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TWELFTH INTERNATIONAL CONFERENCE ON:
"SOCIAL AND NATURAL SCIENCES – GLOBAL CHALLENGE 2021"

4 March

Berlin

Organized by

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

in Partnership with

Institute of History and Political Science of the University of Białystok (Poland)
and School of American Law (Greece)

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Edited by: Dr. Lena Hoffman

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(ICSNS XII-2021)

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Analysis of the necessity of amendments to the Criminal Code of the Republic of Albania for criminal offenses related to the epidemic

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Abstract

This paper aims to address the reaction of the Albanian state to the Covid-19 pandemic. More specifically, it will refer to the initiative of the Albanian government to propose two new criminal offenses related to the management of the pandemic situation. After beginning the management of the epidemic situation in Albania by the law on infections, the Albanian government considered important to propose interventions in the Criminal Code as an effective means of preventing the spread of the virus. This happened after the terrorizing situation caused by the virus and as if that was not enough, another terrorization that comes from criminal responsibility in relation to human actions in this situation seemed to be needed. The implementation of these new criminal offenses in the Criminal Code of the Republic of Albania was advised by the Prime Minister as a necessary tool to prevent the spread of infection. Moreover, the non-anticipation of these criminal offenses was considered as a legal gap for the Albanian legal order. This article will analyze the need for a decision to anticipate criminal offenses related to the epidemic, by the state of Albanian. A comparison will also be made with the experience of Italy, which was used as an example to be followed by the Albanian criminal legislation.There will be given an importance to thetreatment of different opinions regarding these interventions in criminal legislation, as well.
Keywords: Criminal Code, pandemic, criminal offense, civil society, state institutions.

Introduction

The Criminal Code of the Republic of Albania has been modified several times since its entry into force in 1995. Some of these changes have been dictated by the adaptation that the Criminal Code had to make to the Constitution which entered into force in 1998 and the international acts ratified by the Republic of Albania. (Elezi et al. 2017, p. 3).Whereas, in this case, the need for changes in the Criminal Code, seems to have been dictated by the necessity to prosecute violators of the rules against the spread of the Sars-Cov-2 virus.

The criminal punishment for an action or omission certainly affects the determination of the behavior of individuals because it makes the legal norm more respectable. In fact, the need to respect a criminal law norm more than other norms is well known and it depends on the fear that this norm creates.In the case of a criminal norm, its violation may be accompanied by a more severe punishment which may culminate in deprivation of liberty.But the fear, in the concrete situation seems to be less than the fear or panic he had aroused in society, the virus and the infectious disease he was causing.

Hence, the legal intervention in the Criminal Code seemed to go hand in hand with the panic that the Covid-19 infection had arose. This way, society had to face two

insecurities: the first was related to the risk of losing their life and the second to the risk of losing the freedom to protect their life. However, bearing in mind that in this case the danger to life was invisible and ubiquitous, it was difficult for individuals to respect the criminal norms in order to implement the law.

In this situation, it naturally arises the question of whether the undertaking of legal reforms to strengthen the sanction provided in the Criminal code in a climate such as that caused by Covid–19 infection is in line with the basic principles of the Constitution. In this case even more so the provision of the two new criminal offenses, which according to the Albanian government were dictated by the need to contain the spread of the infection, however, they may create concerns about not informing the public or of different interpretations of professionals which may lead to their unified non-implementation. (Anastasi 2020, p. 9). In this contextit can be said that the delicate balance between the rulers and the governors in ensuring governance based on the principles of democracy and the rule of law was questioned by the so-called health emergency.

This question mark finds even more support if we refer to the normative act of the government for the prisoners temporary stay in the house. Before the the anticipation of the new criminal offenses in the Criminal Code, the Albanian government adopted a normative act, seemingly in stark contrast to the logic of social isolation for perpetrators of criminal offenses convicted by a final decision. This normative act allowed the transfer of some categories of convicts at home, in order to avoid them facing the dangers of the pandemic created by Sars-Cov-2 (Normative Act, n.7/2020). Thus, on March 23, the government through legislation justified by necessity and urgency according to Article 101 of the Constitution of Albania, applied leave for up to three months for a certain category of prisoners. Article 4 of the normative act provided that the prisoner could obtain a special temporary residence permit at home, for a period of 3 months, if on the date of entry into force of this normative act he met several criteria at the same time[1].

Whereas, in article 5 of the Normative Act, were treated the cases of convicted persons that based on the criminal offense committed, could not be classified in the category of convicts who benefited from this permit. This permission would be given to the category of convicts who had committed criminal offenses with lower social risk, but in fact the risk posed to health by the coronavirus remained the same for all convicts.

2. Motivation of the amendments to the Criminal Code in the Republic of Albania to oppose the pandemic

The motivation of the Albanian government to undertake the amendment of the Albanian Criminal Code was because the latter had not foreseen any criminal offense that could be related to the management of epidemics and the punishment of their perpetrators. This is how the Prime Minister of the Republic of Albania would express himself after the approval of the amendments to the Criminal Code aimed

[1.] a) Is convicted by a final court decision and meets both of the following conditions:i.Has up to three more years to serve from his given sentence; ii. It is not in the prohibitive criteria provided in article 5 of this normative act. b) he is convicted by a final court decision and meets all of the following conditions: i. Has up to five more years to serve from his given sentence; ii. He is 60 years old or older; iii. Suffers from a chroniclife-threatening illness, certified with relevant medical documents, according to the provisions of applicable law; iv.It is not in the prohibitive criteria provided in article 5 of this normative act.

at providing for two new criminal offenses, specifying that "today we have filled a gap in our Criminal Code, which was the only Criminal Code in Europe without anything written about an epidemic situation and moreover at this stage when we are preparing to enter the process of a gradual opening of economic activity and the normalization of life as much as possible " (Prime Minister statement).
So, the two additional criminal offenses in the Criminal Code of Albania were related to the fact that society would have to come out of isolation. The latter was considered the only way to control the spread of Covid-19 infection.
Most important in this context is the fact that the government that had initiated the changes to the Penal Code seemed to have achieved its goal of increasing panic among the people. What could be perceived in the initial situation but not only, of the pandemic was the panic that the statements of the representatives of state institutions could create. At this time, to this panic were added the criminal sanctions for violators of the rules and the spreaders of the infection, even without being aware.
Anticipation of criminal offenses, which can cause loss of life or damage to health through viruses causing various epidemics, seems to be a necessary element of the Criminal Code.What seems very controversial in this case is whether such changes in legal norms should occur in an ongoing epidemic situation. At this point it is worth mentioning the informative document of the Council of Europe (Council of Europe) which refers to the principle of the need for legislative activity of state institutions. The document specifies that they should at least temporarily halt fundamental legal reforms during a pandemic.
The Covid-19 pandemic had brought the whole world to its knees, and had also fostered the solidarity of all societies to fight, admitting to restricting their own freedom to face this risk of life and health. Naturally, the restriction of the freedom of people had come as a result of the advice of professionals in the field of epidemiology, to avoid human contact as the only way to avoid infection by the virus.
It did not seem that in Albania, as in the rest of the world, people did not obey the orders of government authorities to stay at home, and this seems to have made it unnecessary to intervene in the Criminal Code to increase the criminal offenses that went into providing for sanctions against their offenders. Moreover, these amendments to the Criminal Code would be carried out outside the constitutional dictate as the virus had provided evidence that it was more threatening than the legal norms themselves. This way, the constitutional institutions should channel more the need to calm the society than the need to threaten it.
In one of his public speeches, the Prime Minister of Albania had stated that the provision of criminal offenses to punish violators of the spread of epidemics were provided in many codes taking as a point of reference the Criminal Code of Italy.
Here arises the need to make a comparison between the Criminal Code of Albania and the Italian Criminal Code, which served as a model after the fall of the communist system in Albania. But mostly it arises the need to make a comparison because the undertaking of these changes in the Criminal Code of Albania was mentioned as a model in this case, by Albanian politicians.This way, the Criminal Code of Albania would complement an important part of it, which was related to criminal offenses related to the epidemic, which posed a high social risk, as considered by the Albanian government.
The criminal code of Italy provides for the criminal offense of epidemic in Article 438,

which states that "Whoever causes an epidemic through the spread of pathogenic microbes is sentenced to life imprisonment. If the fact results in the death of many people, the death penalty is applied. "
What is most important in this criminal offense is to define the moment when the fact may constitute a criminal offense. In this sense, the offense must result in a fact which must occur according to a specific method of enforcement, which is through the voluntary or culminating spread of pathogenic microbes, which the author possesses (Cavaliere 2020, p. 3).
In addition to the offense provided in Article 438 of the Italian Penal Code, there are several other offenses which may configure an illegality in the pandemic situation caused by Covid-19. At this point, it is necessary to address which norm provided by the Criminal Code, may best respond to the situation in order to make the legal qualification of an action or an inaction accurate. Undoubtedly, it should be the Article 452 of this Code that refers to Article 438, in which the subjective element of the criminal offense of the epidemic consists of a criminal offense committed with guilt. Article 452 of the Criminal Code, which is entitled crimes against public health and does not refer only to Article 438. More than anything else, Article 452 serves only to determine the punishment for the perpetrator guilty of the criminal offense of the epidemic, in this case of a common criminal offense. (Cavaliere 2020, p. 2).
In the situation of the pandemic caused by Covid-19, the Italian state on February 21, 2020 adopted a normative act that was later converted into a law, where in paragraph 4 of Article 3 it was stated that: "If the fact does not constitute a more serious criminal offense, non-compliance with the isolation measures mentioned in this normative act shall be punished in accordance with Article 650 of the Criminal Code"(Law Decree, n.6/2020). Article 650 of the Italian Penal Code, which deals with non-compliance with the orders of the authorities, states that: "Anyone who does not respect an order legally given by the authorities for reasons of justice or public safety or public order or hygiene, is punished with imprisonment of up to three months or a fine of up to 206 € ", if the fact does not constitute a more serious crime.
Paragraph 4 of Article 3 specifies the clause, that if the fact does not constitute a more serious criminal offense creating many problems for the determination of the criminal offense in this case that could be the one provided by Articles 452 and 438. (Zanerolli 2021).
On March 26, 2020, the Italian government passed another normative act converted into law which changed the above norms and removed any reference related to the criminal code while preserving as sanctions only the administrative ones. Bearing in mind that Article 650 of the Criminal Code does in fact provide for a criminal offense and can be prosecuted through a special trial such as that of a criminal sentence and consists of the payment of a fine and the offender is never sanctioned with deprivation of liberty. (Di Majo 2020, pp. 179-180). According to the normative act dated March 26, the administrative sanctions went up to 3000 euros, different from the amount that would be paid in case of violation of Article 650 of the Criminal Code. (Law Decree, n .19/2020).
In any case, in the face of this situation, the Italian legal order, both state and regional has reacted from the point of view of drafting legal norms to the phenomenon with an equal to or even greater intensity than the spread of the virus. In this sense, it is worth noting that in addition to the number and origin of legislation that should

oppose the spread of coronavirus, it should be analyzed the content of legal norms themselves, in order to achieve the objectives set in their goals, which however, as mentioned consisted of administrative sanctions (Di Majo 2020).
Apparently, there have been legislative interventions in the Italian legal order, but they have never focused on taking measures to provide for new criminal offenses. Moreover, interventions in criminal legislation cannot be of this nature, because criminal offenses are provided only by national legislation. At this point, the comparison made by the Albanian Government seems inappropriate at the moment that the Italian legal order itself has opposed the spread of coronavirus with administrative sanctions.
In fact, what has highlighted more the health emergencies from covid-19, are apparently some trends that the legal order has long demonstrated and that in this sense have been emphasized even more, which has to do with the strengthening of executive power and the parallel marginalization of the Parliament (Tresca 2020, p.12).
Moreover, in order to oppose similar situations such as the emergency by Covid-19 it has been discussed to mentiondirectly in the Constitution the measures that need to be taken in such situations, but in relation to these discussions that reminded the Fascist period, which couldwith a single blow, in such situation eradicate the hard-won democracy after its collapse at the end of World War II (Ruggeri 2020, p.215).

