a notable mandatory relocation towards rural areas of recent graduates in medicine, pharmacy, education, art, etc (Caro, 2011). The educational system prepared the professionals who would serve in their respective fields, forced to respect the governing slogan in this occasion: "*Where the Patria needs you*". The application of this slogan endowed the leadership authorities of the state to assign the employment location for every new graduate. Despite their economic needs, health problems or other circumstances, which very rarely were taken into consideration, every graduated student received their assignment and immediately started working in their new location. This policy, at the time referred to as the "staff policy", was particularly pursued to give an intellectual appearance to the villages and the deep mountainous areas. This is what Vullnetari (2007) calls "Cultural Revolution". This is also how within the territory of an average village there were professionals serving in their areas of expertise, from physicians, physician assistants, midwives, veterinarians to agronomists and other profiles, according to the needs of the region. The length of their stay was a minimum of 5 years and could last up to 15 years, so they were generally in the age interval between 24 and 39 years old. According to the data available in the archive of the city of Shkodra, mountainous areas from 1945 to 1991 had 76 physicians, 92 nurses, 57 pharmacists and over 857 teachers. Another initiative appeared in the policies of the Party-state around the 1970s, which was the announcement of one- or two-year actions. Specialists of different fields, representatives of the working class, Work Party candidates for party positions, young men and women with the propagandized goal of connecting the city with the village and the working class with the cooperative villagers would give their contribution by supporting "the new" image of the village, which was undertaken by circulating said specialists between central and local institutions. The age group most commonly involved in these internal migrations was 19-30 years old. Residents of rural areas sought to find "refuge" from the heavy labor of the village and were generally semi-specialized migrants such as carpenters, masons, artisans, etc., who would easily proceed to find work in the context of Shkodra as a principal urban and industrial center. Much involved in these internal movements were employees of the Ministry of Defense and of the Ministry of the Interior. Another approach to obtaining an urban residency was attending advanced studies in the University of Shkodra and permanently remaining in the city after the conclusion of these studies. This method was however challenging because it depended on the assignments and placements for new graduates which came from above.

In the years 1945-1990 one could find another kind of migration as well, that which Sjöberg (1992) refers to as "avoided migration". According to Sjöberg this occurred when individuals settled in peri-urban areas without authorization, or when they received permission to transfer to a cooperative or state farm located close to the city.

He calls this tendency "pseudo-urbanization" (Sjoberg, 1992), but this phenomenon has nonetheless market the first tracks of suburban areas for the present-day city of Shkodra. Incomers after 1990 have settled in these suburban areas of the city due to the lack of financial capital and employment opportunities that prevented settling in the city center, thus intensifying the suburbanization phenomenon. Despite the measures taken and policies pursued in the years 1945-1990, the city of Shkodra preserved its importance as an urban center that attracted residents from rural areas. It expanded during this period and obtained the typical appearance of a socialist city in service of industrial and transportation development. The centrally-planned administration principle set as its aim limiting the size of the city in order to avoid its growth, however residency blocks were established which obtained an inner structure with approximately equidistant buildings. New residency blocks were constructed. They were built by state and industrial enterprises for their own workers, so the segregation of homes according to position of employment happened automatically (Fellmann et al., 1992). To this day these buildings are known to the city residents by the names of "HEC apartment", "officers' apartment", "wire plant apartment", etc. Particular sectors of the city were seen as more prestigious and more wanted, so those citizens with higher income and influence would settle in these spaces. The rules governing the planning process were clearly visible in the new landscape between the urban are and the rural one in the suburb. This landscape changed completely after 1990 as a consequence of internal and international migration.

Conclusions

The features of internal migration in the Shkodra region in the years 1945-1990 should be considered in close connection with the orientation of the state-determined economic development and the contemporary ideology. The internal movement of the population was organized so that the control from above could be maximized. The orientation of the movement changed in parallel with the prioritization of certain sectors of the economy: rural area – urban area and vice versa, primary cities – secondary cities, highland villages – lowland villages and the other way round, etc. Through this point of view the urban population growth during the first 20 years after the liberation of the country came as a consequence of rural emigration, whereas in the following years the percentage of the urban population remained almost stationary up to the complete collapse of the communist system, after which this percentage skyrocketed. In spite of efforts to control it as closely as possible, there have been movements of residents without the approval of the competent authorities. Some of them have been forcefully returned to their previous residency area, while others settled in the city's suburban areas and in so doing laid the foundations for the establishment of modern suburbs around the city of Shkodra. Since the movement of individuals was conducted in accord with the state's demands for workers, this movement was not accompanied by unemployment. After the collapse of the communist regime, internal migration would change from a very controlled one to a very chaotic one reflecting quite other characteristics and features.

References

Akademia e Shkencave e RPSSH. (1985). *Fjalori Enciklopedik Shqiptar*. Tirane.

Artisien, P. (1987, September). Albania at the crossroads. *Journal of Communist Studies*, *3*(3), 231–249. https://doi.org/10.1080/13523278708414874

Borchert, J. (1975). Economic Development and Population Distribution in Albania. *Geoforum*, *6*(Pergamon Press Ltd).

Caro, E. (2011). *From the Village to the City: Adjustment Process of Internal Migrants in Albania*. Rozenberg Publishers.

Fellmann, J., Getis, A., & Getis, J. (1992). *Human Geography, landscapes of human activities*. Wm.C.Brown Publishers.

Fishta, I., & Toci, V. (1983). *Gjendja ekonomike e Shqipërisë në vitet 1912-1944, prapambetja e saj, shkaqet dhe pasojat*. Shtëpia botuese "8 Nëntori",.

Geco, P. (1985). Një vështrimi i shkurtër fiziko-gjeografik mbi Ultësirën e Shkodrës,. *Studime Gjeografike, Akademia E Shkencave E RPS Të Shqipërisë*, *1*.

Human Geography- Landscapes of Human Activities, 8th Edition. (n.d.). McGraw-Hill Higher Education.

Institute of Statistics INSTAT. (2004). *Migracioni në Shqipëri, Regjistrimi i popullsisë dhe i banesave 2001*. Tirane.

Kareco, T., & Skënderi, E. (1987). Aspekte të ndryshimeve gjeografike në lëvizjet mekanike të popullsisë. *Studime Gjeografike 2*.

Akademia e Shkencave të Shqipërisë, Tirane

Misja, V., Bërxholi, A., & Vejsiu, Y. (1987). *Popullsia e Shqipërisë*. Mihal Duri, Tirane.

Përmbledhëse e përgjithshme e legjislacionit në fuqi të Republikës Popullore Socialiste të Shqipërisë 1945-1990, (Vol. 1). (n.d.). Tirane.

Piperno, F. (2002). From Albania to Italy Formation and basic features of a binational migration system,. *Background Paper for the CEME-CeSPI Research Mission in Italy and Albania*.

Sjöberg, Ö. (1991). *Rural Change And Development In Albania*. Van Haren Publishing.

Sjoberg, O. (1992). Underurbanisation and the Zero Urban Growth Hypothesis: Diverted Migration in Albania. *Geografiska Annaler. Series B, Human Geography*, *74*(1), 3. https://doi.org/10.2307/490782

Telo, I. (1995). Ndryshimet strukturore demografike dhe ekonomike të mos bëhen spontanisht. *Ekonomia Dhe Tranzicioni*, *4*(2).

Vullnetari, J. (2007). Albanian Migration and Development: State of the art review. *Working Paper, IMISCOE*, *18*.

The right to self-representation under international criminal law

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Abstract

The international criminal law is that branch of law which consists of criminal-law provisions serving to determine the elements of international crimes, criminal responsibility and penalties for their perpetrators, as well as the state cooperation in preventing and punishing the most serious forms of international crimes. Typically, the international criminal law is concerned with prohibitions to the individuals who commit the most serious forms of international crimes. The objective of international criminal law is not to simply prevent and punish the commitment of these crimes, but it also aims to make justice for the victims of crimes by guaranteeing a fair and expeditious trial. In this regard, the accused has the absolute right to a fair trial as a fundamental rule of law and democracy.
As provided in the most important international and national legal acts of human rights and in the statutes of all international criminal courts as well, various rights are associated with the right to a fair trial. One of the most important rights associated with the right to a fair trial is the right to self-representation. In view of the above, this paper is focused on the right to self-representation of the accused during an international criminal trial. The paper aims to present a legal overview over this fundamental right, as well as to give an account of and the reason for the limitation of this right in the context of international criminal law.

Keywords: international criminal law, right to self-representation, right to a fair trial, international criminal courts, interests of justice.

I. Introduction

Self-representation is one of the most important and interesting features that arises out from the proceedings concerning an international criminal trial. As an essential element of the right to a fair trial, every person has the right to defend himself in person or trough legal assistance of his own choosing. This fundamental and basic right is provided in the most important legal instruments of human rights, such as the Covenant on Civil and Political Rights and in any other binding legal instrument of national character in all the countries.
In view of the international criminal law and the rights of the suspected/accused related to crimes of genocide, crimes against humanity, war crimes or aggression, the statues of international crimes have been drafted with the aim of guaranteeing the right to self-representation as well. However, the objective of international criminal law is not to simply punish and prevent the commitment of such international crimes, but it primarily aims to make justice. In this sense, the international criminal courts should administer the process of justice aiming to combat impunity and make justice for the victims as well.
But does it mean that the right to self-representation constitutes an absolute right that cannot be revoked or cannot be restrained in any event? Absolutely no!
For example, almost all the head or high representatives of states who are accused for committing international crimes attempt to hijack and disrupt the proceedings

once they are on a trial. The main goal of persons who are being indicted before an international criminal court, and we are usually referring herein to the highest representative of states that have been indicted for international crimes before the ICTY and ICC, is to prove through self-representation that they are victims of unfair policies taken by the international community.
They tend to propagandize their populations by arguing before the court and public media that everything they have done was legitimate and right. These persons do have usually clear intentions to use the trial for politic reasons as long as they are probably aware about the outcome of proceedings. As a matter of fact, most of the international perpetrators are lawyers, and so on; many people may think that they are capable of defending and representing themselves. But, the court cannot follow this logic once these persons, who are political or military leaders, use the right to self-representation for political or disruptive reasons.
So, the proceedings may be very complex and the accused cannot freely exercise his right to self-representation due to the complexity of legal proceedings, even though he/she might request to defend himself/herself in person. In addition, the accused may suffer serious health problems (e.g., Milosevic case) impeding to exercise the right to self-representation and defend himself in person. Should the hearing take place without the presence of the accused who has choose to defend himself in person?
On the other hand, the court practice has shown that the accused may abuse with his/her right to self-representation in a disruptive manner and obstacle the continuation of proceedings. Moreover, the accused may even boycott the trial and the court will have no options rather than postponing the hearings. In such a way, the right to a fair and expeditious trial would not be guaranteed and the integrity of court would be seriously questioned!

II. The legal framework and the right to self-representation

The right to self-representation, as an essential and fundamental right provided in the context of a right to a fair trial, is protected by the most important international legal acts, such as: the European Convention of Human Rights or the International Covenant on Civil and Political Rights. Likewise, such a basic right is also guaranteed in a national level, where the same identical provisions are duly founded in the national Constitution and Code of Criminal Procedure of all the countries.
In the context of protection of human rights, the right to self-representation is first guaranteed by article 6 (3) (c) of the European Convention of Human Rights whereby the elements of right to a fair trial are listed as follows:

ARTICLE 6
Right to a fair trial

Everyone charged with a criminal offence has the following minimum rights:
(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
(b) to have adequate time and facilities for the preparation of his defence;
(a) to defend himself in person or through legal assistance of his own choosing or, if

he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(c) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(d) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.[1]

On the other hand, the International Covenant on Civil and Political Rights, which consists of a multilateral treaty adopted by United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966, does expressly provide as follows:

In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.[2]

Apart from the above legal instruments and in respect of the international criminal law, the right to self-representation is also provided and guaranteed in both the Statute of the International Criminal Tribunal for the former Yugoslavia (hereinafter also referred as "**ICTY Statute**") and the Statute of International Criminal Court (hereinafter also referred as "**ICC Statute**" or "**Rome Statute**").

Firstly, this paper is focused on the ICTY Statute as the main legal basis on which the Hague Tribunal exercised its functions within the scope of jurisdiction. In view of the rights of accused, article 21 (4) (d) of Statute provides that:

Article 21

Rights of the accused

4. In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:

(d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.[3]

As ICTY Statute provides, the ICC Statute contains almost the same identical provisions for both the stages of proceedings: the investigation stage and upon the confirmation of the charges by the Pre-Trial Chamber:

Article 55

Rights of persons during an investigation

Where there are grounds to believe that a person has committed a crime within the jurisdiction of the Court and that person is about to be questioned either by the Prosecutor, or by national authorities pursuant to a request made under Part 9, that person shall also have the following rights of which he or she shall be informed prior to being questioned:

(d) To be questioned in the presence of counsel unless the person has voluntarily waived his or her right to counsel.[4]

Article 67

Rights of the accused

In the determination of any charge, the accused shall be entitled to a public hearing, having regard to the provisions of this Statute, to a fair hearing conducted impartially, and to the following minimum guarantees, in full equality:

(d) Subject to article 63, paragraph 2, to be present at the trial, to conduct the defense in person or through legal assistance of the accused's choosing, to be informed, if the accused does not have legal assistance, of this right and to have legal assistance assigned by the Court in any case where the interests of justice so require, and without payment if the accused lacks sufficient means to pay for it. [5]

As noticed from the above, the ICC Statute equally defines the right to self-representation for both the situations related to the phases of proceedings for a specific case:

(a) the right to self-representation of a person during an investigation; and

(b) the right to self-representation of the accused.

However, based on the previous experience and practice of the ICTY, we have to say that the negotiations for drafting the ICC Statute were quite complex and aim to solve problematic issues that the previous international criminal courts had presented. In this context, the ICC Statute does not simply guarantee the right to self-representation as such, but it does also provide the particular cases when such a right may be restricted or revoked in its entirety. [**Article 71 of ICC Statute: Sanctions for misconduct before the Court**[6]]. The rules governing the limitation of right to self-representation and the imposition of the relevant measures are further provided in details in the corresponding Rules of Procedure and Evidence of the international courts.

III. The international criminal law practice - ICTY and ICC

In addition to the general rules and legal overview which were provided above, I would like to underline that the procedural rights and their enforcement in course of a fair trial are further provided in details by the corresponding Rules of Procedure and Evidence of both the above-mentioned Statutes. *In primes*, the Rules of Procedure and Evidence of the International Criminal Tribunal for former Yugoslavia provides even the possibility to waive the right to counsel during the investigation[7], as well as the specific right to assign a counsel contrary to the will of the accused when the

[7] Article 42 (B) of Rules of Procedure and Evidence (1994) (as amended): *Questioning of a suspect shall not proceed without the presence of counsel unless the suspect has voluntarily waived the right to counsel. In case of waiver, if the suspect subsequently expresses a desire to have counsel, questioning shall thereupon cease, and shall only resume when the suspect has obtained or has been assigned counsel.*

interests of justice so demand:

Rule 45 *ter*

Assignment of Counsel in the Interests of Justice

(Adopted 4 Nov 2008)

The Trial Chamber may, if it decides that it is in the interests of justice, instruct the Registrar to assign a counsel to represent the interests of the accused.[8]

In view of the above-mentioned provision, we may conclude that the interests of justice are more important and enjoy priority over the right to self-representation in the context of a right to fair trial. However, in other stages of proceedings when the interests of justice are not so sensitive as in the trial process, the right to self-representation is expressly guaranteed to the accused.

For instance, article 63 of ITCY-Rules of Procedure and Evidence ("Questioning of the accused") does provide the right to proceed without the presence of a counsel when it is voluntarily and expressly agreed by the accused himself during the course of questioning.[9]

Contrary to the above, in some advanced stages of proceedings, the accused shall maintain a correct conduct and not be disruptive to the court. Even if the accused is represented by a counsel or self-represented, the Trial Chamber may order the removal of the accused from the courtroom and continue the proceedings in the absence of the latter if he/she has persisted in disruptive conduct following a warning that such conduct may warrant the removal of the accused from the courtroom.[10]

In such a case, there is no violation of right to a fair trial and thereby no claim for violation may be raised on this regard by the accused. The dignity and necessity to control the proceedings in association with the interests of justice shall prevail over the right to a fair trial, which does not constitute an absolute right.

With regard to the new international treaty that led to the establishment of ICC, we may notice that this legal instrument introduced further improvements regarding the rights of the accused and the interests of justice in relation the previous *ad hoc* international criminal court (ICTY). So, the right to self-representation is not simply guaranteed as a core element of the right to a fair trial, but it is provided in details for each stage of proceedings. On the other hand, the Rome Statute shows particular interest in protecting the efficiency and integrity of proceedings by providing even the specific cases when the restriction or revocation of this right is applied.

I*n primes*, the right to self-representation is first guaranteed at the first stages of proceedings, such as the investigation and the subsequent hearing on the confirmation of charges before the trial. However, in view of the complex legal proceedings of an international criminal trial, the interests of justice shall prevail and a continuous disruptive behavior of the accused should not be a reason for impeding the court to continue the proceedings without the presence of the self-represented accused. In any event, the Trial Chamber has the power to take all the necessary steps and

[8] Article 45*ter* of Rules of Procedure and Evidence (1994) (as amended).

[9] Article 63 (A) of Rules of Procedure and Evidence (1994) (as amended): *Questioning by the Prosecutor of an accused, including after the initial appearance, shall not proceed without the presence of counsel unless the accused has voluntarily and expressly agreed to proceed without counsel present. If the accused subsequently expresses a desire to have counsel, questioning shall thereupon cease, and shall only resume when the accused's counsel is present.*

[10] Article 80 (B) of Rules of Procedure and Evidence (1994) (as amended).

measures to maintain order in the course of a hearing.
Namely, article 63 (2) of the ICC Statute does explicitly provide as follows:
If the accused, being present before the Court, continues to disrupt the trial, the Trial Chamber may remove the accused and shall make provision for him or her to observe the trial and instruct counsel from outside the courtroom, through the use of communications technology, if required. Such measures shall be taken only in exceptional circumstances after other reasonable alternatives have proved inadequate, and only for such duration as is strictly required.[11]
But, more precisely, the right of the accused to conduct the defense in person or through legal assistance is guaranteed in article 67. As previously said, this right does not have an absolute character and the accused may even become subject of sanctions if he/she is implied in particular misconducts and disruptions. These sanctions include, but are not limited to, temporary or permanent removal from the courtroom, fines or other administrative measures.[12] More detailed rules on the misconduct or obstruction of proceedings by the accused are further included and explained in the corresponding Rules of Procedure and Evidence nos. 170-172.
ICC Rules of Procedure and Evidence constitutes an instrument for the application of the Rome Statute of the International Criminal Court, to which they are subordinate in all cases. In all cases, the Rules of Procedure and Evidence should be read in conjunction with and subject to the provisions of the Statute[13]. So, taking into consideration the detailed nature of rules included in this instrument, we may notice that the Subsection III of Section II specifically concerns the appointment of a counsel for the defense.
Namely, rule 20 confirms once again the fundamental principle of a fair trial and the responsibilities of the Registrar to promote the rights of the defense in such a context. Further, rule 21 explicitly foresees both the right to self-representation[14] and the right to choose a counsel. In addition, the accused has the possibility to waive his/her right to self-representation and request to be represented by counsel only during part or parts of trial.[15]
As a conclusion, the practice of both the most important international criminal courts (i.e., the ICTY and ICC) has convincingly confirmed the restriction of the right to self-representation against the interests of justice. The international criminal courts fully recognize the right to self-representation as a core element of the rights of the accused, but their jurisprudence have made it clear that such a right cannot be absolute!

IV. Slobodan Milošević and Vojislav Šešelj Law Cases - The limitations to the

[11] Article 63 (2) of the Rome Statute of the International Criminal Court (1998).
[12] Article 71 (1) of the Rome Statute of the International Criminal Court (1998): *The Court may sanction persons present before it who commit misconduct, including disruption of its proceedings or deliberate refusal to comply with its directions, by administrative measures other than imprisonment, such as temporary or permanent removal from the courtroom, a fine or other similar measures provided for in the Rules of Procedure and Evidence.*
[13] Article 51 (5) of the Rome Statute of the International Criminal Court (1998) *In the event of conflict between the Statute and the Rules of Procedure and Evidence, the Statute shall prevail.*
[14] Rule 221 (4) of ICC - Rules of Procedure and Evidence (2002): *A person choosing to represent himself or herself shall so notify the Registrar in writing at the first opportunity.*
[15] Rule 134*ter* of ICC - Rules of Procedure and Evidence (2002).

right to self-representation

The ICTY has tried different approaches, such as *amicus curiae* (friends of the court) to assist the court and '*stand-by counsel'*, but has in the end concluded that the right to self-representation is not absolute and has imposed counsel.[16]

Slobodan Milošević was one of the most important and high representatives of the state (i.e., the former head state of Yugoslavia) that was tried before an international criminal court. In this regard, Milošević decided to exercise his right to self-representation in order to defend himself before the ICTY with the clear aim to make political speeches and to show to his country that the court is not conducting a fair trial.

As the trial unfolded, Milošević exploited his right of self-representation to treat the witnesses, prosecutors and the judges in a manner that would earn ordinary defense counsel expulsion from the courtroom. He often strayed from the forensic case into long vitriolic speeches and he was frequently strategically disruptive. While a judge can control an unruly lawyer by threatening fines, jail time, suspension, or disbarment, there is little a judge can do to effectively regulate a disruptive defendant who is acting as his own counsel.[17]

The Milošević case was the first case law presented to an international criminal court concerning the right to self-representation. There was no previous practice or jurisprudence concerning this matter before an international criminal court. Based on the statute of the ICTY, the court should administer the process of justice and has the right to intervene whenever the interests of justice require so.

Thus, the court decided to first accept the right to self-representation requested by Milošević since the outset of his trial. However, in order to ensure a fair trial and to guarantee the rights of the accused as well, the court decides to allow the self-representation and appoint three *amicus curiae* to assist and provide legal assistance to the defendant because of the complexity of legal proceedings of the case.

Amici curiae is not a legal counsel of an accused; it rather has an assisting role to the court by providing legal assistance to the defendant when he is devoid of such knowledge in due proceedings. An *amici curiae* in the course of trial is able to make proper submissions for the accused in the pretrial phase; secondly, he can make submissions and objections during the trial proceedings and cross-examine witnesses; thirdly, by drawing the court's attention to any mitigating evidence he secures the interests of justice; and finally, by any other means *amici curiae* can act in order to protect the right to a fair trial.[18]

As we may conclude from the above, the ICTY found that this solution (i.e., the appointment of *amici curiae)* would guarantee both the right to self-representation of the accused and the interests of justice. So, by appointing three *amici curiae,* the court avoided any possible issue that could be raised about the fairness of a very complex

[16] Cryer R., Friman H., Robinson D. & Wilmshurst E., *An Introduction to International Criminal Law and Procedure - second edition,* Cambridge University Press, New York, (2010), page 438.

[17] Case Western Reserve University, "*Maintaining Control of the Courtroom* [MOOC Lecture]. In *Introduction to International Criminal Law*. Coursera. https://www.coursera.org/learn/international-criminal-law.

[18] Order Inviting Designation of Amicus Curiae, *Prosecutor vs Milosević* (IT-02-54), Trial Chamber of ICTY, 30 August 2001.

trial such as the Milošević case.
Some years later, the Special Court of Sierra Leone was established in line with the principles of the ICTY and international criminal law. While having to rule on the application the self-representation of one defendant, the Trial Chamber confirmed that the right to self-representation is not an absolute right and it might be restricted if the interests of justice require so:
In the Milosevic case, the Chamber, in addition to holding that the right to self-representation is not absolute, also held that there may be circumstances where it is in the interests of justice, as is, in our opinion the case here, to appoint Counsel. The Court then proceeded to appoint 3 amici curiae to cater for Milosevic's interests and his procedural links with the Tribunal.[19]
As a conclusion, *amici curiae* is an assistant to the court and does not represent the defendant. The appointment of *amici curiae* is particularly necessary in the circumstances where the defendant chooses to exercise his right to self-representation, but the legal proceedings are complex and the court needs to guarantee both the right of the defendant and the fairness of the trial.
But, the ICTY faces another challenge when the defendant is engaged in disruptive behaviors before the court or when the latter suffers from serious health problems. Under these circumstances, *amici curiae* cannot be anymore a suitable solution and the interests of justice would demand the intervention of the court to guarantee the fairness of the trial. Therefore, the court may and should further restrict the right to self-representation of the defendant and appoint a counsel to the defendant.
The above situation was presented to the ICTY in the Milošević trial once the illness and health problems of the defendant caused the defendant to not be regularly present during the hearings. The court first respected his right to self-representation and decided to reduce the number of hearings in a week in order to let the accused to defend himself. But, once the health problems of the accused were exacerbated and the latter was not able to be regularly present in the hearings, the court was obliged to intervene and ruled out for the appointment of a counsel to safeguard the integrity of the trial process:
The risk to the health, and indeed the life, of the Accused and the prospects that the trial would continue to be severely disrupted [are] so great as to be likely to undermine the integrity of the trial process. There [is] a real danger that this trial might last for an unreasonably long time or, worse yet, might not be concluded should the Accused continue to represent himself without the assistance of counsel.
In the face of these circumstances, it would [be] irresponsible to allow the Accused to continue to represent himself. No court, mindful of its duty to ensure a fair and expeditious trial and its inherent responsibility to preserve the integrity of its proceedings, could countenance this....[20]
The Trial Chamber made efforts to guarantee both the integrity of the trial and the interests of the defendant, but it concluded that the participation of the defendant would be secondary to that of the assigned counsel and strictly contingent on the discretionary permission of the Trial Chamber in any given instance. This decision

[19] Decision on the application of Samuel Hinga Norman for self-representation under article 17(4) (d) of the Statute of Special Court, *Prosecutor vs Sam Hinga Norman, Moinina Fofana and Allieu Kondewa (Case No.SCSL-04-14-T)*, Trial Chamber of SCSL, 08 June 2004, paragraph 20.
20 Decision on interlocutory appeal of the Trial Chamber's decision on the assignment of defense counsel, *Milošević vs Prosecutor* (Case no. IT-02-54-AR73.7), Appeals Chamber of ICTY, 01 November 2004, paragraph 7.

was then subject to an appeal that Milošević filed with the Appeals Chamber, which confirmed the legitimacy of the decision on the limitation of the right to self-representation by appointing a defense counsel to the defendant.
However, we have to underline that the Appeals Chamber indeed confirmed that the Trial Chamber has correctly exercised its discretion in reaching that decision, but it parts ways with the Trial Chamber in its assessment of the Order on Modalities due to the broad and no proportional restriction on the Milosevic's ability to participate in the conduct of his case:
"The Trial Chamber failed to recognize that any restrictions on Milosevic's right to represent himself must be limited to the minimum extent necessary to protect the Tribunal's interest in assuring a reasonably expeditious trial. When reviewing restrictions on fundamental rights such as this one, many jurisdictions are guided by some variant of a basic proportionality principle: any restriction of a fundamental right must be in service of "a sufficiently important objective," and must "impair the right... no more than is necessary to accomplish the objective..:[21]
In light of the above, the Appeals Chamber of the ICTY totally confirmed the possibility to restrict the right to self-representation in the interests of the right to a fair and a reasonable expeditious trial, but it stressed that the assignment of a counsel should be proportional to the extent required by the interests of justice. Minimally, the defendant should take the lead in defending himself and presenting the case when he is physically capable of doing so, while the assigned counsel may take the floor and lead the presentation of the case only when the defendant is not physically capable to proceed accordingly.
With respect to the relationship between the defendant and the assigned counsel, as well as taking into account the problems that may arise due to the lack of cooperation between the parties, the court has stated that it is up to the counsel to act as he believes are the best interests of the accused, presenting the best possible defense for his client and at the same time keeping in mind the duty to ensure a fair trial.[22]
Further to the above, it results that an international criminal court may allow the self-representation and guarantee the interests of justice at the same time. In addition to the modalities of *amici curiae* and assigned counsels, this objective may be also reached through the role of standby counsels as per example in the trial of Vojislav Šešelj before the ICTY.
Šešelj, a nationalist and former deputy prime minister of Serbia, was indicted as part of a joint criminal enterprise that committed international crimes within the territory of ex-Yugoslavia. Šešelj confirmed his intention to exercise the right to self-representation since the outset of proceedings, and for this reason, he went to a hunger strike for about 1 month in order to be allowed to defend himself. But, once the court granted this right to him and allowed the latter to represent himself, Šešelj was engaged in some very abusive and disruptive behaviors by insulting the judges and prosecutors or disclosing the identity of witnesses.
On this point, the ICTY decided to appoint a standby counsel to the defendant in

[21] Decision on interlocutory appeal of the Trial Chamber's decision on the assignment of defense counsel, *Milošević vs Prosecutor* (Case no. IT-02-54-AR73.7), Appeals Chamber of ICTY, 01 November 2004, paragraph 17.
[22] Hajdin N., *Self-representation before the International Criminal Court: Safe-guarding the interests of justice and protecting human rights*, (2015), page 9.

order to ensure the interests of justice and the right to a fair trial whenever the accused is removed from the courtroom due to the disruptive behaviors violating the integrity of the court. The court should first issue a warning to the accused and then appoints a standby counsel if the accused continues to act in a disruptive manner.
For the purposes of proceedings, the role of the standby counsel was strictly defined to take over the trial if the accused was engaged in disruptive or abusive behaviors. As we can see, a conspicuous difference between the standby counsel and *amici curie* is that the former is an assistant to the defendant, and the latter is only ensuring the right to a fair trial. The standby counsel is different to an appointed counsel of the accused. Unlike the regular defense lawyer, a standby counsel is more of an assistant than a legal representative of the defendant.[23]
Having explained the ICTY practice concerning the right to self-representation, we point out that the right to self-representation may be restricted under specific modalities such as:
a- *amici curie;*
b - assigned counsels;
c- standby defenders.
Each of the above modalities has its own specifics and may be applied depending on the circumstances of the case, but the court has the authority and the powers to restrain or entirely revoke the right to self-representation if the interests of justice require so. When an accused is asserting his right to be represented in person, the decision of the court is not simply a matter of interests of the accused. The court must also protect the credibility and the legitimacy of its proceedings by promoting the best interests of justice. To that end, if deciding to allow it, the court must ensure that self-representation is adequate and effective.[24]

V. Conclusions

Self-representation is not a common practice for the conduct of defense before an international court as far as the suspected or the accused of committing international crimes do usually prefer to choose the best and most prominent lawyers to defend themselves. However, the practice of the ICTY and ICC has shown that there might be some particular circumstances when the accused express his/her intent to exercise the right to self-representation as a fundamental element of the right to a fair trial.
In the majority of cases tried before the international criminal courts, such a right was exploited from the accused to make political speeches and propaganda in order to "justify" the committed actions and to create an impression to the population of his/her country that the trial is unfair and no unlawful actions or crimes have been committed.
The right to self-representation is guaranteed by the most important legal instruments on human rights, such as the International Covenant on Civil and Political Rights or the European Convention of Human Rights. The suspected or the accused

[23] Hajdin N., *Self-representation before the International Criminal Court: Safe-guarding the interests of justice and protecting human rights*, (2015), page 8.
[24] Bassiouni M., '*Human Rights in the Context of Criminal Justice: Identifying International Procedural Protection and Equivalent Protections in National Constitutions*', Duke Journal of Comparative & International Law (1993) 235, at 283.

of a crime may decide to defend himself in person or either chooses a lawyer to represent and defend his interests. The same identical legal provision has been laid down in the statutes of international criminal courts, including the most important courts in this field: ICTY and ICC.