3. Amendments to the Criminal Code of the Republic of Albania in relation to criminal offenses against the epidemic

It is necessary at this point to go into more details, in the so-called normative gaps of the Albanian Criminal Code and the need to provide for criminal offenses that can criminally cope with the situation caused by the coronavirus. In fact, in this case it seems superfluous to speak of a need, if one keeps in mind that the administrative sanctions driven by the panic of the people had perfectly achieved the only legal order response to fight the coronavirus, which remained in any case the "lockdown" (Tafani 2021).
In the logic of the amendments to the Criminal Code, an important attention should be paid to the fact of consultations that the Albanian legislator had to conduct in order to change an important norm of the legal order, such as the Criminal Code. Attention at this point deserves the situation caused by the epidemic which had not only found unprepared the health system, but apparently the legal order itself as well. From a health point of view, the treatment of the disease faced often contradictory opinions of medical professionals who only had one solution, which was social distancing and isolation. Whereas, from the point of view of legal treatment in addition to the provisions of administrative sanctions, the need to cope with the situation, seemed to depend on the Criminal Code. Apparently, to maintain a kind of normalcy, before the adoption of the amendments to the Criminal Code, the Albanian legislator sought legal opinions on these changes, which were considered necessary.
In the opinions on the amendments to the Criminal Code of Albania received by the Parliamentwas also that of the Ombudsman. The Institution of the Ombudsman, after an analysis of the proposals for the amendment of the Criminal Code, criticized these amendments which they considered as not in accordance with Article 170/5 of the Constitution. At the same time, this institution underlined the unnecessity of

changes in the Criminal Code, because the high administrative sanctions provided by the normative acts were in disproportion to the minimum income in Albania, which, although justified by the situation made the changes in the Criminal Code for the pandemic situation management unnecessary (Ombudsman).
If the legal order can be considered as a unique, its great value is achieved by respecting the principle of legal certainty and coherence of norms with each other. This element is worth noting, because the anticipation of criminal offenses that would fight the pandemic was preceded by the pardon of administrative sanctions of violators of restrictive measures imposed by state institutions.
At this point, the Normative Act that annulled all administrative sanctions against individuals who did not respect the vague and confusing measures of isolation of society can be considered fair. But, the political approach to threatening legal norms in this case seems more like a perversion, than a genuine governance strategy. Thus, the isolation of society seemed to be perfectly realized and it seemed unnecessary to penalize actions that could have been prevented by administrative sanctions. However, if on one hand the government seemed all-powerful in imposing sanctions, it did not seem that much in the fight against the coronavirus. Thus, the pardon of all administrative sanctions would be accompanied by the provision of two new criminal offenses in the Albanian Criminal Code (Law no. 35/2020).
Article 2 of the law that provided for the introduction of criminal offenses to counter the pandemic intervened in the eighth chapter of the Albanian Criminal Code, which is entitled crimes against state authority. This way, after Article 242 of the Criminal Code, Article 242 / a is added andis entitled: "Non-implementation of measures of state authorities during a state of emergency or during a state of epidemic"[2].
In the sense of this Article, a person who does not carry an infectious disease can be prosecuted and eventually convicted. The execution of this criminal offense by any individual is realized at the moment that there is an order against him from the state authority and this order has not been implemented. According to the division of criminal offenses, this is a formal criminal offense that does not necessarily require consequences.
Thus, the disobedience of the state authority order is enough to prosecute the offender. Complication of the situation for the implementation of the Criminal Code for this criminal offense can be brought by the order of state authorities, keeping in mind the contradictions that medical professionals have had in order to minimize the spread of infection. For this reason, bylaws based on sound and well-studied protocols would be needed to prosecute violators of Article 242 / aThis criminal offense seems to resemble the criminal offense provided by Article 650 of the Italian Criminal Code. So, a few weeks later the example of decriminalization would be taken as an example to be penalized by the Albanian government.
Whereas, Article 3 of the law intervened in section 3 of the second chapter of the

[2.] Article 242 / a of the Criminal Code of the Republic of Albania: "Failure to implement or carry out actions contrary to laws or by laws issued by statebodies, in view of the state of the epidemic or the implementation of extraordinary measures, by the person against whom an administrative measure has been previously granted, constitutes a criminal offense and is punishable with a fine or imprisonment of up to six months. The same offense, when committed in the exercise of commercial activity, endangering human health, is punishable by a fine or imprisonment of up to two years. Failure to comply with the order issued by the competent authorities for quarantine or isolation, or violation of the rules of quarantine or isolation by the person carrying or not the infectious disease, who has been notified of this obligation by the relevant state authorities, is punishable by imprisonment from two to three years."

Criminal Code of Albania entitled, criminal offenses committed intentionally against health. Thus, after article 89 / a, article 89 / b is added, which is entitled "The spread of infectious diseases"[3].

In this case, it is not a formal criminal offense but a material criminal offense. The consequence resulting from the materialization of the criminal offense can go to a maximum sentence of up to 8 years in prison.

In the analysis of this criminal offense, the elements of the criminal offense should be considered from the objective side, and even more so from the subjective side. Regarding the objective side, the realization of this criminal offense through the spread of the virus can be realized if the person himself is infected.

As for the subjective side, according to Article 15 of the Criminal Code, "The criminal offense is committed intentionally, when the person anticipates the consequences of the criminal offense and wants them to come or, although he anticipates and does not want them, he conscientiously allows their arrival". Determining the subjective side of the possible perpetrator of this criminal offense seems a difficult mission for the prosecuting authorities. The element of subjective side, intent as a form of guilt whether direct or indirect (Muçi 2017, pp.171-174) in the proceedings against this criminal offense is closely related to its assessment as an infectious disease with high social risk.

Evidently, the prediction of this offense was dictated by the pandemic caused by Covid-19. Since the beginning, there have been different views on determining the danger of this virus, from both state institutions and epidemiological experts. The debate over the dangers of the Sars-Cov-2 virus does not seem to end with the end of the pandemic it created. In this context, criminal proceedings against individuals violating this provision of the Criminal Code in the future, for dangerous infectious diseases seem impossible because coronavirus experience has shown that the risk of an infectious disease is highly debatable. Hence, the implementation of criminal prosecution seems impossible in this situation but will be even more impossible in other similar situations.

The amendments to the Criminal Code, among others had the favorable opinion of the President of the Republic who not only immediately decreed them, but expressly praised the ruling majority for this initiative, which, among other things was carried out in a hasty manner (Cukani 2020, p. 2022).

However, after decreeing these changes the President of the Republic requested the drafting of the necessary instructions by state institutions for the implementation of the new criminal norms. At the same time, the President asked for the orientation of law enforcement bodies, for the proper execution of criminal prosecution appreciating the modifications made to the initial draft submitted by the government to the Assembly. In his statement, the President of the Republic also praised the opinions of the Ombudsman and civil society to modify the draft regarding the determination of punishment measures in accordance with the principle of legality and legal certainty. However, the hasty manner of introducing new criminal offenses is also evidenced by the former Albanian Judge at the European Court of Human Rights. The latter,

[3] Article89/b "Intentionally spreading an infectious disease with a high risk to health, through acts or omissions by a person who has been diagnosed as a carrier of the disease or by a person who intends to spread it, is punishable by two to five years in prison.When this offense is committed through negligence, it is punishable by a fine or up to two years of imprisonment. The same act, when it has caused serious consequences for health or danger to human life, is punishable by imprisonment of three to eight years."

among other things, points out the non-observance of the principle of proportionality in relation to other criminal offenses, such as that of negligent treatment by a doctor which provides for a maximum of 5 years, or for the criminal offense of HIV / AIDS infection (Bjanku 2020).
Despite the fact that the amendments to the Criminal Code seem to have found support, or at least were not opposed by the majority of the political spectrum in Albania, as mentioned there have been opposing views even from civil society. Even the Open Society Foundation for Albania (OSFA) at least regarding the initial proposal for changes in the Albanian Criminal Code has been very critical. In particular, the criticism focused on the lack of respect for the principle of proportionality of the sentence with the criminal offense, as well as the lack of proportionality or coherence of the sentence with the sentences provided by other criminal offenses. So, apparently the pandemic caused by the Covid-19 infection, in addition to the traces it has left in society, seems to have left traces in the coherence of the provisions of the Criminal Code of the Republic of Albania.
In the prosecution of the two new criminal offenses triggered by the pandemic situation, among other things, it is worth noting the inadequate situation of the Albanian penitentiary system, as treated by the People's Advocate in his opinion of the legislator. In the pandemic situation the advice of the state authorities to protect against the spread of the coronavirus was unclear, thus the treatment of infected persons in the penitentiary system could pose a risk to other convicts.
Therefore, as mentioned above, the experts themselves had contradictions on the measures that individuals should respect to avoid the spread of infection, but according to Albanian institutions the criminal sanction seems to have been the solution.

Conclusions

In this paper it is requested to analyze the activity of the Albanian state during the initial phase of the pandemic caused by Covid-19. The focus has been on the analysis of the new criminal offenses to prevent the spread of the coronavirus, which is considered a necessary legislative measure. From this point of view, it was identified the dubious need to intervene in the criminal code at a time when administrative sanctions had yielded results in convincing society of social isolation as the only preventive measure. This belief consisted of an activity which required society to stay closed at home to avoid contact with others, otherwise it would remain closed in penitentiary institutions where contacts may be unavoidable.
The paper also analyzed the Criminal Code of Italy and its provisions for criminal offenses that could oppose the spread of the virus. Based on this comparison, it is clear that although the Italian state has taken some often critical legal initiatives, it has never paid attention to the interventions in the Criminal Code for pandemic management. Although it initially referred to a provision of the Criminal Code, it later corrected it by containing the spread of the coronavirus through administrative sanctions.
The paper also addressed the paradoxes that have accompanied the Albanian state in managing the pandemic, which are mostly related to punishments. At this point, we can say that the Albanian State initially allowed some categories of prisoners to

obtain a provisional permit to avoid coronavirus infections, and on the other hand has penalized some actions of society regarding the spread of coronavirus. Thus, the Albanian state has foreseen two criminal offenses, which after the proceedings could send infected persons to prison. This situation has resulted in a complete paradox of the normative activity of the state in such a way that it has raised some contradictions. Contradictions lay in the fact that on one hand the spread of the infection could have been avoided by temporary release from prison, and on the other hand by the possible imprisonment of the offenders of the Criminal Code, specially amended. Also, in the paper was identified the difficulty of executing the criminal prosecution without the approval of bylaws, on which the elements of criminal offenses would be identified. The paper has highlighted the support and criticism of the legal amendments to the Criminal Code to prevent the spread of infectious diseases.