The court should safeguard both the interests of justice and the interests of the suspected/accused, but the integrity of process and the right to a fair and expeditious trial should not be violated. If there is need to intervene and guarantee the interests of justice and the administration of the process, it should be always taken into account that a fair and proportional balance should be established between the right to a fair trial for the accused and the interests of justice. But, as the ICTY jurisprudence confirmed in its first cases (Milošević and Šešelj trials) when this question was raised, the right to self-representation is a qualified right and not an absolute one.

However, the international courts could not restrict or revoke the right to self-representation of the accused due to minor disruptions. Furthermore, even the major disruptions cannot always lead to the restriction or revocation of this right if there is no proportionality between the restriction measure and the character/nature of disruption. In this regard, the court has to take into consideration the complexity of the case and the related legal proceedings, as well as the character and nature of disruptions committed by the accused. So, even in the case when the accused suffers from health problems, the court should evaluate the gravity of the health conditions before taking a decision on the restriction or revocation of the right to self-representation.

Further, as said above, a major disruption shall not always constitute a legal ground to restrict or revoke the right to self-representation. First, the international criminal court has to give a warning to the accused when the latter is engaged in disruptive or abusive behaviors. Likewise, the provisional revocation of the right to self-representation may be another possible option to be applied by the international court in view of the above. Therefore, by acting in this way, the court may give a warning and ultimate chance to the accused before ruling out on the final revocation of the right.

The right to self-representation is not an absolute right, but it represents a qualified right that may be restricted or entirely revoked based on the specific circumstances of the case, such as: the complexity of legal proceedings, major disruptive/abusive behaviors (including the boycott of the trial) from the accused and significative health or mental problems of the accused. If none of the above-referenced measures is found as effective and appropriate, the court may then decide to revoke or restrict the right to self-representation and appoint *amicus curiae*, standby public defenders or defense counsels in order to simultaneously guarantee the rights of the accused and the right to a fair trial at the same time.

In any event, we stress out that the appointed defense counsels should indeed act in the best interest of the accused, but they must never obstruct justice. As regards this point, we would be of the opinion that the appointment of defense counsels to the accused may be considered the last resort and option to be used by the court only in case the accused will abuse with his rights or will disrupt the proceedings. The court may initially decide to allow the accused to defend himself and restrict his right to self-representation by appointing *amicus curiae* or standby public defenders whenever is required to guarantee both the interests of justice and the effective and adequate representation of the accused.

As a conclusion, we underline that the interests of justice, the court's integrity and

the fairness/rights of victims must prevail against the right to self-representation of the accused. It is true that the court serves as a guardian of the rights of the accused, but justice does consist of a process. The court has the responsibility to conduct a fair, efficient and expeditious trial, and therefore, it must intervene whenever required by the interests of justice. There is no peace without JUSTICE!

In view of the above, I decided and choose to conclude this article through a statement underlined in the decision of the United States Supreme Court in the famous *Faretta* case law: *The right to self-representation is not a license to abuse the dignity of the courtroom!!!*

References

Bassiouni M., '*Human Rights in the Context of Criminal Justice: Identifying International Procedural Protection and Equivalent Protections in National Constitutions*', Duke Journal of Comparative & International Law (1993).

Case Western Reserve University, "*Maintaining Control of the Courtroom* [MOOC Lecture]. In *Introduction to International Criminal Law*". Coursera. https://www.coursera.org/learn/international-criminal-law.

Cryer R., Friman H., Robinson D. & Wilmshurst E., *An Introduction to International Criminal Law and Procedure - second edition,* Cambridge University Press, New York, (2010).

Decision on interlocutory appeal of the Trial Chamber's decision on the assignment of defense counsel, *Milošević vs Prosecutor* (Case no. IT-02-54-AR73.7), Appeals Chamber of ICTY, 01 November 2004.

Decision on the application of Samuel Hinga Norman for self representation under article 17(4)(d) of the Statute of Special Court, *Prosecutor vs Sam Hinga Norman, Moinina Fofana and Allieu Kondewa* (Case No.SCSL-04-14-T), Trial Chamber of SCSL, 08 June 2004.

European Convention of Human Rights (1953).

Hajdin N., *Self-representation before the International Criminal Court: Safe-guarding the interests of justice and protecting human rights*, (2015).

International Covenant on Civil and Political Rights (1976).

ICC - Rules o Procedure and Evidence (2002).

ITCY - Rules of Procedure and Evidence (1994) (as amended).

Order Inviting Designation of Amicus Curiae, *Prosecutor vs Milosević* (IT-02-54), Trial Chamber of ICTY, 30 August 2001.

Rome Statute of the International Criminal Court (1998).

Statute of the International Criminal Tribunal for the former Yugoslavia (1993).

Fiscal Amnesty and Prevention of Money Laundering

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Abstract

The Albanian Government has submitted for public consultation the draft law on fiscal and penal amnesty for subjects that make a voluntary declaration of assets. Albanian citizens and foreigners who are residents of Albania who have evaded taxes will be given the opportunity to legalize their undeclared, unregistered assets as well as the revaluation of their financial statements. An important issue of the fiscal and penal amnesty is its treatment in the light of the legal and regulatory framework of the prevention of money laundering. Important international institutions such as the Financial Action Task Force (FATF), recommend that tax evasion should be treated as a predicate offence of money laundering. Regardless of the guarantees provided by the law for the non-initiation of administrative procedures and criminal proceedings against these subjects, by the relevant institutions, in relation to these assets, the typologies of fiscal evasion are considered similar to the typologies of money laundering by different authors. This paper sheds light on the difficulties of applying the fiscal and penal amnesty in Albania for entities that make a voluntary declaration of assets due to the provisions of the regulatory framework of prevention of money laundering and terrorist financing (AML/CTF).

Keywords : Fiscal and Penal Amnesty, Prevention of Money Laundering (AML), Financial Institutions.

Introduction

The prolonged pandemic and finally the war in Ukraine has brought serious consequences for the world economy. The Albanian economy has also shown its weaknesses and the economic growth is predicted pessimistically. The EBRD is the first institution to revise down the country's economic growth, in a signal that the consequences of the global crisis caused by the war will be felt for a long time in the country (Monitor 2022). The Albanian economy grew in nominal terms by 9.4% over the past year, but the country's public debt increased by 13% while employment grew by only 0.4%, data that suggest unsustainable growth and an economy that does not create jobs, or welfare. The increased debt did not bring any significant improvement in the labor market, according to the latest data published by the Ministry of Finance and the Institute of Statistics. Faced with this difficult economic situation, the current government has drafted a bill on fiscal and penal Amnesty of Entities making a voluntary declaration of assets. Other developed countries such as Italy have applied similar fiscal amnesty laws in the past (PWC 2018). The prediction is to legalize the undeclared capitals which would bring liquidity to the Albanian economy as well as increase the tax revenues so necessary for public spending. The law provides for the protection of these subjects from administrative procedures and criminal proceedings by the relevant institutions, regarding the assets that come from tax evasion typologies. The provisions of the law do not apply to the income

provided for in Article 287 of the Criminal Code of the Republic of Albania on the Laundering of the Proceeds of a Criminal Offense or Criminal Activity, although this provision is not clearly mentioned in the draft law. The Albanian economy, unlike developed economies such as neighboring Italy, faces a high level of informality. In a recent study by the European Organization for Cooperation and Development (OECD), about the reduction of the informal economy in Albania, it is evident that in the private sector the informal activity is 1.4 times higher than the formal one, or 40-45 percent more, not counting here criminal activities, such as smuggling, trafficking and prostitution and non-taxable activities, such as agricultural and to some extent family, or rented facilities (Scan-tv, 2018). The latest recommendations of the FATF envisage that typologies of tax evasion be considered as predicate offence of money laundering and raise concern for the process of tax amnesty in general. The FATF raises concern over the potential for fiscal amnesty programs to be abused by criminals in order to move their illegitimate funds (FATF 2012). Consequently, the gray economy that exists in our country and the regulatory framework for the prevention of money laundering and terrorist financing (AML/CTF) make it difficult to apply fiscal and penal amnesty in practice.

The paper is organized as follows. Section II shows the methodology used. Section III analyzes the main concepts and legal aspects. The international stance on the fiscal amnesty in Albania is analyzed in Section IV. Section V analyzes the difficulties of the practical application of fiscal and penal amnesty. Section VI summarizes the main conclusions and recommendations of the paper.

2. Methodology

The primary data is derrived mainly from the review of the legal and regulatory framework related to the draft law on the Fiscal and Criminal Amnesty of Entities that make a Voluntary Declaration of Assets as well as the Prevention of Money Laundering. The review of the legislation gives a clear overview of the problems that arise in the framework of the implementation of the fiscal amnesty, both by individuals interested in amnestying their assets and by reporting entities such as commercial banks. For the realization of this study, extensive contemporary literature on fiscal evasion and prevention of money laundering was used. In the study, a wide range of secondary sources were used in the form of academic literature, reports of important international organizations or publications. The reports of the responsible authority GDPML (Albanian FIU) and the supervisory authority, the Bank of Albania, as well as the reports of international institutions such as FATF, IMF, World Bank, etc., have been a special help. The study is also based on "on line" articles and publications related to fiscal evasion and its connection with the phenomenon of money laundering.

3. What does the law on fiscal amnesty provide

Through the Albanian telegraphic agency, the Ministry of Finance announced that, for the drafting of the fiscal amnesty, it is based on the best international practices and on previous amnesty experiences (ATA 2022). According to the proposed draft law, the purpose of this law is: to enable the legalization of undeclared assets, reg-

istered or not, in whole or in part, the revaluation of financial statements as well as the collection of taxes according to the provisions of this law, through the guarantee of transparent procedures. The law provides for the guarantee and preservation of the secrecy of the information related to these assets, as well as the guarantee for the non-initiation of administrative procedures and criminal proceedings against these subjects, by the relevant institutions, in relation to these assets. Article three provides for voluntary declaration, for the assets and elements of the financial statements, made voluntarily to the competent bodies. The provisions of this law do not apply to assets that are included in the scope of the implementation of law no. 10192, dated 3.12.2009, "On preventing and combating organized crime and trafficking through preventive measures against assets", as amended.

The draft law does not explicitly mention the obligations arising from the provisions of law no. 9917, dated 19.5.2008, "For the Prevention of Money Laundering and Financing of Terrorism". In Article 9, "Procedure of voluntary declaration of assets and financial statements" it is provided that the subjects of this law can voluntarily declare the assets and elements of the financial statements that they have not declared before or have declared in a smaller value than what they had to declare regardless of whether the assets, in whole or in part, are unregistered in the competent authorities, or are located or not in the territory of the Republic of Albania.

For the declaration of cash amounts, the entity or its representative, after being provided with the voluntary declaration form issued by the Unit, submits a copy of this form for the deposit of the cash amount declared in the form in an account number opened for this purpose (Article 10, Voluntary declaration of cash amounts).

Article 13 on "Voluntary declaration of immovable or movable assets" provides that the subjects of this law can voluntarily declare and legalize the source of income used for the creation of movable or immovable assets that are required or registered in public registers, previously undisclosed sources.

Article 15 provides for the voluntary declaration of special elements of the annual financial statements. Subjects of this law may re-declare specific elements of assets, liabilities or own capital of the company's annual financial statements, according to the provisions in the instruction of the minister responsible for finance, with the aim of ensuring a real, true and accurate presentation right to every element of the assets and liabilities of these statements. For all the differences that result as an effect of the restatement of specific elements of assets, liabilities or own capital of the annual financial statements of companies, which are obliged to perform the legal audit based on the regulatory framework of the legal audit field, the legal auditors, who have audited the annual financial statements of these companies before the restatement process, are exempted from responsibility related to the creation of these differences, as a result of the requirements of this law

A special tax is charged for the voluntary declaration. In cases of voluntary declaration of amounts in cash and their deposit in bank accounts, the bank or financial institution charges a special tax of:

a) 7 percent of the total amount declared, for declarations and payments made in the first 4 months from the entry into force of the law;

b) 10 percent of the total amount declared, for declarations and payments made after 4 months from the entry into force of the law.

Article 22 provides "Conditions for granting amnesty from criminal prosecution".

Beneficiary entities, to which the corresponding certificate of completion of the voluntary declaration process has been issued, are exempted from criminal prosecution for criminal offenses in the tax and customs field that are directly or indirectly related to the creation and disposition of the declared property, according to the conditions defined in this law, carried out until the date of entry into force of this law.

4. The international stance on the fiscal amnesty in Albania

The stance of international institutions is against fiscal and penal amnesty. Kseniya Lvovsky, World Bank Country Manager for Albania asks the question: Will fiscal amnesty cure or spread the disease? She stipulates the situation of pro-long existence of a large informal economy, limited enforcement experience, and continued public tolerance of getting things done in informal ways, fiscal amnesty could be a catalyzing step towards a solution. If it is done once, executed well, and supported by other measures to deliver an effective package. So, the focus is, rightly, on how it should be done to reduce and eventually eliminate the continuation of informal activities, tax evasion and other forms of non-compliance (Kseniya Lvovsky, World Bank, 2022).
The American Chamber of Commerce in Albania (AmCham) in an official statement raises serious concerns about the draft law on fiscal amnesty, recently proposed by the Ministry of Finance and Economy. This statement states that if passed, the legislation would undermine efforts to improve the business and investment climate by rewarding unfair competition (Vision plus 2022).
More and more, fiscal evasion is being considered as the predicate offence of money laundering, similar to drugs and other illegal traffic. The FATF Recommendations include in the designated categories of offenses the tax crimes as well. Recommendation 25 of FATF stipulates countries should also require trustees of any trust governed under their law to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors (FATF Recommendations, 2022 update). Many steps to fight money laundering have been undertaken in Europe, such as the four EU Anti Money Laundering Directives. Also, many tax evasion and tax avoidance regulations took place recently. The Fourth EU Anti Money Laundering Directive 2015 includes tax crime as a predicate crime for money laundering. With this the EU emphasizes that tax evasion is a serious crime, similar to drug dealing, corruption, weapons and human trafficking (European Parliament 2017). In another project that has received funding from the European Union's Horizon 2020 research and innovation program emphasizes that Tax Crimes should be considered as a Predicate Crime for Money Laundering (Rossel, Unger 2020).
Eventually, it's difficult to distinguish money laundering and tax evasion typologies. FATF paper mentioned that tax amnesty incentives and asset repatriation may increase the potential ML/FT risks for the following reasons. First, both tax amnesty and asset repatriation incentives encourage taxpayers to bring forward funds or other assets that were previously undeclared. This may result in excessively large volumes of transactions that overwhelm the capacity of financial institutions to apply anti-money laundering (AML) and counter-terrorist financing (CFT) measures effectively, particularly if it is burdensome for financial institutions to distinguish ordinary transactions from those related to the program. Second, financial institutions may

believe that the legitimacy of funds or other assets being deposited under such a program has been officially endorsed by the authorities. Third, where funds or other assets are being repatriated, information on the funds or other assets and the taxpayer may be held in different countries, making it more difficult for financial institutions and the authorities to verify the legitimacy of the funds or other assets (FATF Paper 2012). Regardless of the origin of the money, whether it has been acquired by means of a criminal activity or a punishable offense, the conduits for money laundering are effectively the same (Rui Tavares 2013). Another question that arises from using is to what extent capital flight, which may consist of both laundered money and tax evasion, actually measures money-laundering (UNODC 2011).
From the above, it is clear that the law on Fiscal and Penal Amnesty of Subjects that make a Voluntary Declaration of Assets will encounter numerous objections from international organizations such as the World Bank, IMF, MONEYVAL, etc., where Albania adheres to

5. The difficulty of applying Fiscal and Penal Amnesty in practice

The practical implementation of the Law on Fiscal and Criminal Amnesty of Subjects that make a voluntary declaration of assets faces a number of practical challenges that may affect the effectiveness of its implementation. Subjects that benefit from the process of voluntary declaration of assets as well as financial institutions reporting transactions such as banks may be subject to the regulatory framework for the prevention of money laundering.
The Criminal Code of the Republic of Albania provides for the laundering of the proceeds of a criminal offense or criminal activity the following: a) the exchange or transfer of property, in order to hide or cover its illegal origin, knowing that this property is the product of a criminal offense or of criminal activity; b) concealing or covering up the true nature, source, location, disposition, displacement, ownership or rights in relation to property, knowing that this property is the product of a criminal offense or criminal activity.
The phenomenon of fiscal evasion also includes concealment or covering up of the true nature, source, location, disposition, disposition, ownership or rights in respect of property.
Banks must apply "Enhanced Due Diligence", which is a deeper control process, beyond the "Know Your Customer" procedures, that aims to create sufficient certainty to confirm and evaluate: a) the customer's identity, b) to understand and test the customer 's profile, business, and its activity with respect to the services, products and transactions provided by the entity; c) to identify the important information and to assess the possible risk of money laundering/terrorism financing pursuant to the decisions aimed at providing protection against financial, regulatory or reputational risks as well as compliance with legal provisions (Law no. 9917 on AML/CTF). On the one hand, the subjects of this law can voluntarily declare and legalize the source of income used to create movable or immovable property, on the other hand the financial institutions must understand and test the customer 's profile, business, and its activity with respect to the services, products and transactions provided by the entity prior to conducting business relationship with the client.
In the framework of the exercise of due diligence, the financial institutions shall conduct

continuous monitoring of the business relationship with the customer, including the analysis of transactions executed in the course of duration of this relationship, to ensure that they are consistent with the knowledge of the entity about the customer, nature of his/her business, risk profile and source of funds (Law No. 9917 on AML/CTF). However, the draft law on fiscal amnesty provides that the subjects of this law can voluntarily declare the assets and elements of the financial statements that they have not declared before or have declared in a value smaller than what they should declare, regardless of whether the assets, in all or part of them, are not registered with the competent authorities, or are located or not in the territory of the Republic of Albania. Should banks conduct continuous monitoring of the business relationship with the customer, including the analysis of transactions executed in the course of the duration of this relationship or simply accept the declaration voluntarily? How will banks obtain information about the purpose and nature of the business relationship and to establish the risk profile during the ongoing monitoring?

Based on Bank of Albania (BOA) regulation on AML/CTF the bank shall assess the impact (damage) of money laundering the impact when a particular transaction may result to have been used for corruption, bribery, contraband, illegal emigration, trafficking in narcotic drugs, arms trafficking, terrorism, rubbery, acquisition, fraud or other criminal actions (BOA regulation No. 44, dated 10.06.2009). But in the case of the fiscal amnesty, we have a voluntary declaration and it becomes very difficult to distinguish the suspicious transaction. Use of accounts on behalf of individuals (shareholders, managers, employees or customers or their relatives) for transactions for the interest of the company or enterprise, particularly transactions in cash or large amounts is considered a suspicion AML/CTF transaction (BOA regulation No. 44, dated 10.06.2009). However, the property that is allowed to be declared voluntarily according to the provisions of this law reaches a maximum value of 2,000,000 (two million) euros, which is a large amount.

From the application of the law on fiscal amnesty are excluded the entities that have the legal obligation to declare assets, pursuant to law no. 9049, dated 10.4.2003, "On the declaration and control of assets, financial obligations of elected officials and to some public servants", but their identification becomes difficult considering that corrupt politicians can use tax havens to completely hide their identity and true source of income. The US State Department's statement on the 2022 Investment Climate for Albania states that, despite a sound legal framework, foreign investors perceive Albania as a difficult place to do business. DASH cite endemic corruption, including in the judiciary and public procurement, unfair competition, the informal economy, frequent changes in fiscal legislation and weak implementation of contracts as ongoing challenges for investment and business in Albania (Monitor, 2022).

Albania will remain under MONEYVAL's enhanced follow-up and is expected to report back on progress to strengthen its implementation of AML/CFT measures in two years' time. According to the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism Improvements in fighting money laundering and terrorist financing in Albania led to upgraded ratings MONEYVAL report states. The country remains "partially compliant" with four recommendations relating to targeted financial sanctions on proliferation financing; new technologies; the transparency and beneficial ownership of legal arrangements; and the supervision of designated non-financial businesses and professions"

(MONEYVAL, 2022).
From the above it will be difficult for the banks to apply the legal and regulatory framework of Anti money laundering. Especially the requirement of BOA regulation to continuously monitor the business relationship with the customers, through data collection on the scope and nature of this relationship and creating its risk profile, as well as the analysis of the performed transactions in the course of duration of this relationship, to ensure that they are consistent with the knowledge that the subject has about the customer, the nature of its business performed, the risk profile and the source of the funds. Entities affected by this law may hesitate to declare cash and other assets that have the nature of fiscal evasion because they may be classified as suspicious money laundering transactions by banks and state authorities.
Consequently, a clearer harmonization of the law on Fiscal and Penal Amnesty of Subjects that make a voluntary declaration of assets with the legal and regulatory requirements of the Law "On the prevention of money laundering" and its supporting regulations is required. These measures will facilitate the operational work of banks and make the implementation of the law on fiscal and penal amnesties more efficiently in practice.

Conclusions and Implications

The draft law on Fiscal and Penal Amnesty of Subjects who make a voluntary declaration of assets in the Republic of Albania has as its main purpose to enable the legalization of undeclared assets, registered or not, in whole or in part, the revaluation of financial statements and the collection of taxes, through the guarantee of transparent procedures. The law provides for the guarantee and preservation of the secrecy of the information related to these assets, as well as the guarantee for the non-initiation of administrative procedures and criminal proceedings against these subjects, by the relevant institutions, in relation to these assets. This law comes at a difficult time for the Albanian economy after the prolonged pandemic and the recent war in Ukraine. Forecasts for the Albanian economy are not promising even for the following years based on the reports of international institutions. Consequently, the law on fiscal amnesty is thought to help the country 's economic growth. However, the implementation in practice becomes difficult due to the strict rules of the regulatory framework on the prevention of money laundering. Financial institutions have the duty to apply "Due diligence", which is the entirety of measures that the entities should apply in order to identify as well as fully and accurately verify the customers, the ultimate beneficial owner, ownership and control structure of legal persons or legal arrangements, nature and purpose of the transaction and the business relationship as well as the ongoing monitoring of the business relationship and the continuous examination of the transactions, in order to ensure that they are in conformity with customer's business activity and risk profiles, including, where necessary, the source of funds. These tough measures contradict the voluntary declaration of assets and elements of the financial statements provided for in the draft law on fiscal and penal amnesty. Based on the latest FATF recommendations, tax evasion typologies are very similar to Money Laundering ones and this increases the risk of laundering the proceeds of other crimes. The situation becomes more complex considering that the level of informality in the Albanian economy as well

as the level of corruption remains very disturbing. Financial institutions may believe that the legitimacy of funds or other assets being deposited under such a program has been officially endorsed by the authorities as FATF paper suggests or may be penalized by the supervisory authorities for not fulfilling the obligations of enhanced due vigilance. In addition, international institutions such as the World Bank are very skeptical about the draft law on fiscal and penal amnesty.

In this context, it is necessary to harmonize the law on fiscal and penal amnesty of subjects who make a voluntary declaration of assets with the legal and regulatory requirements of the Law "On the prevention of money laundering" and its supporting regulations. For this reason, intensive cooperation is required between the Ministry of Finance and its subordinate directories including the General Directorate for the Prevention of Money Laundering - the Albanian FIU, the General Directorate of Taxes with Bank of Albania, in order to draw up a very transparent regulatory framework, which would clarify the legal aspects and consequences. The specific legal acts will clearly crystallize the duties and obligations that the financial institutions would have in practice and make more applicable the law on fiscal and penal amnesty of entities who make a voluntary declaration of assets.

References

Raport.al, May 2022, Debt grows faster than the economy and employment https://www.reporter.al/2022/05/24/borxhi-rritet-me-spejt-se-sa-ekonomia-dhe-punesimi/

Monitor.al, July 2022, EBRD lowers the forecast for Albania's economic growth in 2022 https://www.monitor.al/berzh-ul-parashikimin-per-rritjen-ekonomike-te-shqiperise-ne-2022/

Monitor.al, August 2022, *DASH: Corruption in Albania endemic, PPPs were given without any cost-benefit analysis* https://www.monitor.al/dash-korruptioni-ne-shqiperi-endemik-ppp-u-dhane-pa-asnje-analize-kosto-perfitim/

Rui Tavares, 2013, *Relationship between Money Laundering, Tax Evasion and Tax Havens* . https://www.europarl.europa.eu/meetdocs/2009_2014/documents/crim/dv/tavares_ml_/tavares_ml_en.pdf

Criminal Code, 2022, http://komentarielektronik.magjistratura.edu.al/sq/eli/fz/1995/7895/287

Vision plus, July 13, 2022, *American House against fiscal amnesty: Albania's official position in the international arena is at risk* , https://www.vizionplus.tv/dhoma-amerikane-kunder-amnistise-fiskale-rzezikohet-pozita-zyrtare-te-shqiperise -in-the-international-arena/

Kseniya Lvovsky, World Bank, 2022, *Will fiscal amnesty cure or spread the disease?* - http://web.worldbank.org/archive/website01363/WEB/0__-8148.HTM

The FATF Recommendations, 2022 update, https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf

FATF Paper, 2012, *Managing the Anti-Money Laundering and Counter-Terrorist Financing Policy Implications of Voluntary Tax Compliance Programs (2012)*, https://www.fatf-gafi.org/media/fatf/documents/reports/BPP%20VTC. pdf

Lucia Rossel, Brigitte Unger, Jason Bachelor, Jan van Koningsveld, EU Horizon 2020, *Project Tax Crimes as a Predicate Crime for Money Laundering* 2022, https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5cdace9f6&appId=PPGMS

European Parliament, 2017, *Study Directorate General for Internal Policies Policy Department: Economic and Scientific Policy Offshore activities and money laundering: recent findings and challenges* https://www.europarl.europa.eu/RegData/etudes/STUD/2017/595371/IPOL_STU(2017)595371_EN.pdf

Albanian Telegraphic Agency (ATA), July 2022, *Fiscal Amnesty, Ibrahimaj: Those individuals who*

should not benefit will not benefit. https://ata.gov.al/2022/07/01/amnistia-fiskale-ibrahimaj-nuk-will-benefit-those-individuals-who-shouldn't-benefit/
Scan-tv, 2018, https://www.scan-tv.com/ekonomia-informale-ne-shqiperi/
PWC, November, 2018, https://www.pwc.com/gx/en/tax/newsletters/tax-controversy-dispute-resolution/assets/pwc-tcdr-italy-tax-amnesty.pdf
Council of Europe, MONEYVAL, June 2022, *Albania has no "non-compliant" ratings. Improvements in fighting money laundering and terrorist financing in Albania led to upgraded ratings MONEYVAL report* states https://www.coe.int/en/web/moneyval/-/improvements-in-fighting-money-laundering-and-terrorist-financing-in-albania-led-to-upgraded-ratings-moneyval-report-states
Electronic register for public announcements and consultations, Posted on: 23.06.2022 | Closing date: 23.07.2022,
https://konsultimipublik.gov.al/Konsultime/Detaje/480
United Nations Office on Drugs and Crime (UNODC), 2011, *Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes*
https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf
General Directorate for the Prevention of Money Laundering, the Albanian FIU, 2022, *Legislation*, https://fiu.gov.al/laws/
Bank of Albania, 2022, *Supervision regulations*,
https://www.bankofalbania.org/Supervision/Regulatory_Framework/Supervision_regulations/
Italian tax, 2022, Tax Amnesty, https://taxing.it/tax-amnesty/

Nexus of Macroprudential Policy and Financial Stability

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Abstract

The dominant financial oversight and market self-control are insufficient to prevent systemic euphoria in which the degradation of some financial operations would have significant effects not only on the entire financial system, but also on the actual economy as a whole. To comprehend how financial stability and price stability are supported, it is essential to comprehend the functions and outlines of financial policy and macroprudential policy, as well as their interrelationships. In the financial system, the word "macroprudential" has grown in significance and utility. Policies of macroprudential supervision are the primary instruments for ensuring financial stability. In actuality, they are able to "decrease" the recurrence of systemic risks and structural vulnerabilities. This paper tries to explicate the necessity of macroprudential policies and their interaction with monetary and microprudential policies. This research paper shall reflect the changes in macro and microprudential perspectives as well as provide an overview of how macroprudential policies have changed and developed in time since its debut as a crucial innovation in financial stability.

Keywords: Nexus, Macroprudential Policy, Financial Stability.

Introduction

The previous financial crisis demonstrated that price stability on its own is insufficient to guarantee financial stability. Prior suggestions for financial regulation were based on the so-called principle of maximum prudence. The goal was to maintain global financial stability, ostensibly to prevent risks associated with the financial system and mitigate their impact on the economy in the event of a crisis. Economic, financial, and monetary regimes have become increasingly interdependent as time has progressed, leading to a redefinition of the regions of their respective action, i.e., the economic, financial, and monetary regimes themselves[1]. Economic studies provide reassuring data regarding the development and coordination of these two types of economic policy. They enable us to comprehend that the ECB's "macro-managerial" strategy is created by establishing a commission near the control authority whose independence is assured (La note d'analyse, 2013). As a result of the losses generated by the 2007 financial crisis, reform and strengthening of financial control plans were enhanced and expanded in all impacted nations. In order to minimize the crisis, the control system that prevailed was designed to improve risk assessment, which was endangered by interconnections between financial institutions. This new strategy, which is described as macroprudential policy through tools of supervision, control, and financial regulation, requires significant institutional arbitrations. There is a shift in the independence of the central bank and the institutions responsible for financial regulation in the United States and the eurozone. The introduction of a new regulation that impacts the availability of credit inside the financial system runs the danger of

conflicting with monetary policy, which exerts control over these loans. To prevent policies that act in the other way, it is necessary to design more suitable policies based on what we've discussed thus far. To attain this objective, it is necessary to assess the impact of the financial sector on the actual economy and the operation of monetary policy. After the financial crisis, economic models have been refined in an effort to get a greater understanding of financial intermediaries and their interdependencies with the actual economy (La note d'analyse, 2013).

1. Macroprudential: how this policy got here, and where it's going

The original meaning of this phrase, which has been around since before the crisis, has yet to be determined. Based on the IMF (2011b), the word originated in the context of international bank lending in the late 1970s. International efforts to improve the financial system have concentrated on enhancing the macroprudential orientation of the regulatory and supervisory framework, focusing on the financial system as a whole and its link to macroeconomics. Bini Smaghi (2013) says long-term financial and macroeconomic stability needs macroprudential reference structures as an auxiliary factor in adapting and improving monetary policy approaches.[2]

Due to its significance, the word "macroprudential" has received a considerable amount of attention since the crisis. Since the late 1970s, the word has characterized concerns about the financial system's stability and macroeconomy. It is important to note that the emphasis of these issues has evolved throughout time. Concerns relate to excessive lending to developing nations, the influence of financial innovation and the growth of capital markets, the impact of regulation on the procyclicality of the financial system, and the repercussions of the collapse of significant institutions (IMF, 2011b). The word "macroprudential" was popularized to highlight the inadequacies of macroprudential regulation, which existed before to maintain the stability of the financial system. Bernanke (2009) notes that the macroprudential regulation of the Basel I and Basel II accords was a separate regulation designed to ensure the solvency of financial institutions. This regulation does not account for systemic risk, which is formed by the transmission effects between banks and the appearance of unfavorable impacts on a financial system in the case of a "shock." As Borio points out, this is also the impetus for a macroprudential focus. The Bank for International Settlements (BIS) has been working to define and disambiguate this phrase by using the term "microprudential" as an antonym. The phrase refers, in its most literal meaning, to the use of prudential instruments with the express purpose of bolstering the overall stability of the financial system rather than any one institution within it (IMF, 2011b). Most of the methods are designed to monitor and control certain businesses. The primary difficulty in allowing for both perspectives to coexist is finding a more even distribution of their application. This is exactly what the world community is aiming towards right now (Crockett, 2000). In the context of liquidity indicator provisions and cautious collateral assessment, macroprudential tools include legacy needs and capital buildup.