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Legal issues of suretyship related to the enforcement of creditor claims in Albania

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Abstract

In recent years, the Albanian jurisprudence has been unclear and divided on some suretyship issues that do not have a clear legal regulation, mostly related to the enforcement of commercial creditor claims. An attempt by the Joint Panels of the Supreme Court in 2016 to unify some of these issues, proved unsuccessful and to this day there is still no decision from the Supreme Court. Consequently, the lower courts (courts of appeal and the courts of first instance) continue to be divided in their positions, despite the efforts of some authors to provide legal solutions. This has had a very large impact on some sectors of the economy and business where suretyship has found application on a large scale, such as the banking sector. The aim of this paper is the analysis of these legal issues by highlighting the position of the Albanian doctrine and jurisprudence and comparing it with the doctrine and jurisprudence of other countries, in an attempt to give a modest contribution.

Keywords: Suretyship, contracts, security, commercial transactions, enforcement of creditor claims.

Introduction

The development and growth of some sectors of the economy and business in Albania, mainly the banking system, insurance market and financial market, but also that of public procurement and the consequent increase of commercial and financial transactions, has resulted in the widespread implementation of security instruments to guarantee these transactions, and in some cases even the reinstatement of some classical security instruments, such as the suretyship.

Most of these instruments have a legal regulation, while some of them are used as atypical contracts. The Albanian Civil Code provides, under Part IV, Title III "Remedies for Non-Performance", some of classical personal and real securities such as (a) Mortgage (b) Pledge (c) Suretyship (d) Down payment, and (e) Privileges (Preferences), while other laws such as law "On securing charges" No.8537, dated 18 October 1999 ("Securing Charges Act") and law "On payments system" No.133/2013, dated 29. April 2013 ("Payments System Act") provides other instruments, such as (a) Securing charge, and (b) Financial collateral over the cash and other instruments of payment. In cases when Albanian law does not provide for any specific tools or provisions for others securities, this matter has been regulated on contractual basis by the parties, which usually enter into such securities or guarantees, as *sui generis* contracts, in accordance with general provisions of the Civil Code.

However, despite the fact that most of these security instruments are regulated by law, some issues that are not clearly regulated have become the subject of different positions held by the Albanian courts and also the legal doctrine but the latter to a lesser extent.

The most typical and current example is that of the suretyship. The suretyship, as a

personal security, has had a wide range of application in recent years in some of the main sectors of economy and business. As a result, suretyship, as a classic security institute, has appeared in several forms (banking suretyship, insurance suretyship, financial suretyship etc). It has found application not only in the private sector but also in the public sector, as is the case with public procurement and public-private partnerships when one of the forms of suretyship is the surety bond issued by an insurance company or a bank to guarantee satisfactory completion of a project by the contractor, known as performance bond, or the case of VAT surety bond, Customs Guarantee[1] (individual surety in the form of a *voucher* or a global surety) etc.

In the private sector, the suretyship is commonly used in commercial transactions in the banking, insurance and financial markets. However, the suretyship (*dorëzania*) granted in favor of the banks as a personal security issued by a third party in order to guarantee the payment of the obligations arising from banking agreements (loans, leasing etc) is the one that has generated the most judicial disputes and has become the subject of different positions of the Albanian courts regarding some legal aspects mainly related to the enforcement of creditor (banks or others non-banking financial institutions) claims.

Therefore, these legal aspects of suretyship granted in favor of banks will be the subject of this article and for this purpose it is necessary to give some general considerations of suretyship by highlighting some of its main characteristics according to the Albanian legislation. Further, some legal problems encountered in the case law will be identified by analyzing the different positions of the courts and the legal doctrine, and finally this article aims to provide a modest contribution on the possible legal solution to these problems.

1. General considerations of the suretyship

Suretyship is one of the oldest classical institutes (contracts) of civil law. The legal relationship of suretyship is created by surety's promise to perform or satisfy an obligation owed to the creditor by a third-party debtor if the latter should fail to perform. Contemporary Western legal systems consider the surety's obligation to be accessory to the principal obligation. The purpose of the suretyship obligation is to secure the performance of the principal obligation. This form of personal security was the most popular and preferred form in the commercial life of classical Rome[2]. However, some authors observe that the contract of suretyship antedates the Christian era by more than 2500 years. The Library of Sargon I, king of Accad and Sumer *(circa* 2750 B. C.) contains a tablet which records the making of such a contract. But contracts of suretyship were probably in common use long prior to the reign of Sargon I. The code of Hammurabi *(circa* 2250 B. C.), enacted 500 years after the time of Sargon I, provided for a system of state fidelity insurance which belonged rather to the 19th century than to the year 2250 B. C[3].

1. Provided in the Albanian Custom Code and in special law such as the law No 61/2012 " On Excises".

2. Philip K..Jones, Jr, *Roman Law Bases of Suretyship in Some Modern Civil Code*s, 52 Tul. L. Rev. 129 (1977-1978), available at: https://heinonline.org/HOL/LandingPage?handle=hein.journals/tulr52&div=16&id=&page=.

3. Willis D.Morgant, The History and Economics of Suretyship, 12 Cornell L. Rev. 153 (1927), available at: http://scholarship.law.cornell.edu/clr/vol12/iss2/2.

However, the suretyship as an institute (contract) of civil law recognized its development in Roman law. When Gaius wrote his *Commentaries (circa* 150 A.D.), the Romans had developed a highly technical law of suretyship[4]. In its various stage of development Roman law provided primarily three forms of suretyship *spipulatio*: the *sponsio*, the *fideipromissio* and the *fideiussio*[5]. Other authors have distinguished five forms of this contract, namely: *Sponsio, fidepromiso, fidejussio, constitutum,* and *mandatum*[6]. But the latter two although were used as major methods of securing the obligation they were not typical suretyship contracts.

The complex but highly developed system of suretyship of Roman law, the last phase of which is embodied in the legislation of Justinian, survives with comparatively little change in modern Continental codes. However, Suretyship does not have precisely the same connotation in all the legislation. In German and Dutch law, for instance, a distinction is drawn between the surety and the "guarantee". In Italy, on the other hand, the "guarantee" of German and Dutch law is subsumed under the concept of suretyship. But the one aspect on which the legislations do not differ from one another is that there can be no doubt that the suretyship is the typical form of personal security and it is not the only one. A whole range of other contractual devices is used to support a claim that needs to be secured. All of them are grouped together under the general head of "personal securities" ("*suretes personnelles*", often called "*garanties*" or "*garanzie*" in non-technical language)[7].

In Albania, suretyship is provided for the first time as an institute (contract) of civil law in the Civil Code of Kingdom of Albania (1929). After the establishment of the communist regime, suretyship was initially provided for in the Law "On legal transactions and obligations" and then in the Civil Code of 1981. With the establishment of democracy in Albania after the 90s and with the adoption of the new Civil Code of 1994, the suretyship was re-established.

Nowadays, suretyship is considered a kind of security commonly used in business transactions in order to protect creditors if the debtor fails to perform its obligations. It is a unilateral contract by which the surety undertakes the obligation of the debtor for the payment of the debt.

According to the Albanian law, suretyship contract is subject to the provisions set out in Articles 585-600 of the Albanian Civil Code ("ACC") under Part IV, Title III "Remedies for Non-Performance". Under these provisions suretyship is defined as a legal transaction wherewith a person (surety) shall be obliged to secure the performance of an obligation of a third person (principal debtor) to the creditor (art.585 of ACC). From this definition it results that suretyship is a unilateral contract in which only one party (surety) undertakes an obligation. The existence of a valid suretyship contract basically depends on a duly agreed contract between the surety and the creditor. Thus, there is no need for debtor's participation to the contract or

4. Ibid.

5. Ibid, and; Philip K..Jones, Jr, *Roman Law Bases of Suretyship in Some Modern Civil Code*s, 52 Tul. L. Rev. 129 available at: https://heinonline.org/HOL/LandingPage?handle=hein.journals/tulr52&div=16&id=&page.

6. William H. Lloyd, *The Surety*, (1918) available at: https://scholarship. law.upenn.edu/c gi/viewc onten t.cgi?article=7652&context=penn_law_review.

7. Max-Planck Institute Study, "*The suretyship in the law of the Member States of the European Communities*", Commission of the European Communities Studies: Approximation of legislation series no. 14, Brussels 1971, available at: http://aei.pitt.edu/34400/.

his consent (paragraph 2 of art. 585 of ACC).
Suretyship is an accessory and secondary obligation. It cannot exist on its own: there must be some other contract (the principal obligation) to which it relates. This does not mean that the suretyship must always come into existence after the principal obligation. It is sufficient that the principal obligation is envisaged at the time when the suretyship is entered into[8] and can be integrated in the principal contract or otherwise there may be two separate contracts relating to the same transaction (principal and suretyship contracts). If the principal obligation never comes into existence, the suretyship will never be effective (art.586 of ACC). It follows from this that, as a general rule, the suretyship will be invalid if the principal obligation is invalid (art. 588 of ACC). For the same reason, the performance of the surety's obligation can only be requested if the principal obligation is due and payable. The extinction of the principal obligation also affects the suretyship (art.597 of ACC). Therefore, the surety's obligation is configured as an ancillary obligation, which object is naturally identical to that of the principal obligation, and, unless otherwise agreed, extends only to all the accessories of the principal debt and expenses (art. 589 ACC). If it exceeds the debt or is contracted on more onerous terms, it is valid within the limits of the main obligation (art.589 of ACC, paragraph 2).
Based on the ACC we can identify and distinguish various types of suretyship can be distinguished. I find it appropriate to identify them briefly here since pointing out the type of suretyship has a primary importance in terms of the extent of liability and the defenses that may be applicable against the creditor.
Article 590 of ACC governs two types of suretyship, **joint suretyship** and **subsidiary suretyship** or with the benefit of preventive enforcement (*benefitum excussionis*[9]). The joint suretyship is the general rule and the most widespread hypothesis, which provides that the surety and the principal creditor are jointly and severally obliged, so that the creditor can request the fulfillment of the obligation by both the surety and the debtor. The surety who paid the debt is subrogated in the rights that the creditor had (art.593 of ACC) and will be able to bring legal actions against the debtor even though the latter was not aware of the given suretyship (art. 592 of ACC). The right of recourse includes the principal, the interest and expenses incurred by the surety and the right to legal interest on the sums paid from the day of payment.
The so-called *benefitum excussionis* (subsidiary suretyship) recognized to the surety, according to which the creditor will have to execute the assets of the principal debtor before contacting him for the payment of the obligations, must be expressly agreed by the parties in the contract. In this case, the surety, who intends to avail himself of the benefit of the enforcement, must indicate the assets of the principal debtor to be executed (art.590 paragraph 2 of ACC). In contrary to joint suretyships, subsidiary suretyships do not impose any primary liability on the surety. Thus, the payment cannot be demanded from the surety before debtor has become a subject to the execution proceedings by the creditor. Otherwise, the surety is entitled to plead the creditor the defense that he must initiate execution proceedings primarily against the debtor.