The current financial crisis has diminished the significance of evaluating systemic risk indicators, which continue to be a crucial aspect of macroprudential and regulatory policy. In light of this, the measurement of systemic risk may impact the discovery and evaluation of risks to financial stability. Even if it is not specified

as a formal mission, a central bank cannot evade its duty for preserving financial stability. The purpose of the policy on financial stability is to offer stable financial intermediation, payment services, credit intermediation, and risk insurance. It does this by attempting to prevent the boom-and-bust cycles for credit and liquidity that contributed to the recent financial crisis, as well as by restricting access to credit for certain private families and enterprises. One of the ongoing discussions surrounding macroprudential aims is whether they protect banks from the business cycle or the economy from banks.

1.1 The word "macroprudential" in the 1980s and 1990s financial sector

According to Borio (2003), the word "macroprudential" has been in use for a very long time, as the ECSC report from 1986 indicates[3]. This study spends at least a few pages to analyzing macroprudential policy and how financial innovations might enhance systemic risk. In addition, the paper defines macroprudential policy as a policy that supports the safety and soundness of the whole financial system and the payment mechanism.

The primary emphasis is on closed or isolated derivative markets, which are seen as growth drivers for capital markets. The research identifies many flaws, including: underestimating the risk of new instruments; regulatory arbitration; the impassability of the risk arising from the financial system's interconnections; and overestimating liquidity. Overloads of payment and settlement systems; high transaction volumes; the overall rise in debt levels. In the subsequent years, the word "macroprudential" disappeared from the financial scene. It remained in use only in a few internal BIS regulations and papers, mostly by the ECSC. This word reappears in the 1992 ECSC report titled "Recent Developments in International Relations." This paper was created by a G10 working group to explore the linkages between various parts of interbank markets, taking macroprudential considerations into account (Clement, 2010). A subsequent ECSC panel decided to incorporate the phrase in its report's title: "Issues Related to the Measurement of Market Size and Macroprudential Risks in Markets"[4]. The primary policy issues cited in the Brockmeijer study were the lack of transparency in these markets and the concentration of market-making activities within a small number of institutions, which might erode the liquidity strength of the market. A series of political activities led to the collecting of more accurate market data[5]. The word also occurs in a different chapter in the 67th annual BIS100 Report on the development of central banks.

In each instance, it has been put to use in advocating for measures that will make the financial system and stability better overall by strengthening ties to the broader economy. Beginning towards the end of the 1990s, the term "macroprudential" started to be employed outside the central banking context, where it served as the primary driver during the 1997 Asian financial crisis (BIS, 1997). According to a January 1998

[3] Borio, C (2003): "Towards a macroprudential framework for financial supervision and regulation"? Economic Studies, vol 49, no 2/2003, pp 181–216. Also available as BIS Working Papers, no 128, February.

[4] Brockmeijer Report, BIS (1995).

[5] BIS (1996) (Report of Yoshikuni) prepared by a working group from the ECSC presented in July 1996, also used the term "macroprudential".

IMF paper (2011f) titled "Towards a framework for the voice of the financial system," it is said that: " Banks should see the central bank's monitoring as a continual presence. This is accomplished mostly via remote micro- and macroprudential monitoring. Macroprudential analysis is based on market intelligence and macroeconomic data and focuses on the growth of significant market instruments, other financial intermediaries, macroeconomic changes, and potential imbalances. The primary policy is the creation of the most accurate information, so-called "macroprudential indicators," to evaluate the financial system's flaws.[6]

1.2 The word "macroprudential" became widely used in the new millennium.

Another milestone for the term "macroprudential" was reached in 2000. The general manager of the BIS, A. Crockett defended the argument that: the achievement of financial stability requires the strengthening of the macroprudential perspective, which was an attempt to provide a more precise analytical definition of the two perspectives, seen as an inevitable way of coexistence carefully. He singled out two distinctive features of the macroprudential approach. First, the focus was given to the financial system as a whole, in order to limit the costs of financial distress, within the framework of (macroeconomic) production. Second, the recognition that aggregate risk was dependent on the collective behavior of financial institutions (endogenous). The microprudential strategy aims to restrict the danger of particular institutions failing, for depositor or investor protection. This technique handled aggregate risk and autonomous institution behavior (exogenous) (Crockett 2000). Importantly, it removes the notion that individual behaviors may look logical, but their aggregate outcomes may be unpleasant owing to external forces. Borio (2001) provided the example of the shrinkage of individual banks during times of stress, which may lead to "fire sales" (the selling of products or assets at significantly reduced prices) and the credit crunch, so raising the risk of the whole financial system. Alternatively, it was discovered that the macroprudential approach has two dimensions: The first dimension was the evolution of risk over time, i.e. processes of mutual amplification between the financial system and the actual economy. This phenomenon is also known as the "procyclicality" of the economic system.[7]

The second factor was the financial system's risk distribution. The emphasis was on institutions with comparable financial system exposures and the links between these institutions. There has been a request for the fine-tuning of "prudential" measures that are proportional to the relative risk posed by different institutions in the system. Some examples of institutions that would be held to strict BIS (2009a) requirements are those whose failure had the greatest impact on the system as a whole. Bank regulators used a more detailed definition than had been previously utilized. Macroprudential policy, in particular, emphasized the monitoring and control of specific financial institutions. Therefore, financial infrastructure improvement policies that are more broad in scope are not included. According to BIS (2000), the distinction between the micro and macroprudential components of financial stability is more apparent in terms of aims, responsibilities, and the conceptualization of processes that influence

[6] These indicators were later called "indicators of financial well-being" after a proposal of the IMF Board (IMF, 2001).

[7] See especially Borio (2001) and more recently BIS (2009a).

economic outcomes.

- What is macroprudential policy?

With regard to macroprudential policy, we comprehend the efforts undertaken by all macroprudential policymakers to minimize systemic risk, i.e., the danger of interruption to the delivery of financial services resulting from damage to the financial system. According to Gerlach (2013), this has grave consequences for the economy and for people's well-being. Typically, the prudential instruments that macroprudential supervisors use to control the health risk of individual financial institutions are implemented. Regardless of the number of policies that may be employed to improve the financial system as a whole, the term "macroprudential policy" refers solely to those policies that are controlled by macroprudential policymakers (Gerlach, 2013).

Why does macroprudential policy serve?

During the crisis of 2007-2013, it became clear that the tried-and-true methods of achieving macroeconomic stability were insufficient to provide financial security. It was possible that systemic risk might emerge as a result of the interdependencies created by the conduct of specific corporations (Gerlach, 2013).

The case for using macroprudential policy is predicated on these three considerations, which emerged:

- First, the financial system's inclination to exacerbate shocks. Banks may stop lending during a recession..
- Second, supplementary instruments might be suprise. Interdependence between credit and asset prices may lead to bank credit increasing asset prices and collateral value.
- Third, financial links that enhance shock susceptibility. Although many of these bonds seem as direct exposures, regulators may "catch" them as implicit guarantees in derivatives and financial markets (Gerlach, 2013).

Can macroprudential policy be used to its full potential? In the aftermath of the recent financial crisis, macroprudential policy has risen to the top of the worldwide financial policy agenda, despite being a relatively untested area of economic policy (BIS, 2010). There is still no general agreement on established best practices in this field, and policymakers attempting to apply them are now confronted with a number of challenging options.

First, the macroprudential policymaker must use one or more policy tools to mitigate a specific systemic risk. Multiple instruments are advantageous because they enable policymakers to tackle various components of the same systemic danger. Due to the fact that many instruments include somewhat unintentional flows, also known as regulatory flows, it might be negative.

For instance, according to the findings of a recent study conducted in England (Aiyar et al., 2012), "regulated institutions" like banks are "increasingly important" to the country"[8] as anticipated, lending would decrease as a result of stronger macroprudential capital requirements intended to moderate the lending cycle. However, when capital requirements are raised for one category of banks, "unregulated" banks react by increasing their lending to that category. Severe regulatory leakage (ESRB, 2011).

As a second point, policymakers have to pick and choose among many targets of

[8] This term originates from microeconomic problems about the ability of bank creditors to monitor the risks that originate from lending and from micro and macroeconomic problems about the stability of the banking system in case of crises (Bigar & Himler, 2005).

systemic risk. For instance, policy instruments may be more efficient and specific if they were tailored to address just particular kinds of transactions.
Third, macroprudential authorities must strike a balance between privacy and regulations. Indicators of systemic risk serve as the basis for rule-based instruments. The inability and tolerance of policymakers to foresee the time and size of policy consequences is mitigated by these guidelines. These regulations are notoriously hard to create and put into effect. However, discretion provides policymakers with the opportunity to gain insights into the interplay of the financial sector, the economy, and macroprudential policy.
The fourth consideration is the need for time-sensitive policymaking. Effective macroprudential policy combines time-invariant regulations that make systemic risk difficult to create with policies that tighten when systemic risk is deemed to be high (BIS, 2011).

2. Synchronization between macroprudential, monetary, and microprudential policy

Common standards and coordination are crucial since macroprudential policies have very complicated interactions with monetary and microprudential ones. The lesson learnt is that macroprudential measures, which have complicated interactions with monetary policies, have been ignored for quite some time.
In accordance with its duty, a central bank must provide price stability. Also, this is the most helpful thing that central banks can do to ensure the financial system stays stable. Since their performance impacts financial stability, the crisis demonstrated that monetary policy may influence factors like asset prices and financial conditions. Monetary and macroprudential policies are linked and coordinated, as emphasized by Angelini et al. (2011). That's why banks' lending habits shift whenever the economy experiences a financial shock. A central bank should work with macroprudential authorities, even if it means temporarily deviating from its primary purpose of price stability, if doing so would help ensure the continued health of the financial system.
The connection between micro and macroprudential policies as the basis for banking system stability is another contentious and complicated subject. Macroprudential oversight will fail to do its purpose without the help of micro-supervision (Angelini et al, 2012). Although the primary goal of microprudential supervision is to ensure the proper administration of special entities, this policy also serves to restrain the financial system's procyclicality and aggregate risk.
Whereas some of the most common instruments of macroprudential policy, such as LTV (loan-to-value ratios), liquidity indicators, and capital requirements, are nothing more than calibrated and modified microprudential instruments, was also employed to achieve macroprudential objectives. By collecting similar (macro or micro) but separate (macro or micro) instruments from the supervisory authorities, they might put them to use to accomplish unique but linked objectives. Also possible are conflict situations, which are more likely to develop during the recessionary periods of the economic cycle. For instance, microprudential authorities may request additional capital requirements based on the balance sheet of a single institution, whereas macroprudential authorities may require the banking system as a whole to use mitigating elements of accumulated capital during the positive phases of the business

cycle in order to avoid a credit crisis (Angelini, et al, 2012).

3. Alterations made to both the macro and the microprudential approaches

The purpose of macroprudential policy from a macroeconomic viewpoint is the limitation of economic costs resulting from financial worries. The purpose may be seen as reducing the likelihood of failure and the associated expenses that come with it. This is often referred to as mitigating systemic risk. As for the prospective purpose of microprudential policies, we can state that it is the restriction of the likelihood of particular institutions failing (Crockett, 2000). The macroprudential viewpoint is more concerned with risks and associated failures than it is with comparative institution analysis. The latter are deemed less significant by macroprudential rules since they do not lead to the best course of action. In contrast, the microprudential approach is the reverse. The focus here is on using comparisons across institutions as a kind of monitoring rather than on dealing with correlations inside them (Crockett, 2000). According to Crockett (2000), we may state that, in contrast to macroprudential regulation, which is concerned with the health of the financial system as a whole, conventional microprudential regulation is focused on improving the security and stability of individual financial institutions.

Table no. 1. Macro and microprudential perspectives

Macro and microprudential perspectives		
	Macroprudential	Microprudencial
Mid-term Objective	The stress of the financial system wide constraint	Limited stress of private institutions
Final Objecive	GDP cost avoidance	Consumer protection (investor/depositor)
Risk characteristics	Considered dependent on collective behavior ("endogenous")	Considered independent of the behavior of individual agents ("exogenous")
Correlations and mutual exposures in all institutions	Important	Not important
Calibration of prudential controls	In terms of wider system risk	In terms of the risk of individual institutions

Source: Borio 2003

Under the microprudential viewpoint, risk is considered exogenous on the assumption of a "possible shock" that might create a financial catastrophe. In contrast, the macroprudential viewpoint acknowledges that risk factors might be regarded endogenous, with systemic occurrences. In accordance with what has been said before, macroprudential policy targets individual financial institutions, markets, and their shared vulnerability to economic and risk variables. It also

emphasizes the procyclical nature of the financial system as a means of fostering societal stability (Hahm et al, 2011). Microprudential and monetary policy roles are complementary, whereas macroprudential policy is distinct from the other two[9]. The goal of macroprudential policy is to maintain a consistent level of the market price of all final products and services in an economy. Keeping the services of financial intermediaries available throughout the credit cycle is also a primary focus of this strategy. The goals of macroprudential policies are in fact similar to the goals of macroeconomic policy. One of the main goals of this approach is to ensure that access to the services of financial intermediaries is maintained throughout the whole of the credit cycle.

4. Importance and cost of macroprudential tools

Turner (2010) claims that there is a dearth of information provided by empirical analyses of the efficacy of macroprudential tools. Further, details on the long-term stability of these tools are few. Experience with macroprudential instruments in Spain has shown that provisioning has had a negligible effect on loan expansion (BIS, 2011). The conclusion is that dynamic provisions, although providing little assurances for coping with credit losses, were effective in Spain during the most recent financial crisis. Their efficacy has been in bolstering the overall and specific resilience of the financial system and institutions (Borio & Shim, 2007). The experience of the United States, according to Nadauld and Sherlund (2009), demonstrates that a rise in capital requirements may restrict the expansion of the bubble. Lo (2009) suggests that a new independent agency should gather data on market pricing, assets and liabilities, both on and off-balance sheet, of US financial businesses in order to monitor leverage and liquidity circumstances in the banking system, as well as the portfolio's susceptibility to economic developments (BIS, 2011). A lack of specified models of the relationship between macroeconomics and the financial system might be attributed, in part, to the difficulty of getting the data necessary for empirical investigations of macroprudential devices. There are little statistics in the literature about macroprudential policy objectives (BIS, 2011). Sibert (2010) argues that an agency in the eurozone should gather statistics comparable to those collected in the United States. Having difficulty deciphering systemic risk statistics, he asserts that these data will only be used to monitor the symptoms, not the causes, of financial instability. This renders the examination of the relationship between the network's effects and their consequences insufficient (BIS, 2011). An essential question that remains unanswered is how to approach the problem from a global perspective, which has so far primarily focused on major capital transfers and non-synchronized economic cycles. Due to the fact that lending affects the efficiency of macroprudential devices, the issue rests in regulatory arbitrage. The Eurosystem has experienced this issue, which has been the focus of ESBR debates. Equally crucial is the question of whether to restrict foreign currency liquidity risk via macroprudential devices (BIS, 2011).

For macroprudential policy to be successful, an international viewpoint is necessary. Collective action issues are not just a domestic but a global phenomenon. When financial cycles are not synchronized across countries or when systemic intermediaries

[9] Source: Bank of England – The role of macroprudential policy; A discussion paper – November 2009.

may avoid these policies taken by national authorities, it is possible that the overall mix of macroprudential policies of each country may be equally good even in cases where countries have a very good macroprudential policy. When it comes to national macroprudential regulations, financial integration poses a number of unique issues (IMF, 2013c).

- First, "cross-border" credit privileging may rise as a result of national regulations meant to manage dangers caused by a fast expansion in domestic lending.
- Secondly, when macroprudential tools fail to act firmly, it may raise the risk of crises in one country and have a knock-on effect on the economies of other nations.
- Thirdly, assessing systemic risk may be difficult and lead to disagreements between local and host authorities in nations where financial firms have partners from several jurisdictions.

Fourthly, operations of systemic institutions in one nation may move to other countries as a result of measures aimed at ensuring their long-term viability.

- When a macroprudential instrument is used, what are the associated costs?

There are immediate costs involved with enacting macroprudential policy tools, most notably in the form of output losses. The cost of implementing an instrument with a macroprudential element will increase in proportion to the scope of its impact and the stringency of its execution. Evidence from a variety of sources suggests that the costs of various system-wide tools, such capital needs, may be minimal in comparison to their potential advantages (CGFS, 2012). The costs associated with adopting these instruments are partly influenced by administrative and implementation oversight costs. Existing microprudential tools are favored.

Once an instrument is selected, it is designed and calibrated (CGFS, 2012). A country's failure to implement macroprudential measures may raise the likelihood of a financial crisis. Due to the strong financial linkages that have been created between nations, when a financial crisis breaks out in one country, it is felt across the area or the whole globe. Lack of deterrence to limit systemic risk may impose substantial costs on other nations (IMF, 2013c).

Conclusions

When the risks of the banking and financial sector are linked with those of other sectors of the economy, the employment of micro and macroprudential tools as well as fiscal monetary policy instruments becomes effective while efficient macroprudential measures broaden the scope of monetary policy, preventing them from getting entangled in aims other than price stability..

Effective macroprudential measures, which are designed to strengthen the resiliency of financial systems, expand the scope of monetary policy.

Implementing numerous macrojurisdictional mechanisms increases the regulatory and administrative burden.

The scope of monetary policies may be expanded with the help of effective macroprudential policies, which are measures that are aimed to make financial systems more resilient.

The goal of achieving financial stability should be accomplished by the implementation of macroprudential policies, which should be geared at mitigating the threats presented by the financial system.

There are short-term costs associated with implementing macroprudential policies; these costs increase with the scope and stringency of the policy's intended impact.

Bibliography

Angelini P., S. Blacks & F. Panetta (2011), Monetary and macroprudential policies, Temat e diskutimit, 801, Banka e Italisë.

Angelini, P., Neri, S. & Panetta F. (2012), Monetary and macroprudential policies, ECB Working Paper Series, 1449.

Bernanke, Ben S., and Mark Gertler. 2009. "Should Central Banks Respond to Movements in Asset.

Bis (1996) (Yoshikuni Report) prepared by a working group from the ECSC presented in July 1996 also used the term "macroprudential".

BIS (1997), 67th annual report, The evolution of Central Banks, Bank for International Settlements, 140-160.

BIS (2009a), 80th BIS Annual Report 2009/10, Macroprudential policy and addressing procyclicality, Bank for International Settlements, 89-102.

BIS, (2011), Basel Committee on Banking Supervision, Basel III definition of capital - Frequently asked questions.

"Borio, C (2003): "Towards a macroprudential framework for financial supervision and regulation?", CESifo Economic Studies, vol 49, no 2/2003, pp 181–216. Also available as BIS Working Papers, no 128, February.

Borio, C. & Shim, I. (2007), "What can (macro-) prudential policy do to support monetary policy?", BIS Working Paper, 242.

Brockmeijer, J., (1995), Issues of measurements related to market size and macroprudential risks in derivates markets, Euro-Currency standing committee of the G-10 Central Banks, (Bank for International Settlements).

Clement, P. (2010), The term "macroprudential": origins and evolution, BIS Quarterly Review Committee on the Global Financial System, (2012), Operationalising the selection and application of macroprudential instruments, CGFS Papers, 48.

Crockett, A. 2000. Marrying the micro-and macro-prudential dimensions of financial stability. BIS speeches, 21.

"ESRB, (2011), Recommendation on the macroprudential mandate of national authorities, Official Journal of the European Union, 3".

Gerlach, S. (2013), Macroprudential Policy in Ireland, Central Bank of Ireland.

Hahm, J., Mishkin, F.S.,Shin, H.S., & Shin K, 2011, Asia economic policy conference Asia's role in the post-crisis global economy : Macroprudential Policies in Open Emerging Economies.

IMF, (2013c), Key aspects of macroprudential policy.

International Monetary Fund (2011b), Macroprudential Policy: What Instruments and how to use them, Lessons from Country Experiences.

International Monetary Fund, (2011f), The interaction of monetary and macroprudential policies—background paper

La note d'analyse Avril 2013 no. 330 Economie Finances.

Smaghi, L.B., & Grung, M.T., (2013), SUERF – The European Money and Finance Forum Vienna.

Monitoring of nitrates and nitrites in vegetables in Albanian markets

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Abstract

This study is focused in determining nitrites and nitrates in vegetables. Nitrates and nitrites are composed of nitrogen and oxygen that occur naturally in the environment as part of the nitrogen cycle. Nitrogen is an important nutrient to plants and animals. Generally, factors such as applications of fertilizers, growth rate and growth conditions, including intensity of light, level of rainfall, significantly affect the nitrate content in vegetables. Due to the high consumption of vegetables, they have been identified as the primary source of nitrates in the human diet. Maximum levels for nitrate in vegetables, set in the EU has been amended several times. The current maximum levels are laid down in Regulation (EC) N. 1258/2011.
The samples are analyzed by using classic method and rapid test to detect nitrites and nitrates. All the samples have the levels of these components below of the maximum level. The results of samples are analyzed for nitrite and nitrate content by colorimetric method. Nitrite and nitrate content is expressed as mg per kg on a fresh weight basis. The high level of nitrites is in some vegetables as potatoes, beetroots and radishes. Also the high level of nitrates is found in beetroots, carrots, cabbages.
It is important to study the level of these components because the negative effect in our body. Usually nitrates that enter the body by eating or drinking leave the body without harm. Sometimes, though, conditions such as dehydration can make nitrates change to nitrites in greater amounts. These nitrites in the blood cause changes in hemoglobin, or the molecules that help move oxygen in the body. Nitrates can make it so that less oxygen is available for the body to function properly.
Unfortunately, uncontrolled ingestion of nitrite and nitrate has been correlated with severe toxic effects, NO_3^- and NO_2 levels in foods, as well as their intake and dietary exposure, is recommended to monitor and strictly regulate worldwide, and their risk assessment will be subject to periodic re-evaluation in Albania's legislation.

Keywords: nitrites, nitrates, vegetables, health effect.

Introduction

Nitrates and nitrites are compounds that occur naturally in the human body and some foods, such as vegetables. Manufacturers also add them to processed foods, such as bacon, to preserve them and make them last longer. In some forms, nitrates and nitrites can be hazardous. However, they may also have health benefits. A high intake of processed meats may increase the risk for cancer in the digestive tract. Some people believe that nitrates and nitrites are the reason for the increased risk. However, nitrates and nitrites also occur naturally in vegetables, which may reduce the risk for some types of cancer and other diseases. In fact, according to some studies, people obtain around 80% of their dietary nitrates from vegetables. The body also produces nitrates and secretes them into saliva. Nitrates and nitrites circulate from the digestive system into the blood, then into saliva, and back into the digestive system. They may be useful in keeping your body healthy, as they seem to

function as antimicrobials in the digestive system. They can help to kill bacteria, such as *Salmonela*. Nitrates also occur naturally in water. In some areas, fertilizer use may lead to high levels of nitrates that can be harmful to children. For this reason, health authorities regulate nitrate levels in drinking water. Under some circumstances, nitrite loses an oxygen atom. Then, it turns into nitric oxide, an important molecule. Nitric oxide (NO) has various functions in the body. It can be toxic in high amounts, but it can also help protect the body. Dietary nitrates and nitrites can also change into nitric oxide, dilate the blood vessels, and lower blood pressure. Studies have shown that foods that are high in nitrates and nitrites, such as beetroot or beetroot juice, can reduce blood pressure. Vegetables constitute the main source of daily nitrate intake in humans, providing about 70-90% of the total intake. This intake depends on the type of vegetables consumed, the nitrate levels of the vegetables, and the amount of vegetables actually consumed. Nitrites are found in plant foods, usually 1-2 mg/kg fresh weight of vegetables. Higher amounts of nitrites are found in contaminated food or in food stored for several days at room temperature. When large amounts of vegetables are consumed, which have accumulated high amounts of nitrates, there is a need for systematic control of the dietary intake of nitrogenous compounds. Some vegetables such as raw spinach, beets, celery and lettuce are considered to contain high concentrations of nitrates. Due to the high consumption of vegetables, they have been identified as the main source of nitrates in the human diet. Processed meats are another source of nitrites in our diet because the meat industry uses nitrates/ nitrites as additives in the meat curing process. Although the vast majority of nitrates and nitrites consumed come from natural vegetables and fruits and not from food additives[8].

Vegetables according to their ability to accumulate nitrates are classified into:

- Plants with high nitrite indices (up to 3000 mg) – including leafy greens, beets, radishes and melons;
- Medium index (400-900 mg) – zucchini, squash, cabbage, carrots, cucumbers;
- Low index (50-100 mg) – potatoes, tomatoes, pepper, eggplant.

Method and reagents

All reagents must be of analytical grade, and the water must be of deionized quality.

1. Sodium nitrite, $NaNO_2$ (Merck, Germany). Dried in a desiccator for 24 h.
2. Potassium nitrate, KNO_3 (Merck, Germany). Dried in an oven at 105 °C for 24 h.
3. Nitrite stock solution, 2,000 mg NO_2^- /L. Dissolve 0.6003 g of sodium nitrite (reagent #1) in water and dilute to 200 mL in a volumetric flask. At a temperature of 4 °C, this solution is stable for at least 3 months.
4. Nitrate stock solution, 2,000 mg NO_3^- /L. Dissolve 0.6521 g of potassium nitrate (reagent #2) in water and dilute to 200 mL in a volumetric flask. At a temperature of 4 °C, this solution is stable for at least 6 months[1,2].
5. Nitrite and nitrate working solutions, 100 mg/L. Dilute 5 mL of the stock solutions of nitrite (reagent #3) and nitrate (reagent #4) to 100 mL in separate volumetric flasks. Prepare daily.
6. Hydrochloric acid, HCl (=1.19 g/mL, 37%; Merck, Germany).
7. Hydrochloric acid, 1.0 mol/L. Dilute 83 mL HCl (reagent #6) to 1,000 mL.
8. Ammonia, NH_3 (=0.91 g/mL, 25%; Merck, Germany).
9. Ammonia buffer solution, pH 11.0. Add 75 mL ammonia (reagent #8) to 825 mL of

water. Adjust pH to 11.0 with hydrochloric acid (reagent #7). Transfer the solution to a volumetric flask and dilute to 1,000 mL.
10. Carrez solution I. Dissolve 150 g of potassium hexacyanoferrate (II) trihydrate, K4[Fe(CN)6]·3 H2O (Merck, Germany) in water and dilute to 1,000 mL. Store the solution in a brown bottle.
11. Carrez solution II. Dissolve 230 g of zinc acetate dihydrate, Zn(CH3COO)2·2 H2O (Merck, Germany) in water and dilute to 1,000 mL.
12. Color reagent I. Dissolve 2.0 g sulphanilamide (Merck, Germany) in water and add 105 mL HCl (reagent #6). Dilute to 200 mL with water.
13. Color reagent II. Dissolve 0.2 g N-(1-naphthyl)-ethylenediamine dihydrochloride (Merck, Germany; Hopwin & Willian, England) in water and dilute to 200 mL water. Store in a dark bottle. Replace monthly or as soon as a brown color develops.
14. Zinc powder (Merck, Germany; Mallinckrodt, USA).

Procedure

Preparation of samples for the determination of nitrites by the spectrophotometer method

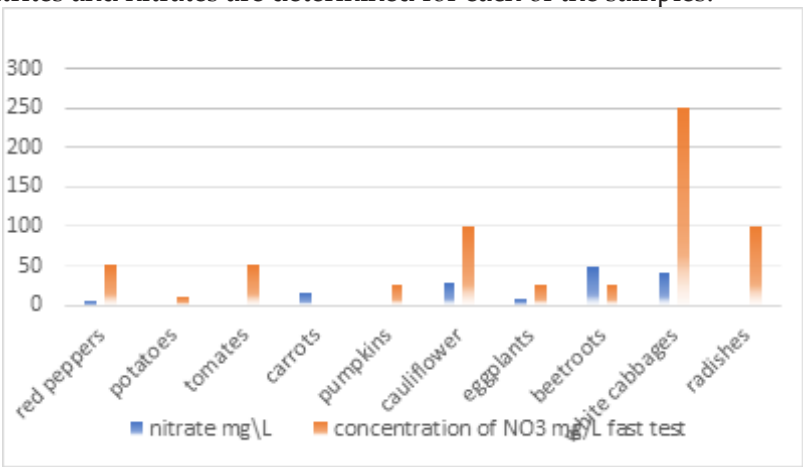
- For the determination of nitrites in vegetables, they will first be extracted from all the samples taken.
- 5-10 grams of each sample weight and place in a blender to homogenize.
- Add 60ml of warm distilled water at a temperature of 50-60 degrees and mix together for a few seconds, and transfer to a 100ml beaker.
- Add 4 ml of Carrez 1 solution (reagent 10) to the vegetable solution using a pipette and mix with a glass beaker.
- Then add 4 ml of Carrez 2 solution (reagent 11) and mix the solution again.
- The solution leaves alone for a few minutes and then transfer it to the glass test tubes.
- The samples centrifuge for 10 minutes and after centrifugation, filter the supernatant part over a 100 ml flask, which fill with water up to the mark of emptying after filtering the supernatant.
- Then transfer 20 ml of this solution to another 100 ml flask and add 10 ml of ammonium buffer, 2 ml of dye solution 1 (reagent 12) and let it rest for 5 minutes.
- After 5 minutes, add 2 ml of dye solution 2 (reagent 13).
- The flask is filled with water up to the mark and the absorbance must be measured 5 min to 2 hours from the time of preparation at 540 nm.

Determination of nitrates by the spectrophotometer method

- From the samples prepared for the determination of nitrites, transfer 20ml of solution to a chemical beaker.
- Then add 10 L of ammonium buffer and 0.1 g of zinc powder.
- Mix the solution for 5 minutes.
- Then filter the supernatant on filter paper and collect the filtrate in a 100ml flask.
- Add 2 ml of dye 1 (reagent 12) to the filters and mix.
- Let it rest for 5 minutes at room temperature.
- Then add 2 ml of dye 2 (reagent 13), mix and fill the flask with distilled water up to the mark.
- Measure the absorbance after 10 min - 2 hours at 540 nm.