8. Trevor C. Hartley, *The law of suretyship and indemnity in the United Kingdom of Great Britain and Northern Ireland and Ireland* , Commission of the European Communities Studies: Approximation of legislation series no. 28, Brussels, March 1974, avaible at: http://aei.pitt.edu/40735/1/Approximation.of.Legislation.28.pdf.
9. An institution of Roman law sanctioned by Justinian in his *Corpus Iuris Civilis.*

Article 594 of ACC recognizes the so-called **co-suretyship**: if there are several persons who have given a surety for the same debtor and to guarantee the same debt, each of them is obliged for the entire debt unless the benefit of the division has been agreed. Each sureties, in the event of payment of the entire obligation, shall be entitled to return to the other co-sureties for the share due to each. This does not happen due to the different situation of the so-called multiple sureties, where several sureties provide the guarantee independently from the others.
Another type of suretyship provided by the ACC is the **omnibus suretyship**. The institute of the so-called suretyship "omnibus" provides that the surety undertakes not to guarantee the payment of a single third-party debt, but of all present and future debts that he has assumed or will assume towards the creditor, which in practice is often a credit institution. Article 586 of ACC, endorses the institution by stating that the suretyship can also be granted for a conditional or future obligation. On the other hand, art.589 of ACC provides the possibility of a **partial suretyship,** when in the agreement it is determined that the suretyship is given for a part of the obligation or either with favorable or less conditions than the main obligation.
The ACC provides for three hypotheses of extinction of suretyship: due to action (omission) of the creditor, due to the extinction of the principal obligation and due to limitation period. The suretyship is extinguished due to the creditor, when the subrogation of the surety in the rights, pledge, mortgages and privileges of the creditor cannot take effect because the creditor has waived them (art.598 of ACC) or when the creditor voluntarily accepts an asset, or anything else for the payment of the principal obligation (art.599 of ACC). The suretyship is extinguished with the extinction of the principal obligation (art.597 of ACC) due to its accessory nature. Finally, the suretyship is extinguished if the creditor fails to take legal action against the surety within six months of the date of expiry of the time period for performing the obligation. If the time period for performing the obligation is not been set out neither in the suretyship contract nor in any other agreement, the suretyship shall be extinguished with the expiry of one year from the date of entering into the suretyship contract (art.600 of ACC).

2. The context of enforcement of commercial creditor claims

In 2017, in the Albanian legal framework were introduced some amendments to the Civil Code and the Law on Securing Charges and a new Insolvency Law was adopted. A security interest can now be granted over any type of movable property and secured creditors are given absolute priority within insolvency proceedings. In addition, Albania has implemented new laws allowing for the general description of assets that can be used as collateral. Nevertheless, creditors still observe certain drawbacks and disadvantages in the practical application of the law relating to enforcement of claims and security[10].
Enforcement in Albania is entirely dependent on court proceedings. One of the issues that characterize these proceedings is the lack of unified case law among the courts which leads to inconsistent application of the law, particularly in the areas of enforcement of contracts and enforceable deeds. Also, the enforcement proceedings

[10.] European Bank for Reconstruction and Development Study Report, *On the legal framework for the enforcement of commercial creditors' claims in selected European Bank for Reconstruction and Development countries of operations (Albania, Croatia, Cyprus, Greece and Ukraine),* March 2019.

differ between secured and unsecured claims.
Unsecured claims in Albania may be enforced only by means of obtaining "an executive title" issued by a competent court[11] after having examined the merits of the dispute in the presence of the parties. Whilst secured claims usually are considered "executive titles" and their enforcement follows a simpler and shorter procedure that requires only the issuance of an execution order[12] by the court. The loan bank contracts or the loan contracts of non-bank financial institutions are among these secured claims that are expressly provided as executive titles (art.510, paragraph d of Civil Procedure Code).
However, most case law in the areas of enforcement of commercial creditor claims, especially of secured claims, such as bank loans, is mostly related to enforcement of securities (collateral), especially to personal security, such as suretyship, rather than to secured claims itself.
In practice, the most common types of securities (collateral) used by banks and others non-bank financial institutions are the real securities, such as mortgage over immovable assets, pledge over movable assets and securing charge over movable assets, whilst personal securities serve only as additional security instruments for banks. The most common personal security used by the banks and other non-bank financial institutions to secure their claims is the suretyship. Due to the accessory and secondary nature of the suretyship, in practice, banks integrate the suretyship contracts into the principal loan contract. In case of non-performance of the debtor, the banks request from the court an execution order for the loan contract (which as mentioned above constitutes an executive title) to enforce their claim and based on this order, extend the enforcement, in addition to debtor, even to the surety in the same time. This practice has given rise to frequent litigation between banks and sureties.
Specifically, the sureties challenge the extension of the enforcement against them claiming that the suretyship contract, unlike the loan contract, does not constitute an executive title. Thus, the creditor cannot use the same legal remedies for the enforcement of his claims against the surety as against the debtor. It is also argued that, in any case, the creditor must take legal actions against the surety within 6 months of the date of expiry of the time period for performing the obligation. Both claims are based on the provisions of Article 600 of the ACC which provides that *"The suretyship is extinguished if the creditor has not filed a lawsuit against the surety within six months from the day of expiry of the time of obligation performance. When the time of performance of the obligation is not determined either in the suretyship contract or in another agreement, the suretyship is extinguished after one year from the day of conclusion the suretyship contract"*.
The challenge in this case is made by opposing the enforcement actions in court[13] (legal actions against judicial bailiff), claiming that the execution order is issued by the court only for the loan contract and not for the suretyship contract, since only the first one constitutes an executive title. Consequently, the judicial bailiff cannot

11. An "executive title" is defined in Article 510 of the Civil Procedure Code. In Albania, after a court judgment on merits of the case becomes final, such judgment obtains a power of an execution title enforceable against the debtor.
12. Article 511 of Albanian Civil Procedure Code.
13. Article 610 of Civil Procedure Code provides that against the enforcement actions of the judicial bailiff, carried out in contravention of the procedures provided by this Code, the parties may make an appeal to the court.

extend the enforcement to the surety based on this execution order issued for the loan contract (which in most cases also has the suretyship contract incorporated). In other cases it is done through the legal actions for challenging the executive title[14], claiming that the suretyship is extinguished, since the creditor has not taken legal actions (has not filed a lawsuit) against the surety, within 6 months from the expiry of the time period for performing the principal obligation or by addressing the court to rule that the suretyship is extinguished.

The courts address these claims of the sureties in two directions. First, if the enforcement of the claim by the creditor against surety, as joint debtor, must be done through a lawsuit from the creditor, and not directly through the execution order of the court for the loan contract, and, second, whether, either by way of a lawsuit or by way of enforcement of an execution order, the claim shall be brought within 6 month from the expiry of the time for the performance of the obligation.

However, as stated above, the lack of unified case law on these issues has led to inconsistent application of the law by the courts.

3. The Albanian case law

In practice, the courts have taken different positions in addressing the above-mentioned claims of sureties.

There have been cases where the courts have accepted claims of the sureties for challenging the enforcement actions of the bailiff and for challenging the executive title (or for ascertaining the extinction of suretyship). In the first case, the courts argue that although suretyship might be incorporated within the loan agreement, it is a separate legal transaction (contract) and does not constitute an executive title within the meaning of Article 510 of the Civil Procedure Code. Consequently, the suretyship cannot be subject to enforcement by the judicial bailiff on the basis of the execution order issued for the loan contract[15]. This position was also held by the Supreme Court, which argues that the surety relationship is independent, despite the fact that it is formed within the loan contract. Although the suretyship is an accessory obligation relationship the legislator himself has provided the remedies for enforcement of creditor claims, which is through filing a lawsuit in court against surety, within a preclusive term[16]. In the second case, the courts argue that in the conditions when the suretyship does not constitute an executive title, to enforce his claim the creditor must address the court with a lawsuit against the surety within 6 months from the day of expiry of the time for performing the obligation, otherwise the suretyship is extinguished[17]. There is also a third position of the courts that supports the claims of the sureties, according to which the suretyship can constitute

[14.] Article 609 of Civil Procedure Code provides that the debtor may request to the competent court of the place of execution to be declared that the execution title is invalid or that the obligation does not exist or it exists to a smaller amount or is extinguished subsequently.

[15.] For instance Decision No 12440, dated 29.12.2014 of the Tirana District Court; Decision No 9180, dated 24.11.2015 of the Tirana District Court; Decision No 1022, dated 24.04.2017 of the Tirana Court of Appeal; Decision No 7871, dated 07.10.2016; Decision No 2175, dated 12.10.2017 of the Tirana Court of Appeal.

[16.] Decision No 00-2015-3661 (455), dated 28.10.2015 of the Civil Panel of the Supreme Court.

[17.] For instance Decision No 713, dated 30.01.29018 of the Tirana District Court; Decision No 7137, dated 30.08.2017 of the Tirana District Court; Decision No 1, dated 14.01.2019 of the Tirana Court of Appeal.

an executive title and the creditor can enforce his claims by requesting an execution order by the court but in any case he must do such thing within 6 months from the day of expiry of the term for performing the obligation, otherwise the suretyship is extinguished[18].

On the other hand, there have been cases where courts have dismissed sureties' claims by arguing that since the principal obligation (loan contract) is an executive title, then the creditor can use the same remedies as against the debtor to enforce his claim against the surety, which means to request an execution order in court[19]. In other cases, courts have made an extended interpretation of Article 600 of ACC, arguing that the term "lawsuit" in this article includes the lawsuit in the material sense and it equates any legal action of the creditor for enforcing his claim, including his request for the execution order and that any such legal action taken by the creditor to enforce his claim terminates the suretyship limitation period. There have been also cases where the courts have taken an even more extreme position, arguing that the term "lawsuit" of art.600 of ACC includes even the legal actions of the creditor that do not constitute a process, such as the notice of performance of the obligation addressed to surety which also terminate the suretyship limitation period[20]. Finally there have been cases, where courts have been divided on the determination of the period provided by Article 600, whether it is a prescription period or a preclusive period[21].

Based on the above situation, the Civil Panel of the Supreme Court on 2016 has decided to raise for unification to the Joints Panels the case law on the following legal issues on suretyship: 1) Is the request for an execution order equal to the lawsuit, referred to in Article 600 of the Civil Code? 2) Referring to Articles 597-598-599-600 of the Civil Code, is the surety entitled to request the extinction of the suretyship? 3) Is the 6-month period a preclusive or a prescription period (Article 600 of the Civil Code)? 4) Referring to articles 589-590-591 of the Civil Code, is the quality of the surety equal to that of the debtor? If so, at what stage can these two qualities be equated? The Joint Panels of the Supreme Court, despite meeting to decide on the issues raised for the unification of case law, failed to reach a decision.[22]

4. Legal doctrine efforts to address legal solutions to these issues

The unsuccessful attempt of the Supreme Court to unify the above suretyship issues has caused the lower courts to continue the inconsistent application of the law and in addition has prompted several authors to provide some legal solutions to these issues.