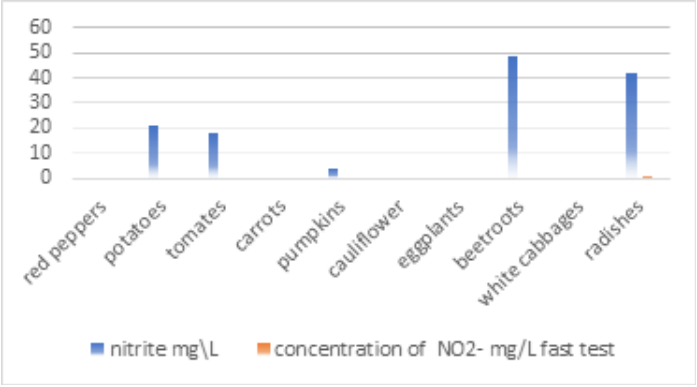
Results and decisions

Vegetables are important in human nutrition. Their variety and presence throughout the year contributes to continuous use in food. Vegetables contain small amounts of nutrients 5-35% and large amounts of water 65-95%. Vegetables may also contain harmful substances, such as oxalates and nitrates. These substances when they enter the human body cause health damage. In this study the levels of nitrites and nitrates in different vegetables are studied to see how their level changes in vegetables that grow underground and those above ground. Also for determining these parameters two methods are used, one fast and the other classical method using spectrophotometer to measure the wavelength for nitrites. During the work for the determination of nitrites and nitrates are taken to analyze a total of 10 vegetable samples such as: red pepper, potato, tomato, carrot, squash, beet, eggplant, cauliflower, cabbage and radish. The level of nitrites and nitrates are determined for each of the samples.



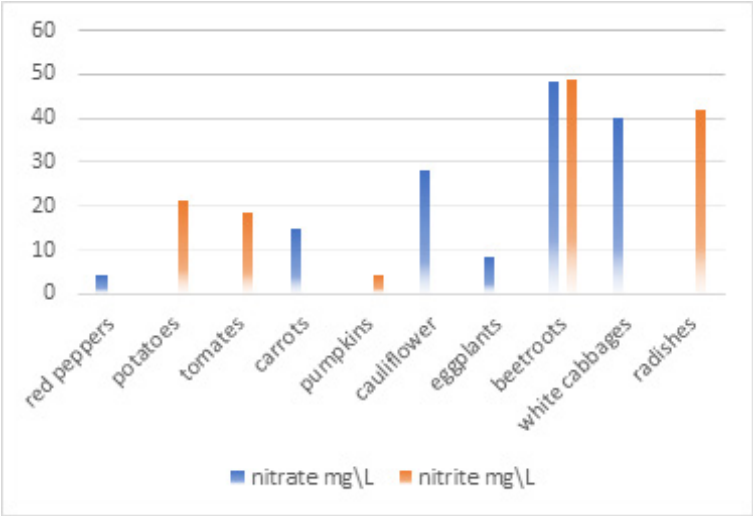
Graph. No 1. The concentration of NO_3^-

The high values determined of nitrates also come because the older outer green leaves contain a greater amount of nitrates compared to the younger inner ones, and this is because NO3- ions are concentrated in excess in vacuoles increasing in size in old (adult) cells.



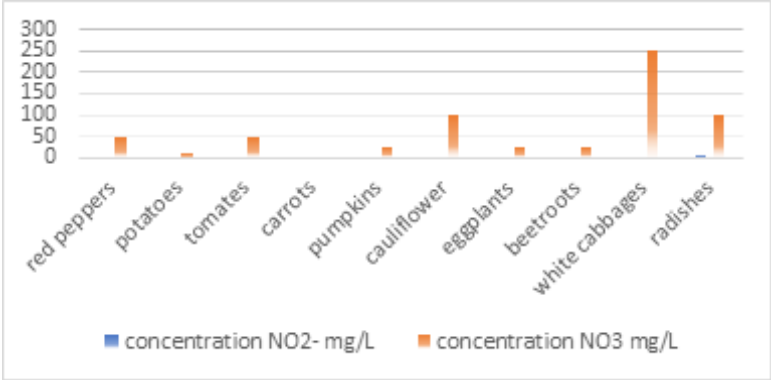
Graph. No 2. The concentration of NO_2^-

According to European legislation, the concentration of nitrites should not exceed 0.07-0.1% in the dry plant mass. Although the graph shows that some vegetables have a high level of nitrites, it is thought that it may have happened that the vegetables may not have been fresh, so the high level of nitrates has been reduced to nitrites. High nitrite values are worrying for our body since we consume a variety of vegetables that have their own nitrite values and these accumulate in our body.



Graph. No 3. The comparison of nitrites and nitrates

The dominant samples with high values of nitrites and nitrates are beets and radishes. Potato and tomato samples show high nitrite values, which explains that it may have happened that the amount of nitrates is completely reduced to nitrites. However, other studies should be carried out to see how different factors affect the levels of nitrites and nitrates in order to reach more accurate results.



Graph. No 4. The comparison of nitrites and nitrates levels by fast test

The nitrite values in some cases have been high because the vegetables may not have been fresh and the nitrates have been reduced to nitrites. It should be emphasized that the vegetables are not washed with plenty of water and this shows that the nitrate values are high.

According to the samples taken in the study, it turned out that those with the highest nitrate content were: cauliflower (397.6882565 mg/Kg), beetroot (684.9957108 mg/Kg), white cabbage (571.9853951 mg/Kg). While those with the highest value high nitrites are: beetroot (694.5962 mg/kg), radish (594.1461 mg/kg) and potato (278.8926mg/kg). These results are obtained based on the classic method, which is more effective and more accurate than the quick test, because in this method there is a lot of interference in the values due to the pigments with a pronounced color that some vegetables have

Conclusions and recommendations

It is clear that the result of our study shows a variation in the nitrate and nitrite levels in the different crop samples. There are many factors that affect the nitrate level in crops, among these factors are the agricultural system and practices, for instance it was found that the nitrate level in vegetables grown under organic systems is higher than that grown under conventional system [3]. Another important factor that interferes with the nitrogen accumulation in plant tissues is the environmental and microclimate conditions. It is shown in many studies that nitrate level is affected by the high sunlight intensity [6], which increases the nitrate levels in plant tissues by increasing the nitrate reductase activity which converts the nitrogen in plant to nitrate. Growing conditions like temperature, hot or dry winds affect the nitrate accumulation in plants [5], it has been found that vegetables grown in winter, the time of year with low temperature and less sunlight, has a higher nitrate content [8, 6]. The nitrate levels in leafy vegetables are higher than bulb, root, shoot and tuber vegetables [4,7].

Also, the light intensity and general radiation, the length of the light, play an important role in the accumulation of nitrates in leafy vegetables. This is related to the activity of nitrate reductase which, in the absence of other limiting factors, develops its greatest activity in the presence of the greatest light intensity. The greatest accumulation of nitrates occurs in the period with low light intensity in short days (autumn and winter), especially when large doses of nitrate fertilizers are used during cultivation, which are more evident in protected areas (greenhouses). But this is not always true. It is recommended that the rapid test method be used for vegetables without intense color because the intense color interfered with the values of the results obtained. The danger does not come from the consumption of only one vegetable, but the consumption of many different vegetables accumulates in our body large amounts of nitrates, where 5%-20% of them are reduced to nitrites. The conversion to nitrites is related to the negative effects of nitrates on consumers as it is linked to the risk of gastrointestinal cancer.

References

1.Analysis of Nitrite and Nitrate in Foodstuffs Method development, occurrence, regulation, metrological aspects and exposure and Exposure Assessment for Italian Consumers. Food Addit Contam.. 20(9):787-92.

2.Ion Chromatographic Method: Occurrence in Leafy Vegetables (Organic Nitrate and Oxalate Content in Fresh Vegetables. Journal of The Science of Food and Agriculture. 79(13):1882-1888.

3. Martin S, and P.Restani. (2003). Determination of Nitrates by a Novel

4. Santamaria.P, A.Elia, F.Serio, and E.Todaro. (1999). A Survey of

5.www.agric.gov.al.ca/department/deptdocs.nsf/all/agdex851?opendocument. (8/6/2006)
6. www.positivehealth.com/permit/Article/Regular/safron23.html.
7. www.waterquality.crc.org.au/hsarch/HS25d.html:J.L'hirondel
www.dgroups.org/groups/worldbank/MENAwater/docs/nitrateschap2%5B1%5D.pdf.
8. Nitrates and nitrites in vegetables and vegetable-based products and their intakes by Estonian population Terje Tamme, Mari Reinik, Mati Roasto, Kadrin Juhkam, Toomas Tenno, Alida Kiis, HAL Id: hal-00577575, 2011.

Licensing of Second tier banks

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Abstract

This article will be going over the licensing process and restrictions that come from it, and also the regulatory framework governing second-tier banks in Albania. Second-tier banks, often referred to as "savings and loan associations" or "credit unions," play a crucial role in expanding financial inclusion and supporting economic development, particularly in emerging markets like Albania. The study explores the criteria and requirements established by the Albanian Financial Supervisory Authority (AFSA) for granting licenses to second-tier banks, focusing on factors such as capital adequacy, risk management practices, and corporate governance standards. Additionally, it analyzes the implications of licensing second-tier banks for the financial sector's stability, competition, and overall effectiveness in serving the needs of customers and businesses. By providing insights into the licensing process and its impact, this research contributes to a deeper understanding of Albania's financial regulatory environment and its implications for broader economic development strategies.
Furthermore, this article discusses the role of second-tier banks in promoting financial intermediation, mobilizing savings, and facilitating access to credit for underserved segments of the population, such as small and medium-sized enterprises (SMEs) and rural communities. It examines the regulatory oversight mechanisms implemented by the AFSA to ensure compliance with licensing requirements and ongoing supervision of second-tier banks' operations. Moreover, the study investigates the potential challenges and opportunities associated with the licensing of second-tier banks, including the need for adequate risk management frameworks, technological innovation, and collaboration with other financial institutions. Overall, the analysis sheds light on the evolving landscape of banking regulation in Albania and its implications for fostering a resilient and inclusive financial system.

Keywords: Second Tier Bank, Licensing, Supervision.

Introduction

The history of second-tier banking licensing is a process that has gone through several evolutions and legal changes around the world. This type of licensing concerns the authorization of banks which are not central banks but instead banks which provide banking services like commercial banks. Through licensing, the responsible bodies of the financial system control and supervise the operations of these institutions to ensure that they meet the standards and criteria set for the security and stability of the financial system.
At first, the practice of licensing second-tier banks began in the 1800s in Europe, when governments began licensing banks that provided services outside of their national territory. These institutions were allowed to operate as commercial banks in foreign countries and to provide financial services such as deposits, loans and foreign currency services.
In the postwar period, with the rise of globalization and the liberalization of financial markets, the practice of licensing second-tier banks was significantly spread. The

establishment of new standards and increased sensitivity to the financial system's vulnerabilities led responsible bodies to increase the conditions for licensing these institutions. Nowadays, the procedures and criteria for licensing second-tier banks are attractive in different countries and are in line with international standards of banking supervision. For example, in the European Union, EU directives such as the Bank Capital Directive (CRD) and the Finance Funds Directive (CRD IV), have regulated the licensing process and supervision standards for second-tier banks.
Licensing of banks is one of the main tasks of the Bank of Albania within the framework of maintaining financial stability. In some countries, the licensing and supervision of banks is the objective activity of other public institutions, not the central bank, an example of this being England. Banking laws contain provisions for regulating the licensing process. Law no. 8365 dt 2.07.1998. *"For banks in the Republic of Albania"*, Articles 7-14. The provisions contain criteria and deadlines for the approval of the license for conducting banking activity.

National Law and International Law Relating to Licensing of Banks

The banking sector is one of the most regulated sectors in most countries, with governments establishing specific and specialized laws and regulations to supervise and regulate banks. The laws used to license banks are responsible for determining the conditions and criteria that banks must meet to obtain a valid license to operate. At the national level, most countries have a basic banking law that regulates the main issues of licensing, supervision and operation of banks within their national borders. These laws set out the minimum criteria that banks must meet to comply with established financial security and banking system stability standards. At the international level, there are several different conventions and acts pertaining to the licensing and supervision of banks. For example, the World Bank and the International Monetary Fund have drafted several instruments and documents that recommend good standards and appropriate practices for the licensing and supervision of banks globally.
The bodies responsible for enforcing bank laws may be the banks' authorities or financial supervisory authorities responsible for banking matters. These bodies have a responsibility to evaluate licensing applications, to grant and revoke the banks' licenses, and to supervise their operation according to applicable laws and regulations.

Supervisory Regulations and Standards for Licensing Banks

The supervision regulations for bank licensing include a wide range of issues that need to be addressed by banks and supervisory authorities. These include minimum criteria for necessary capital, risk management, information security and financial data reporting procedures. The standards for licensing banks affect the license application process and the conditions banks must meet to be qualified to operate. These standards include analysis of financial capacity, management structure, technical competence and meeting business risk criteria.
Financial supervisory bodies are responsible for the implementation of these

regulations and standards. These bodies have an important role in evaluating license applications, monitoring licensed banks and implementing disciplinary measures if banks violate the law or regulations. At the international level, there are several organizations and supervision groups that design and recommend good standards and appropriate practices for licensing banks. For example, the Basel Committee on Banking Supervision designed Basel III, a global regulator to increase banks' resilience and stability. The implementation of regulations and standards for licensing banks ensures that banks operate safely, consistently and transparently, contributing to the integrity and stability of the financial system.

Conditions and Criteria for Licensing banks

The conditions and criteria are important to ensure that banks are fit and qualified to operate in the financial system. Through them, supervisory authorities can ensure that banks meet minimum standards for financial security and system integrity.

- Financial Conditions: Minimum capital: Banks must have a certain level of minimal capital to cover potential business risks and ensure financial stability.
- Sources of Financing: Banks should have sufficient financial resources to meet their liquidity needs and support their credit activities.
- Operational Conditions: Management Structure: Banks must have a strong and competent management structure, including executive directors and administration boards, to ensure appropriate risk management.
- Policy and Procedure: Banks should have policies and procedures adopted for risk management, reporting financial information and complying with applicable regulations.
- Legal Conditions: Laws and Regulations: Banks must comply with all applicable laws and regulations for licensing banks, including national laws and financial supervision regulations.
- Compliance with International Standards: Banks must meet international standards applicable to financial security and bank supervision.
- Other Conditions: Meeting general requirements: Banks must meet general supervision and licensing requirements, including integrity standards, transparency and customer service.

To meet these conditions and criteria, banks must submit a license application and meet all requirements set by the financial supervisory authorities. After the approval of the application and verification of all documents and information, the bank may be granted a license to operate in the financial system. The application process for licensing of banks and the procedures of approval of applications by financial supervisory authorities. This process is a critical phase for banks wishing to operate in the financial system, as it involves assessing their qualifications and ability to meet the conditions and established standards for licensing.

Application for Licensing and Approval Procedures

Banks must prepare a full application for the license, including all necessary information and documents to describe their organizational structure, financial resources, policies and management procedures, and all other information required by financial supervisory authorities.

The license application may include a detailed description of the business plan, risk analysis, and all necessary documents to prove the bank's ability to meet licensing standards and criteria.

Submission and Evaluation of Application

1. After the application is prepared, banks must submit it to the financial supervisory authority for evaluation and review.
2. Financial supervisory authorities will conduct a detailed assessment of the application, analyzing all documents and information to ensure the bank meets the criteria and standards for licensing.
3. At this stage, additional information or documentation may be required to complete the application and to verify all submitted data.

Decision to approve or reject

1. Upon full evaluation of the application, financial supervisory authorities will make a decision to approve or reject the application for the license.
2. If the application is accepted, the bank will obtain an official license to operate in the financial system, and the terms and criteria for the license granted will be set.
3. If the application is rejected, the bank will be informed of the reasons for the rejection and may have the right to file an appeal or review the application at a later date.
4. The licensing application process and approval procedures are important for the security and integrity of the financial system, ensuring that the banks operating are qualified and equipped with the necessary skills to manage risks and provide safe and reliable financial services.

Bank Path After Licensing: Supervision and Reporting

After obtaining a license to operate in the financial system, banks are under the supervision of the responsible financial supervisory authorities.

- Ongoing Supervision: After licensing, banks are under the supervision of financial supervisory authorities to ensure that their operations are in compliance with the law and regulations.
- The supervisory authorities conduct continuous monitoring of banks by analyzing financial reports, capital structure, credit performance, and the level of overall risk.
- Financial Reports: Banks are obliged to submit periodic financial reports to supervisory authorities, including monthly, quarterly and annual reports.
- These reports include information such as equity status, credit activities, risk positions, and other information relevant to surveillance authorities.
- Inspections and Control: Supervisory authorities shall have the right to carry out the necessary inspections and controls on banks to verify compliance with regulations and to identify any potential risks to the financial system.
- may include analysis of documentation, interviews with banking staff, and assessment of business processes.

- Disciplinary and Disciplinary Measures: If banks violate the law or regulations, supervisory authorities have the right to take disciplinary and curricular measures, including financial fines, license revocation, or prohibition of their activity.

These measures are important to ensure the integrity and stability of the financial system and to protect the interests of customers and investors. The post-licensing banking route is an ongoing process of supervision and reporting that helps ensure transparency, stability and integrity of the financial system. Close cooperation between banks and supervisory authorities is essential for the successful functioning of the financial system.

Route of Licensed Banks in Cooperation with Supervisory Authorities

Close and effective cooperation between banks and supervisory authorities is essential for ensuring stability and integrity of the financial system.

Information and Reporting

Licensed banks are obliged to inform and report to supervisory authorities regularly about their activities, including financial information, risk analysis, and planned changes to their strategy.

This fair and transparent reporting helps supervisory authorities to monitor and evaluate effectively the performance and stability of banks under their supervision.

Cooperation in Inspections and Controls

Licensed banks are obliged to cooperate with supervisory authorities during inspection and checks carried out to verify compliance with the law and to identify any potential risks to the financial system. This cooperation may include the supply of necessary documentation and information, as well as cooperation in assessing business processes and risk management.

Improving Risk Management Processes and Policies

Licensed banks are obliged to improve and develop their own risk management policies and procedures in accordance with the guidelines and requirements of the supervisory authorities.

Supervisory authorities may provide guidance and advice on improving risk management processes in licensed banks.

Cooperation in cases of crisis

In the event of a financial crisis, licensed banks are obliged to cooperate closely with supervisory authorities to implement measures necessary to protect the stability of the financial system and to minimize the negative impact on the economy at large.

Successful cooperation between licensed banks and supervisory authorities is essential to ensuring the integrity and stability of the financial system. For this reason, it is important that we create an environment of cooperation and transparency between the two parties to improve oversight and security of the financial system.

Trends and Developments in Banking Licensing

Technology and Innovation in Licensing
One important trend is the use of technology and innovation to improve the licensing processes of banks. Digital platforms and mobile apps are increasingly being used to facilitate the application and monitoring of banking licenses.

Increased Standardization and Harmonization:
Internationally, there is an increase in the use of common standards and harmonization of regulations for licensing banks.
This is intended to facilitate the creation of a common licensing system and lower the administrative burden for banks operating in several jurisdictions.[180]

The Focus on Security and Integrity
Following the 2008 financial crisis, there was an increased focus on security and integrity in the licensing process of banks. Surveillance authorities are placing particular emphasis on the necessary capital and risk management to minimize risks to the financial system.
Facilitating processes and reducing bureaucracy: Another trend is to ease processes and reduce red tape in the licensing process of banks. This aims to help increase the efficiency and flexibility of the licensing process and to encourage the development of the banking sector.

Increased Oversight and Transparency
The supervisory authorities are improving and expanding the supervision of banks, including tighter control of their operations and reporting. This trend aims to increase transparency and reduce risks to the financial system.

Adapting to Technological and Market Changes
Banks and surveillance authorities are trying to adapt to technological and market changes, using technology to facilitate processes and monitor new market risks. To cope with these trends and developments, it is important that banks and supervisory authorities are prepared to meet demand and follow best practices in the field of banking licensing.

Challenges in Banking Licensing
- Legal Diversity: Around the globe, there is a great deal of legal and regulatory diversity that can make it difficult for banks to operate in several jurisdictions.
- Technological Adaptation: New technological interventions, such as fintech and digital banking, bring new challenges to licensing banks and in their oversight.
- Impact of Geopolitical Implications: Geopolitical conflicts and international tensions can affect the licensing process and the stability of the financial system globally.

Opportunities for Licensing Banks
- International Standards: There are opportunities to harmonize international

standards and practices for licensing banks, facilitating the process and lowering barriers to entry into new markets.

- Technology Innovation: The use of technology and innovation can bring new opportunities to improve licensing processes and reduce administrative costs for banks and supervisory authorities.
- Regional and International Cooperation: Regional and international cooperation can serve as a platform for sharing experience and for implementing best practices in the field of licensing of banks.
- To address challenges and seize opportunities in licensing banks around the globe, it is important that banks and supervisory authorities take a responsible approach and use appropriate instruments and mechanisms to improve the security and stability of the financial system globally.

Conclusion

In conclusion, the licensing of second-tier banks in Albania represents a vital step towards fostering financial inclusion and driving economic growth in the region. By adhering to strict regulatory standards set forth by the Albanian Financial Supervisory Authority (AFSA), these institutions can effectively mobilize savings, provide access to credit, and promote entrepreneurship among underserved communities. However, the journey doesn't end with obtaining a license; it marks the beginning of a commitment to maintaining sound financial practices, embracing technological advancements, and fostering collaboration within the industry. As Albania continues its trajectory towards a more resilient and inclusive financial sector, the licensing of second-tier banks stands as a beacon of progress, offering opportunities for prosperity and empowerment to all stakeholders involved.

References

Saunders, A., & Marciano, P. (2020). Financial Institutions Managment: A Risk Management Approach (International Edition) McGaw-Hill Education.

Mishkin, F. S., Eakins, S. G., & Knotek II, E. S. (2021). Financial Markets and Institutions: A Modern Perspective (Custom Edition for Columbia University). Pearson.

Fabozzi, F. J., Modigliani, F., & Jones, F. J. (2019). Foundations of Financial Markets and Institutions: International Edition (Custom Edition for University of Illinois at Urbana-Champaign). Pearson.

Madura, J., & Gill, T. G. (2020). Financial Markets and Institutions: Internation Edition (12th ed.). Cengage Learning.

Saunders, A., & Wong, F. (2021). Financial Institutions Management: A Risk Management Approach (International Edition). McGraw-Hill Education.

Rose, P. S., & Marquis, M. H. (2018). Bank Management & Financial Services: International Edition (10th ed.). McGraw-Hill Education.

Mishkin, F. S., Eakins, S. G., & Knotek II, E. S. (2019). Financial Markets and Institutions: A Modern Perspective (Custom Edition for Texas A&M University). Pearson.

Fabozzi, F. J., Modigliani, F., & Jones, F. J. (2021). Foundations of Financial Markets and Institutions: International Edition (Custom Edition for University of California, Berkeley). Pearson.

Madura, J., & Gill, T. G. (2019). Financial Markets and Institutions: International Edition (11th

ed.). Cengage Learning.
Saunders, A., & Wong, F. (2020). Financial Institutions Management: A Risk Management Approach (International Edition). McGraw-Hill Education.
Rose, P. S., & Marquis, M. H. (2019). Bank Management & Financial Services: International Edition (11th ed.). McGraw-Hill Education.
Mishkin, F. S., Eakins, S. G., & Knotek II, E. S. (2022). Financial Markets and Institutions: A Modern Perspective (Custom Edition for University of Michigan). Pearson.
Fabozzi, F. J., Modigliani, F., & Jones, F. J. (2020). Foundations of Financial Markets and Institutions: International Edition (Custom Edition for University of Washington). Pearson.
Madura, J., & Gill, T. G. (2021). Financial Markets and Institutions: International Edition (13th ed.). Cengage Learning.
Saunders, A., & Wong, F. (2019). Financial Institutions Management: A Risk Management Approach (International Edition). McGraw-Hill Education.
Rose, P. S., & Marquis, M. H. (2020). Bank Management & Financial Services: International Edition (12th ed.). McGraw-Hill Education.
Mishkin, F. S., Eakins, S. G., & Knotek II, E. S. (2020). Financial Markets and Institutions: A Modern Perspective (Custom Edition for University of Texas at Austin). Pearson.
Fabozzi, F. J., Modigliani, F., & Jones, F. J. (2021). Foundations of Financial Markets and Institutions: International Edition (Custom Edition for University of Florida). Pearson.
Madura, J., & Gill, T. G. (2019). Financial Markets and Institutions: International Edition (11th ed.). Cengage Learning.
Saunders, A., & Wong, F. (2020). Financial Institutions Management: A Risk Management Approach (International Edition). McGraw-Hill Education.
Rose, P. S., & Marquis, M. H. (2018). Bank Management & Financial Services: International Edition (10th ed.). McGraw-Hill Education.

Limits of fiscal policies

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Abstract

The Keynesian theorem raised visible enthusiasm especially after the Second World War, when the adoption of global demand control policies allowed for a long-term period characterized by the absence of deep depressions and inflations.
Starting from the 1970s, the real efficacy of fiscal policies was called into question since the priority objectives changed: starting from the oil shock of '73-'74, the main problem turned into stagflation, i.e., the simultaneous presence of stagnation and inflation. Against this enemy, Keynesian theories seemed inappropriate. Economists of different schools tried to answer this partial failure in theory and not in practice. Some claimed that the validity of fiscal policies adopted in the post-World War II period was limited by a particular economic conjuncture: according to these authors, demand-controlling policy would be effective only for the "Keynesian case" when the economy is characterized by a severe depression with low levels of utilization of productive capacities. Others have questioned their own theoretical assumptions of Keynesianism. The following paragraphs are dedicated to these criticisms.
This paper aims to highlight the limits of fiscal policies through qualitative methodology.

Keywords: Fiscal policy, Keynesian theory, Crowding out, Phillips Curve.

Criticism of "stop and go"

According to Keynes' original theory, fiscal policy should primarily be implemented through public works programs (infrastructure, public works, etc.) to be carried out during depression phases. Such expenditures should be financed with surplus amounts of the budget realized during expansion phases.
This theorem was adapted almost in all Western countries after World War II, bringing about the development of the so-called "*stop and go*" policies or deflationary policies when the economy is in expansion phase (stop) and expansive policies (go) when it is in economic downturn phases.
In the '60s, it was clearly evident that if it was easy to increase public spending, the opposite policy would pose noticeable difficulties. This alternation of cold and hot showers.
Leccisotti primarily concluded with the inhibition of the growth capacities of the system. From the moment of recognizing a critical phase until the time for adjusting the appropriate measures, there was a temporary phase shift that led to the limitation of the effectiveness of fiscal policies.

Limits of automatic stabilizers

The presence of automatic stabilizers, now typical for all modern fiscal systems, has effectively contributed to making the volatility of economic cycles less traumatic.

However, there have been those who have emphasized how public intervention inevitably brings negative effects. It is clear, therefore, that stabilizers that correct a deviation from an optimal situation are indeed desirable. However, if the starting point consists of an equilibrium of underemployment, the effects of such stabilizers will either undervalue or hinder the efficiency of budget measures in the economy.[1]
Among other things, in the long term, economic stabilizers may have paradoxical effects on economic downturns. If the economy is held for long periods in conditions of full employment and at the same time is subject to progressive income taxes, a constant surplus will be determined, which will almost always bring deflationary risks (such a situation was verified in the '60s in the USA).
The value of the multiplier depends on the phase of the economic cycle in which the economy finds itself. Just as Cosciani states, the fact that the multiplier of fiscal policies undergoes modifications during the cycle does not mean that fiscal policies will be ineffective: simply, they (fiscal policies) will have more or less impact, depending on the economic situation.

"Crowding out"

For many authors, an expansive fiscal policy ends with the removal, the withdrawal from the private sector of resources by shifting them towards the public sector. Such a phenomenon certainly operates if the economy is already close to conditions of full employment. However, this is also observed in situations of underemployment. If the state finances its expenses through public debt, it must offer private operators a competitive interest rate. This will lead to an increase in the nominal interest rate structures and consequently a reduction in private investments.
Among other things, high domestic interest rates attract foreign capital by revaluing exchanges and reducing exports. All this means a contraction of aggregate demand and income (LECCISOTTI). Keynesians believe that investments are somewhat insensitive to changes in the interest rate, so "crowding out" has relatively limited effects.

Monetarist Critique

Critique of Keynesian fiscal policies has been made by the Chicago school, also known as the monetarist school. Wanting to be synthesized at maximum, monetarist thought can be affirmed to be a re-proposal of neoclassical theory: monetary magnitudes do not influence real magnitudes and the economic system is always able to ensure full employment of productive factors. This latest proposal is made by sharply criticizing the interpretation of the Phillips curve given by Keynes.
The Phillips Curve shows that, on one hand, a certain level of unemployment entails a decrease in prices, and on the other hand, price stability entails a certain level of unemployment. The solution lies in the optimal combination of inflation and unemployment.
Throughout the 1960s, policies adopted by various countries were adjusted to support employment according to Phillips' predictions. This would determine a narrow inflation rate that was acceptable to society. The 1970s brought about a completely

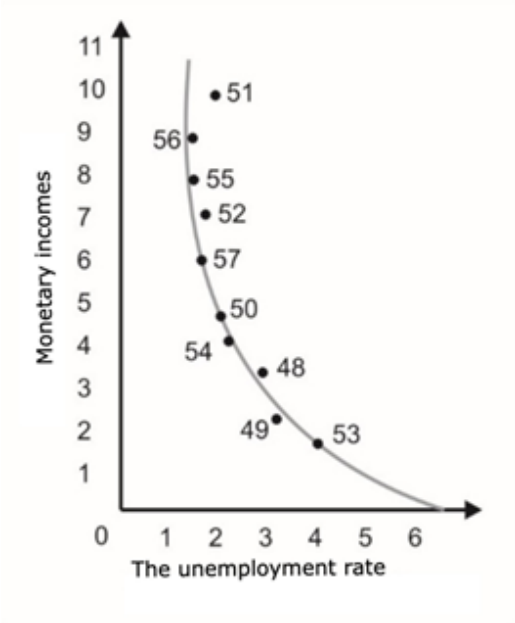
new situation; despite efforts to combat inflation, it increased even in the presence of high unemployment rates (stagflation). The Phillips trade-off seemed to have passed, and then the criticisms that some authors had directed at the interpretation of this curve began to be reassessed.

By 1967, Friedman and Phelps had argued that the Phillips curve is a valid relationship only in the short run, while in the long run there is no possibility of a trade-off between the rate of price change and unemployment, as the latter always tends to stabilize around the natural rate of unemployment.

According to Phelps and Friedman, workers are not interested in nominal wages, but rather in real wages, as the latter determine their effective purchasing power. At the time of wage contracting, workers take into account the expected inflation rate, and based on this, they will demand appropriate wages to keep their purchasing power constant in the future. Therefore, the higher the expected inflation, the faster nominal wages will rise; the curve will shift upwards. This explains why it is possible to have both inflation and rising unemployment simultaneously: the higher the expected inflation rate, the higher the inflation rate corresponding to a certain level of unemployment.

Fig. 2 – The unemployment rate and the inflation rate

In the long run, the curve becomes vertical and corresponds to the natural rate of unemployment (or the unemployment rate consistent with the real forces of the economic system). However, if the Phillips curve is vertical in the long run, it is not possible to intervene to increase employment: any expansionary fiscal policy will lead to price increases without changing the real magnitudes of the system.



References

Bhutta, N. I., & Maheshwari, S. (2017). Financial Laws in India: A Comprehensive Analysis. New Delhi: LexisNexis Butterworths

Krawiec, K. D., & Park, W. W. (2017). Research Handbook on Insider Trading. Edward Elgar Publishing.

Klabbers, J. (2013). The Concept of Treaty in International Law. Oxford University Press.

Du Plessis, J. J., Geens, K., & Yoshikawa, T. (2013). Comparative corporate governance: Shareholders as a Rule Maker. Cambridge University Press

Ramsay, I. (2019). Corporate Law and Financial Markets: Corporate Finance and Governance. Wolters Kluwer Hong Kong.