One of these authors, who also has the status of magistrate, has addressed detailed legal solutions to each of these issues in his book "Constitutional Dilemmas II". With

18. For instance Decision No 454, dated 21.02.2017 of Tirana Court of Appeal.
19. Decision No 545, dated 15.03.2016 of Vlora District Court.
20. For instance decision No 23-2019-1551 (691), dated 16.09.2019 of Saranda District Court.
21. For instance decision No 00-2013-980 (223), dated 28.03.2013 of the Civil Panel of the Supreme Court; Decision No 1694, dated 15.07.2011Tirana Court of Appeal; Decision No 529, dated 27.01.2012 of Tirana District Court; Decision No 713, dated 30.01.29018 of the Tirana District Court; Decision No 7137, dated 30.08.2017 of the Tirana District Court; Decision No 1, dated 14.01.2019 of the Tirana Court of Appeal.
22. Florjan Kalaja, *Constitutional Dilemmas II, Chapter IX, Issues on suretyship that were not unified*, "Barleti Publications", Tirana 2018.

regard to the issues that are subject of this article and relate to the abovementioned sureties' claims, he argues that Article 600 of ACC must be understood and applied to regulate enforcement of all suretyship contracts, that guarantee the performance of principal obligations, which are activated by lawsuits and enforced as a result of a final court decision. Meanwhile, art.600 of ACC does not apply to all suretyship contracts, that guarantee the performance of a principal obligation, which by law is an executive title, without the need of a contentious litigation. This means that the suretyship, guarantying the performance of a principal obligation which is an executive title, constitute an executive title itself and as such, after the execution order is issued by the court, according to article 515 of the Code of Civil Procedure, the creditor can address the bailiff for the enforcement of his claim against the surety. Thus, the manner and remedies of enforcement of this type of suretyship is not regulated by Article 600 of the Civil Code, but is regulated by Article 515 of the Code of Civil Procedure[23].

Another group of authors, who also have the status of magistrates, argue that the term lawsuit in article 600 of the Civil Code, does not mean only the lawsuit in *stricto sensu*, as a procedural tools for investing the court, but the lawsuit in the material sense, i.e. as an opportunity recognized by law to address the court, for the protection of legitimate rights and interests. The suit is a right to invest the court, while the lawsuit is the procedural legal tool by which this right is exercised. The right to invest the court through a request for execution order is included in the concept of lawsuit in the material sense, since the purpose of this legal remedy is the realization of a legitimate right and interest, such as the right of the creditor, to require the performance of the obligation by the surety. Only when the suretyship constitutes an executive title, the request for an execution order is equal to the lawsuit according to article 600. In cases when the suretyship does not constitute an executive title, the creditor can use article 600 to file a lawsuit against the surety, respecting the limitation period provided by this article[24].

In principle, these two legal solutions addressed by these authors appear to be coherent with the nature, characteristics and types of suretyship provided by ACC. Having in consideration the accessory and ancillary nature of the suretyship, if the principal obligation is an executive title the suretyship will also be an executive title and the creditor can use the same legal remedies against both the debtor and the surety for the enforcement of his claims. However, in terms of current legal provisions of Albanian legislation, such an interpretation of article 600 of ACC and articles 510 and 515 of the Code of Civil Procedure is incorrect.

Executive titles are exhaustively provided by article 510 of the Civil Procedure Code as follows: a) final civil decisions of the court containing an obligation; b) final penal decisions in the part dealing with property rights; c) court decisions and arbitration awards of foreign countries that are enforced in accordance with the provisions of this Code; ç) awards of arbitration courts in the Republic of Albania; d) notary acts containing monetary obligations as well as acts for granting bank loans or acts for granting loans by non-bank financial institutions; dh) bills of exchange, checks, and

23. Ibid

24. School of Magistrates Legal Memo, worked by Suela Xhani, Mediana Meta, Odeta Todorushi, Suela Dashi, accepted by Prof. Dr. Mariana Tutulani-Semini, Dr. Idlir Peçi, Prof. Assoc. Dr. Mirela Bogdani, Albana Boksi, pages 9,10, June 2017, as quoted in Florjan Kalaja, *Constitutional Dilemmas II*, "Barleti Publications", Tirana 2018.

order papers equivalent to them; e) other acts which according to special laws are called executive titles are assigned to the bailiff's office for their enforcement.
Article 510 "d" of the Civil Procedure Code stipulates that bank and non-bank financial institutions loans contracts are executive titles. Jurisprudence has considered executive titles, those legal transactions, which, on one hand, in the formal sense, are the acts that contain loan contracts from banks, while on the other hand, in the substantial sense, are the concrete obligations owed to banks, which originate and are contained in these contracts[25]. However, art.510 "d" does not explicitly consider securities contracts (including here suretyship contract) as executive titles. Executive titles are provided by law and according to article 510, letter (e) of the CPC, special laws may provide for executive titles other than those provided for in this article.
The Albanian legal framework does not appear to have any specific legal provision which consider suretyship an executive title. The legislator could have specifically provided for this, as he did in the Securing Charge Act. Article 31 (1) of this Act provides that the securing charge agreement is an executive title and, in case of non-performance, it is enforced by the judicial bailiff based in the execution order of the competent court. This last provision is in accordance with the definition made in Article 510 "d" of the Civil Procedure Code, according to which executive titles are other acts that according to special laws are considered executive titles and are assigned to the bailiff's office for their enforcement.
Based on the above, the lack of any provision of article 510 "d" of the Civil Procedure Code or any other law of the possibility of extending the enforcement of creditor claims to the surety, as a joint debtor, in addition to principal debtor, in the absence of a unifying decision of the Joint Panels of the Supreme Court in this regard, suggests that the enforcement towards the surety should be sought from the creditor only by filing a lawsuit against him. The opposite would be an interpretation of article 510 "d" not in accordance with the spirit of the Constitution of Albania. This interpretation, would transform the surety contract, in an executive title, although it contain only the obligation of the surety to personally guarantees the performance of the obligation by the principal debtor, and not the obligation itself, thus forming a restriction of property right not in accordance with the Constitution and ECHR and moreover, we would be in a situation where the courts would produce a new legal norm by creating an executive title that is not provided by law.
This interpretation does not affect the nature of the suretyship, as a personal security, which constitutes an obligation that is extinguished with the extinction of the principal obligation, but simply indicates that the enforcement of a claim toward the principal debtor follows a different path from the enforcement toward the surety, as a joint debtor, unless the law provides otherwise.
However, in any case, even if it is accepted that the enforcement toward the surety could be sought in the same way and with the same remedies as against the principal debtor, directly, through the process of enforcement, this cannot happen if six months have elapsed from the day of expiry of the period for performing the obligation, in the sense of article 600 of the Civil Code.
In the final analysis, I would consider unacceptable the extended interpretation of article 600 of the ACC by the above authors, according to which the term "lawsuit" in this article refers to the lawsuit in the material sense and includes any legal action

[25.] See for instance Decision No 454, dated 21.02.2017 of Tirana Court of Appeal.

of the creditor to enforce his claims toward the surety. Such an interpretation would place the courts in the wrong position of the creator of the legal norms, a function which, as is well known, belongs to the legislator. Interpretation is not the creation of a new norm, but gives the correct and regular meaning of legal norms, taking into account their linguistic, logical, historical, social, analytical meaning and the purpose of the provision itself (teleological). Through interpretation, interpretive doubts are decomposed, contradictions are eliminated without violating constitutional principles. Interpretation, as a function and method, has room for an existing norm when there is ambiguity in its meaning and not to fill the legal gap. Even more unacceptable and unprofessional I would consider the interpretation made in some cases by the courts, according to which the term "lawsuit" of art.600 of ACC includes even the legal actions of the creditor that do not constitute a process, such as the notice of performance of the obligation addressed to surety, which also terminate the suretyship limitation period. In any case, a lawsuit in the material sense is the possibility (right) that is recognized by law to a person to seek the realization through the court of a subjective civil right against another person. Consequently, it is beyond any logic to argue that the term lawsuit also includes legal actions that do not constitute a process.

Concluding remarks

From the above analysis, it can be concluded that the legal problems identified on suretyship related to the enforcement of creditor claims are a consequence of the lack of unified case law among the courts which leads to inconsistent application of the law. On the other hand, the lack of unified case law itself is a consequence of the legal omissions and not only in relation to article 600 of ACC but also of other provisions of special laws governing the application of creditor secured claims and securities.
Consequently, having in consideration the provision of article 600 of ACC (which may be a consequence of a legal omission) and the lack of provision of article 510 “d” of the Civil Procedure Code or any other law of the possibility of extending the enforcement of creditor claims to the surety, as a joint debtor, in addition to principal debtor, suggests that the enforcement toward the surety should be sought from the creditor only by filing a lawsuit against him. Any other interpretation would place the courts with legislative functions, as they would create new legal norms by providing for an executive title that is not provided by law or would change the purpose of the norm itself.
Even a unifying decision by the Joint Panels of the Supreme Court, although it would unify the case law on these issues, I do not think would be very helpful in resolving the problem as long as we are dealing with a legal omission. Consequently, the only solution would remain, filling the legal gap by the legislator.

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Case Study: The Impact of Oil for Food Programme in reforming United Nations

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Abstract

Why Saddam attacked Kuwait? The Security Council, alarmed by the invasion of Kuwait, immediately (the same day) adopted Resolution 660 in which condemned the invasion and demanded from Iraq to withdraw all his military forces.
Iraq failed to comply with Resolution 660 and the Security Council acting under Chapter VII of the UN Charter concerned by the loss of human life and material destruction, determined to restore sovereignty, independence and territorial integrity of Kuwait, decided to impose economic sanctions to secure Iraq compliance.
The theory of embargo toward Iraq raised many supporters as an effectiveinternational tool that could "bring democracy to the Iraqi people". Although years later itproduced quite the opposite effect. On 14 April 1995 Security Council created the framework for Oil-for-Food Programme, by allowing Saddam's regime to sell oil not exceeding a total of 1billion US dollars for 180 days, exclusively for humanitarian aid for the Iraqi people.
The temp that the United Nations eased the purchase volume raised ethical problems in the endeavor of pursuing international peace. There was a proactive role to widen thesectors of intervention to justify the volume of oil purchased, while Iraq lacks the technical capabilities to keep up with the growing demand. Where can we draw the line between exploitation and humanitarian aid?

Keywords: United Nations, Security Council, Iraqi Regime, Volcker Commission, Corruption.

Introduction

Almost three decades after the fall of the Berlin Wall, the enthusiasm of a new beginning is eroding by the day from the ongoing civil wars, conflicts, famineand the rise of populism.The heavy burden to lead this new world relied solely upon the United States of America, which at some point fused the interest of the USA with the interest of the world system. In this perspective, any action against the system would trigger US counter-response and *vice versa.* This assumption sheds light on the proactive role of the USA lead coalition forces in the Gulf War. *In what possible political realm could any state challenge the US regime a few monthsafter the fall of the Berlin Wall*[1]*?*
From a realist perspective, Saddam had many plausible arguments to justify the attack against Kuwait but miscalculated the "big power shift" in the world which created an unusual international condition. Although history refers to it as the Gulf War, I don't agree with the terminology,I am not sure if we can label it as a'war' in the first place. The strong reaction ofthe US smashed the occupying small Iraqi army and destroyed the Iraqi state in just a few days. Ultimately this exercise of force

[1] Constructed by the German Democratic Republic, starting on 13 August 1961, the Wall cut off (by land) West Berlin from virtually all of surrounding East Germany and East Berlin until government officials opened it in November 1989. Its demolition officially began on 13 June 1990 and finished in 1992.

from the US lead coalition endedwiththe UN imposing economic sanctions against Saddam's regime (Hinnebusc, 2007).The theory of embargo toward Iraq at the time raised many supporters as an effective international tool thatcould"bring democracy to the Iraqi people". Although years later it produced quite the opposite desired effect.

Historically the Iraqi embargo was not the first embargo ongoing in the world at the time. Cuba was suffering the US embargo since President Kennedy, which was imposed with the same idea of "bringing democracy to the Cuban people"(Klestadt, Unknown).Besides increasing poverty over the population, the communist regime probably consolidated its authority in the eyes of the people by depicting themselves as "caretakers" and Americans as "trouble makers".

It is safe to deduce that the Permanent Members of the Security Council knew since the beginning that Cuba's embargo of 1968 wasn't effective but still they imposed this type of sanction hoping for a different result (Klestadt, Unknown). From an external point of view, one may deduce that if you starve the population enough, eventually the people will rebel and will overthrow the regime as salvation against their conditions. There is a gap in logic with this reasoning because "the evil" will be perceived toward those who impose such embargo, not those who cause such sanctions.

To overcome this gap, the Oil for Food Programme was envisaged as an international tool to shift the burden of sanctions from the people toward the regime clique, a lesson learned in the failurewith Cubans. Probably they realized that with an empty belly,democracy is meaningless. On the other side, it is intrinsic to not personify "the bad guy" but to represent the liberator by shrinking Saddam power and by taking care of the people.

On paper the plan makes sense but two main problems arise:*First, who is going to pay the bill?* Practically it creates me the feeling that a state with no profitable economic resources in face of an embargo, would starve to death. In this case,an 'embargo'is not an international tool rather just a cruel weapon in a world power struggle. If economic resources of the state are externally managed, to pay the bills created by the embargo, it creates a backlash effect on the "purity" of the cause and one might see a post-modern way of servitude.

*Secondly, evolving to the role of system defender, you must live by the rules you propel.*To bypass the Iraq embargo and propose humanitarian aid, you should rely upon the consent of the legitimate government protected by the principle of sovereignty. The timeline in which the humanitarian help occurred failed to intervene immediately to aid the population, so in this perspective they lost the ability to become liberators and were left only with the idea of a proxy invader (Anderson, 2016).

I believe the USAidea after the Cold War was that everyone will unify under the American hegemony through the United Nation mechanism. A naïve approach if we keep in mind how history repeats itself.

Oil-for-Food Programme Background

Why Saddam attacked Kuwait? During the 80s,Iraq fought a war against Iran which dried the economic resources of the country. Saudi Arabia and Kuwait didn't participate physically in the conflict but they supported Iraq military actions. Suffering war circumstances Iraq borrowed 80 billion dollars from Kuwait. A debt, that Saddam

crippled economy could not possibly repay.
After the war, Kuwaiti requested all the money back which must have triggered strong emotional responses from Iraqi's fighting the war which Kuwait profited the most. On the other side, Kuwait overproduction of oil lowered the price causing economical loses to the Iraq economy due to the underpricing. In a Cold War setting a hard power intervention to protect the national interest, is technically legitimate to eradicate the debt and control the overproduction of oil.
Saddam regime launched a military operation against Kuwait on 2 August 1990 at 2 A.M local time, within several hours the first Iraqi's troops positions themselves in downtown Kuwait(The New York Times, 1990). "By annexing Kuwait, Iraq gained control of 20% of the world's oil reserves and, for the first time, a substantial coastline on the Persian Gulf"(history.com, 1990).The Security Council, alarmed by the invasion of Kuwait, immediately (the same day) adopted Resolution 660 in which condemned the invasion and demanded[2] from Iraq to withdraw all his military forces(S/RES/660, 1990).
Iraq failed to comply with Resolution 660, so the Security Council acting under Chapter VII of the UN Charter adopted Resolution 661 on 6 August 1990. Security Council, concerned by the loss of human life and material destruction, determined to restore sovereignty, independence and territorial integrity of Kuwait, decided to impose economic sanctions to secure compliance of Iraq with paragraph 2[3] of the resolution 660 (1990)(S/RES/661, 1990).
Resolution 661 was adopted by 13 votes to none with Yemen and Cuba absenting (S/RES/661, 1990). Cuba, at the time, was the only temporary member of the Security Council that was under trade sanctions from the USA. While they condemned the military intervention in Kuwait, Cuba expressed the concern that trade embargos have the potential to cause problems of another nature and are not legitimate tools to promote international peace(Bieberly, 2018). Cuba, by suffering the consequences of economical sanction, relying on experience "predicted" the humanitarian crisis that imposed hardships on Iraqis people.
The aftereffects of the sanctions were assessed by the Ahtisaari inspection mission in Iraq noting: "*It is unmistakable that the Iraqi people may soon face a further imminent catastrophe, which could include epidemic and famine if massive life-supporting needs are not rapidly met. The long summer… is only weeks away. Time is short."*(Ahtisaari, 1991).
Atthe 3004thmeeting, the Security Council on 15 August 1991, adopted Resolution 706. Taking into consideration, the operation costs of UNSCOM[4], as well the hardship conditions imposed on the civilian's, brought forward the idea to "conditionally" remove the embargo on Iraqi oil and permit limited petroleum sales to meet the need for food, medicine and humanitarian supplies (S/RES/706, 1991).
Probably, after harsh economic consequences produced by the military defeat im-

[2] In order to prevent an aggravation of the situation, the Security Council may, before making recommendations or deciding upon the measures provided for in Article 39, *call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable*. ***(Article 40, UN Charter)***
[3] *Demands* that Iraq withdraw immediately and unconditionally all its forces to the position in which they were located on 1 August 1990;
[4] The United Nations Special Commission was established by resolution 687 on April 3, 1991. The resolution's specifies the elimination of Iraq's weapons of mass destruction and to supervise the elimination of biological, chemical, and missile weapons and facilities and to cooperate with the IAEA during the process(Zilinkas A. R., 1995).

posed on Iraq by US lead coalition, the Security Council assumed Iraq compliance with Resolution 706 but this idea halted for about 4 year due to Saddam refusal to accept internal interference. The Security Council made another attempt with Resolution 712 but faced once again Saddam uphold the principle of noninterference. This long process of offers and refusals should not be diminished because they created the "know-how" necessary to understand Saddam behaviour and how to establish the Oil-for-Food Programme (Zedalis, 2007).
On 14 April 1995 Security Council adopted Resolution 986, which created the framework for the Oil-for-Food Programme by allowing producing a sum not exceeding a total of 1 billion[5] US dollars every 180 days (the revenue was held on an escrow account) for the purpose to meet humanitarian needs of the Iraqi people(S/RES/986, 1995).Once more, Saddam initially rejected the terms of the resolution; compelling the UN to sign a memorandum of understanding on the conditions of the Program on 20 May 1996[6] and after several months of negotiations on details, the first oil was exported in December 1996, while the first shipment of supplies arrived in March 1997 (Katzman, 2003).
Over the life of the Oil-for-Food Programme ***(check Table 2)***, the Security Council expanded its initial emphasis on food and medicines to include infrastructure rehabilitation ***(check Table 5.1 & 5.2)*** which justified in a way the removal of the limitations on oil purchases (United Nations, 2019).
The temp that the United Nations eased the purchase volume raised ethical problems in the endeavor of pursuing international peace. There was a proactive role to widen the sectors of intervention to justify the volume of oil purchased, while Iraq lacks the technical capabilities to keep up with the growing demand. Where can we draw the line between exploitation and humanitarian aid?

Volcker Commission

Security Council Resolution 1483, adopted on 22 May 2003 lifted trade sanctions against Iraq (except arms embargo) and terminated Oil-for-Food Programme. One may consider it a success story of the United Nations:
"In nearly seven years of operation, the Oil-for-Food Programme has been required to meet an almost impossible series of challenges, using some 46 billion dollars of Iraqi export earnings on behalf of the Iraqi people. During these seven years, the Programme delivered food rations sufficient to feed all 27 million Iraqi residents. As a result, the malnutrition rate among Iraqi children was reduced by 50%" (Annan, 2003).

On 25 January 2004, a local Iraq newspaper al Mada published a list of people and business that were accused of illegally profited oil sale contracts within the Oil-for-Food Programme (Wikipedia, 2007). The fact that al Mada had 15000 official documentsat disposal to support the claim for me has special importance. If we pay attention to the time of events the Programme was officially terminated on 21 November

[5] *Check Table 1* - The ceiling on the total of oil sales was raised during the different phases of the Programme and finally lifted in 1999.
[6] Memorandum of understanding (MoU) between the Secretariat of the United Nations and the Government of Iraq on the implementation of Security Council Resolution 986 (1995). The purpose of the MoU arrange the effective implementation of Resolution 986 and to protect the sovereignty or territorial integrity of Iraq. (Boutros-Ghali, 1996).

2003 while the list was brought to light on 25 January 2004. In my perspective,is an immature move from Saddam's regime, probably an attempt to "punish" the UN when the lucrative Programme ended for him.
The news echoed strongly into the international community and in April 2004 UN-SC decided to establish the Independent Inquiry Commission to investigate allegations of corruption into the Oil-for-Food Programme. The commission was composed by Paul A. Volcker (Chairman), Richard J. Goldstone (Member) and Mark Pieth (Member). On October 27, 2005, the Commission released its final report titled "Manipulation of the Oil-for-Food Programme by the Iraqi Regime". Overall the inquiry stated that the Programme was successful to feed the Iraqi people and prevented Saddam from building an arsenal of mass destruction weapons. Although some form of negligence and corrupt practices from the UN permitted Saddam's regime to profit underground payments.

Liability of non-state actors

250 non-state actors (businesses) purchased oil from the Programme with a total sum of $64 billion *(Check Table 4)*. Non-state actors can be defined as legal entities which are formally created and operate within the sovereignty of a state. Depending on what type of theory we operate we givea different meaning to their role in the international arena. The nature of legal entities challenges formal reasoning when we talk about accountability. Why? I believe that a fragmentary legal world creates loopholes starting with the identity of the members which form the non-state actor and ends with protecting these members from personal liability.
Volcker Commission in their inquiry applied the standard norm that each legal person is linked to a specific state. From this perspective, it resulted that Russia and France dominated the oil purchasers but interestingly after phase V we see an increase in "offshore" countries heavily purchasing oil, like Panama and Cyprus *(check Table 3).* I believe that if the commission investigated a bit further would conclude in a different scenario for the country of origin or the shareholders' country origin. In these scenarios, it would serve better to justice to rigorously "follow the money" in our case the oil. The situation is highly complex and it is difficult to serve a proper solution due to emerging hidden spots.
*Can we "punish" a state for the actions of an independent non-state actor? Can we "punish" an international organization for the actions of a sovereign state? If somehow we say yes, what type of punishment can be imposed upon a state, criminal or administrative?*One big question emerges, can we solve these extraordinary problems with the common notion of justice? Clearly not, every type of solution is partially given and not fully adequate. One is probably the final solution but two are the ways to achieve it.
Either the world,on a revolutionary act,merges in one state to create a unified legal system which createsa megastructure that ensures equal rights and freedom for all, or the world notion of justice globallyand gradually changes and mergesto the point of unification. In both situations, sovereignty withers away and most probably the notion of the state as we know it today could change.
I believe that the evolution path is less resistant and more effective to achieve the goals. Maybe Marx is right when forecasts the inevitability of change. By filling the missing gaps change is ongoing. The Volcker report, although soft in language, ac-

knowledged some of these loopholes. Despitethe damage, the United Nations reforms received a boost.
In September 2005, the UN summit addressed several reforms to ensure better ethical conduct and strengthen accountability. A new policy for "whistleblower" was enacted to create the necessary space to denounce wrong doing (ST/SGB/2005/22, 2005).
Although the reforms are needed they don't grasp the core problem.The liability and extraterritoriality of non-state actors are still unchecked and relies upon state initiatives.We need to clarify when a non-state actor operates outside the state is he representing the state interests or his own. What about off-shore non-state actors whose interest they present?Relating to our case, outlawing "shell companies" and change the framework for non-state actor's liability.

United Nation fight against Corruption

What is corruption? Corruption is a complex social phenomenon and it can be defined as "the abuse of entrusted power for private gain" (Transparency International, 2019).
United Nation established the Ad Hoc Committee for the Negotiation of a Convention against corruption with Resolution A/RES/55/61 on 4 December 2002, they believed that by avoiding the problem of defining corruption as a list of specific acts they could produce wider (future proactive) counter-effective measures. This approach is a bit counterproductive because if you don't know what it is how can you propose a meaningful solution.
Despite everything, this was a huge leap toward world progress which concluded with the United Nations Convention against Corruption (UNCAC) on 31 October 2003 which was adopted by Resolution 58/4. The UNCAC was open for signature from 9 December 2003 and entered to force on 14 December 2005 when 30 states ratified the convention[7]. Interestingly this first process took around 2 years. If we overlap the interim and final reports of Volcker's Commission we see that France ratified the convention on 11 Jul 2005 while Australia on 7 December 2005, both subjects of the inquiry while Russia ratified the convention on 9 May 2006.
It creates the impression that corruption was at the time the keyword of the international community but why these emphasize happened after the cold war. One reason might be that during the Cold War such operation like the Oil-for-Food Programme was imaginable nor to think about the consequences of possible manipulation. On the other side, we could state that the international system needs always an antagonist to fuel its existence. In retrospective today we can see the shift from the Cold War toward corruption and from corruption toward terrorism.
The resultants of the Oil-for-Food Programme inquiry exposed widely the illicit acts of many states in Iraq. We can play with words and call it as that the Programme was manipulated by Saddam's regime but this doesn't hide the fact of what happened.
United Nations during the years has developed many useful practices and docu-

[7.] 14 December 2005, in accordance with article 68 (1) which reads as follows: "1.This Convention shall *enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification*, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization."

ments to fight corruption like the Guide for Anti-Corruption Policies, UN Anti-Corruption Toolkit and UN handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators etc.
Although the ratification process is only the first step to show commitment still today 12 states have failed to adopt the convention.

Conclusions

Most probably Oil-for-Food Programme is not going to be implemented again in similar events. Although it was depicted as a success story at the time I believe that it failed in essence since humanitarian aid was used as a tool to coerce Saddam regime rather than to promote international peace. The corruption that happened remained mostly unpunished because it relied exclusively on state sovereignty to decide if to open an official investigation or not.
The effects of the Programme helped to boost reforms inside the UN to change the notion of accountability and to create policies to denounce corrupt practices. International pressure pushed states to adopt the Convention against Corruption in an attempt to unify national practices to fight corruptions. The emergence of non-state actors challenged the Cold War system as helpers to push further human rights agendas but in the Oil-for-Food scenario, it proved quite the opposite. Failing to regulate this new relationship among non-state actors imposes a danger to international peace.

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Appendix

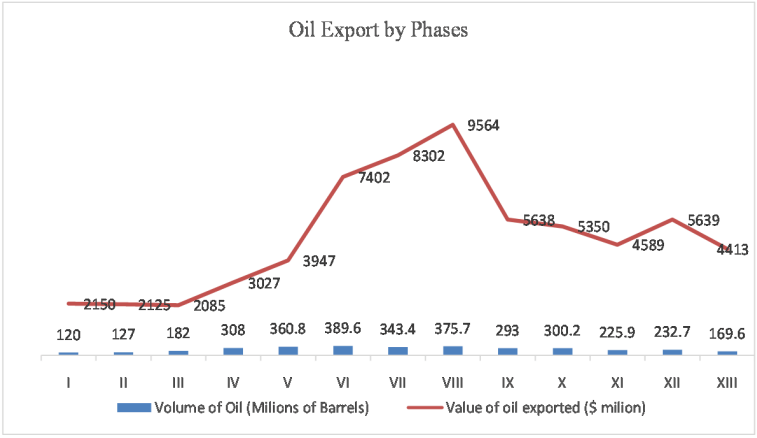


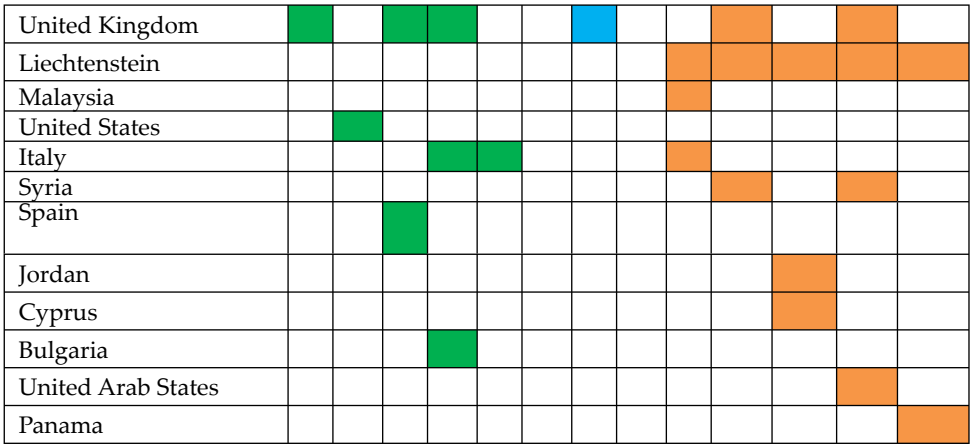
Table 1 - Oil Export by Phases

Table 2 - Phases of the Oil-for-Food Programme(United Nations, 2019)

Phase	From	To	Security Council Resolution	Adopted
I	10 December 1996	7 June 1997	Resolution 986 (1995)	14 April 1995
II	8 June 1997	4 December 1997	Resolution 1111 (1997)	4 June 1997
III	5 December 1997	29 May 1998	Resolution 1143 (1997)	4 December 1997
IV	30 May 1998	25 November 1998	Resolution 1153 (1998)	20 February 1998
V	26 November 1998	24 May 1999	Resolution 1210 (1998)	24 November 1998
- VI	25 May 1999	20 November 1999	Resolution 1242 (1999)	21 May 1999
	Extendsphase VI until 4 December 1999		Resolution 1275 (1999)	19 November 1999
	Extendsphase VI until 11 December 1999		Resolution 1280 (1999)	3 December 1999
VII	12 December 1999	8 June 2000	Resolution 1281 (1999)	10 December 1999
VIII	9 June 2000	5 December 2000	Resolution 1302 (2000)	8 June 2000
IX	6 December 2000	3 June 2001	Resolution 1330 (2000)	5 December 2000
	Extendsphase IX until 3 July 2001		Resolution 1352 (2001)	1 June 2001
X	4 July 2001	30 November 2001	Resolution 1360 (2001)	3 July 2001
XI	1 December 2001	29 May 2002	Resolution 1382 (2001)	29 November 2001
XII	30 May 2002	25 November 2002	Resolution 1409 (2002)	14 May 2002
	Extendsphase XII until 4 December 2002		Resolution 1443 (2002)	25 November 2002
XIII	5 December 2002	3 June 2003	Resolution 1447 (2002)	4 December 2002

Table 3 - Top Five Country Oil Purchasers by Programme Phase

State Oil Buyer	**Phases of the Programme**												
	1	2	3	4	5	6	7	8	9	10	11	12	13
Russia													
Turkey													
France													
P.R of China													
Aruba													
Switzerland													



Note*
Phases I to V (***before the officialintroductionof the regime'skickbackpolicies);***
Phases VI to VII (***with the introductionofillicitinlandtransportationfees);***
Phases VIII to XIII (***with the broadeningof the kickbackscheme)***

Table 4 - Top 20 Country Oil Purchasers of the Programme

No.	Oil Buyer Country of Registration	Total % of Revenue	Number of Businesses
1.	Russia	**30.5%**	35
2.	France	**6.84%**	8
3.	Switzerland	**5.32%**	18
4.	United kingdom	**5.28%**	7
5.	Turkey	**5.22%**	6
6.	Italy	**4.24%**	11
7.	People Republic of China	**4.10%**	7
8.	Liechtenstein	**3.85%**	2
9.	Spain	**2.55%**	8
10.	Malaysia	**2.38%**	5
11.	Vietnam	**2.19%**	6
12.	United Arab Emirates	**2.13%**	12
13.	Syria	**1.76%**	6
14.	Algeria	**1.73%**	2
15.	Cyprus	**1.64%**	10
16.	India	**1.36%**	2
17.	Morocco	**1.16%**	2
18.	Jordan	**1.15%**	6
19.	Aruba	**1.11%**	1
20.	Panama	**1.06%**	3
21.	45 Other States	**14.43%**	93

65 States	100% = $ 64,178,326	250

Table 5.1 - Iraqi Purchases by Top Ten Submitting Missions by Phases

Country	Phases I – V	Phases VI-VII	Phases VIII – XIII	Total
Russia	$968	$736	$2,128	$3,833
Egypt	$439	$648	$1,962	$3,049
France	$1,218	$972	$772	$2,961
Jordan	$522	$582	$1,467	$2,571
Australia	$597	$298	$1,430	$2,325
United Arab Emirates	$124	$451	$1,624	$2,200
Vietnam	$372	$387	$1,185	$1,945
P.R. Of China	$473	$608	$632	$1,713
Turkey	$295	$387	$1,006	$1,688
Syria	$139	$146	$1,228	$1,512
Other	$2,339	$2,942	$5,382	$10,663

Note*
Phases I to V *(before the official introduction of the regime's kickback policies);*
Phases VI to VII (*with the introduction of illicit inland transportation fees);*
Phases VIII to XIII (*with the broadening of the kickback scheme)*

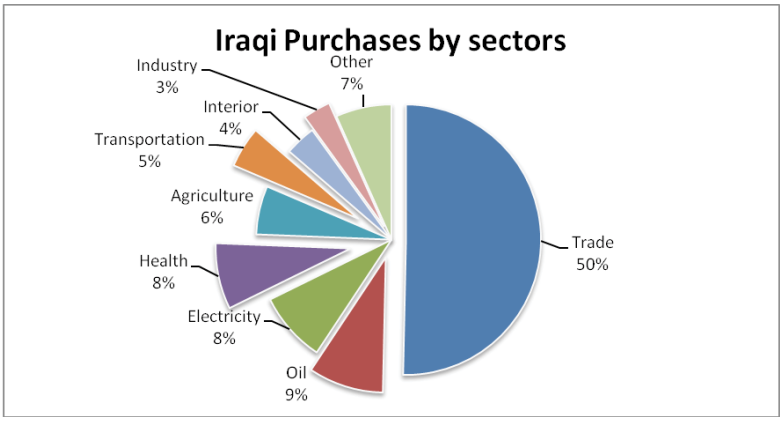


Table 5.2 - Iraqi Purchases by sectors

Trade	Oil	Electricity	Health	Agriculture	Transporta-tion	Inte-rior	Indus-try	Oth-er	Total
$17.4	$3.1	$2.9	$2.7	$2.0	$1.7	$1.3	$1.1	$2.3	34.5 Billion

The right to life according to European Convention on Human Rights and the Case of Albania

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Abstract

The right to life is a substantive right enshrined in all international and national law, as an inalienable, interrelated and indivisible right of the individual. It is a fundamental right that encompasses a wide range of issues. The right to life enjoys special protection by international, European, regional and national instruments. International instruments related to the right to life, pay more attention not only to the existence of life but also to the quality of life, especially societies with a functioning democratic political system and where the rule of law operates. The right to life is a necessity for the normal functioning of a civilized society.
The basis for the protection of the right to life can be found in Article 2 of the ECHR and in its Additional Protocols ratified by Albania. The Constitution as well as all laws and bylaws are drafted in the spirit of the European Convention on Human Rights and in the maximum protection of the right to life.
This paper undertakes to succinctly address the right to life and its constituent elements provided by the international and national framework in this field.
Particular attention has been paid to abortion and the way it is treated in various member states, in the spirit of the Convention. Different countries treat this issue in different ways. The case law of the ECHR itself has deemed it reasonable for such a case to be in the competence of the states themselves.
Euthanasia raises a number of difficult questions which will be intended to be answered in this paper. We will then move on to the analysis of suicide and suicide assistance and finally address the death penalty and the condition that has been set for the abolition of the death penalty in all European Union countries.

Keywords: life, euthanasia, abortion.

Introduction

The right to life is a substantive right enshrined in all international and national law, as an inalienable, interrelated and indivisible right of the individual. It is a substantive right that encompasses a wide range of issues. The right to life enjoys special protection by international, European, regional and national instruments. International instruments related to the right to life, pay more attention not only to the existence of life but also to the quality of life, especially societies with a functioning democratic political system and where the rule of law operates. The right to life is a necessity for the normal functioning of a civilized society.
The right to life is enshrined in Article 2 of the European Convention on Human Rights (ECHR), which states as follows:

1. *Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law;*
2. *Deprivation of life shall not be regarded as inflicted in contravention of this article when*

it results from the use of force which is no more than absolutely necessary;

a. *in defense of any person from unlawful violence;*
b. *in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;*
c. *in action lawfully taken for the purpose of quelling a riot or insurrection*.[1]

The right to life is a right of every human being which represents a sine qua non condition to guarantee all other rights proclaimed by the Convention. This is why the ECHR considers it one of the fundamental values of the democratic societies that make up the Council of Europe.

The right to life is listed first because it is the most basic human right of all. If one could be arbitrarily deprived of one's right to life, all other rights would become illusory. The fundamental nature of the right is also clear from the fact that it is "non-derogable": it may not be denied even in "time of war or other public emergency threatening the life of the nation"[2]

Article 2 ranks as one of the most fundamental provisions in the Convention – indeed one which, in peacetime, admits of no derogation under Article 15. Together with Article 3 of the Convention[3]it also enshrines one of the basic values of the democratic societies making up the Council of Europe.[4] Because of this, the Court said, "its provisions must be strictly construed."[5]

The Convention does not otherwise clarify what "life" is, or when it – and there with the protection of Article 2 of the Convention – begins or ends, this indeed, in the absence of a European (or worldwide) legal or scientific consensus on the matter. Rather than imposing a uniform standard, it has been assessed and it is assessed that matters relating to the beginning of life should be addressedindividually,on a case-by-case basis,while leaving considerable freedom to States to regulate the matters in question themselves, as long as they approach them in an appropriate way, in particular by giving appropriate weight to the various interests at stake,and by carefully balancing the alleged interest with the deprivation of the substantial right guaranteed.

Article 2 protects "everyone's" right to "life". "Life" here means human life: neither the right to life of animals, nor the right to existence of "legal persons" is covered by the concept. Animals are not "persons" and hence not included in the concept of "everyone".[6]

Article 21 of the Constitution of Albania stipulates"*The life of a person is protected by law*".[7]This wording clearly and directly expresses the protection of human life, which constitutes a constitutional value. The basic principles of life protection find full support in these provisions.Life is a right, a fundamental attribute of the human being, and when this life is taken away, or taken in any way, man is at the same time

[1] https://observator.org.al/ëp-content/uploads/2015/09/Konventa_Europiane_per_te_Drejtat_e_Njeriut.pdf.

[2] "The right to life", A guide to the implementation of Article 2 of the European Convention on Human Rights", Douwe Korff, Human rights handbooks, No. 8, pg 7.

[3] (The prohibition of torture).

[4] Judgment in Case of McCann and Others v. The United Kingdom, Court (Grand Chamber), 5 September 1995, paragraph 147, with reference to Soering v. The United Kingdom, judgment of 7 July 1989, paragraph 88..

[5] Judgment of Grand Chamberin the case of McCann, paragraph 147.

[6] "The right to life", A guide to the implementation of Article 2 of the European Convention on Human Rights", Douwe Korff, Human rights handbooks, No. 8, pg 9.

[7] http://www.pp.gov.al/web/kushtetuta_2016_1082.pdf.

eliminated as the bearer of rights and obligations.
The protection of human life at any time and in all circumstances is not the same, as it is influenced by a number of different factors, for which the legislator can be the one who through the law that drafts and approves, must also provide the details that can guarantee this human life. Exceptions can only be made through the law[8], when as a result of the protection of a more important constitutional right or simply another right that prevails at that time, according to the circumstances of the moment, it is required to take someone's life. The law is that in special cases and in the sense of Article 2, point 2 of the European Convention on Human Rights, to allow the taking of human life. Specifically, these cases have been governed by the general provisions of the Criminal Code that provide for the legal institute of necessary protection[9], or in other laws, which entitle the Armed Forces, Police Forces, civilian armed guards that a person may be deprived of his life and that such death be inflicted on him, even by the state, through it authorities. However, this has nothing to do with and cannot be equated with the death penalty, as a type of sentence previously imposed by the court, but is related to those exceptional cases, explicitly mentioned above.
Our legislation is built on these concepts and, in fact, this is the constitutional and legal meaning, on which the protection of human life is realized. The legislation really, in this aspect, responds to the conditions of a modern, emancipated society and with a very difficult obstacle in the perfection and consolidation of this society.[10]

1. Abortion and the right to life

ECHRin cases relating to abortion have invoked not just Article 2, but also Article 8, which protects "*private and family life*", Article 6, which guarantees, among other matters, "*access to court*"in the determination of a person's civil rights and obligations and, as concerns the dissemination of information on abortion, Article 10, concerning freedom of expression.
Abortion means the premature termination and destruction of the fetus of pregnancy, which is not yet able to live outside the mother's body during the first 28 weeks.[11]This can happen in one of two ways:
A. naturally when the baby cannot stay in the mother's womb for a full nine months or may be born healthy but premature, or dead;
B. by medical intervention.
Sometimes this is a necessary step to protect the mother or the life of the baby, but it can also be done simply to end the unwanted pregnancy.
This medical notion should not be confused with the legal notion of abortion, which in this sense means "i*ntentional induced termination of the physiological process of*

[8.] Exceptions in the Albanian legislation, the law on the use of weapons no. 8290 dated 24.02.1998, Article 19 of the Criminal Code, on self-defense, which excludes from prosecution one who commits a criminal offense (also murder, see the case of the double murder committed by Flamur Ymeri of two people inside his apartment according to him and the result of the investigation of the Tirana prosecutor's office s) being obliged to protect the life, health, rights and interests of himself or another, from an unjust, real and instantaneous attack, provided that the character of the defense is in proportion to the dangerousness of the attack, etc.
[9.] See Article 19 of the Albanian Criminal Code "Self-defense. No one shall be held criminally liable having committed the criminal offence while being obliged to defend his own or another's life, health, rights and interests against an unfair, real and imminent attack, provided that the defense is proportionate to the danger posed by the attack. The obvious disproportion between them amounts to exceeding the limits of self-defense.
[10.] "The right to life as a constitutional right seen from the point of view of Article 2 of the ECHR with a focus on procedural protection "Gerhard Ismaili, Dissertation, p. 13 Tirana May 2016. EUT.
[11.] Nosi, 1953;33.

pregnancy resulting in fetal death", i.e. voluntary and legal termination of pregnancy by specialized state and private institutions, within the deadlines set by law.
There have even been fierce discussions between different systems and values, whether legal or cultural, on the issue of abortion. Debates about determining when life begins and which life should prevail, that of the mother or the fetus in cases of health problems. Should it be allowed to give birth to a baby who after birth will have irreparablehealth problems, whether mental or physical, when such a fact is ascertained by doctors in the first months of pregnancy, and who should decide to end the life, the child's parents or the competent state authorities? Is this a right of the mother, within the freedom of private life, or duty and responsibility of the state within the positive obligation to protect the life of every human being?
Different countries treat this problem in different ways. The case law of the ECHR itself has deemed it reasonable for such a matter to be in the competence of the states themselves, it is up to them to resolve this dilemma as there is still no European consensus on the scientific and legal definition of the moment of beginning of life. However, it is important to note that the ECHR, to which many states are parties, in Article 2 does not mention abortion, and moreover does not list it together with those three conditions for derogation from this article, according to which the life of the person may be endangered.
At first glance, three possibilities emerge: either Article 2 does not fully protect the unborn fetus; or recognizes the right of the fetus to live with certain implicit limitations; or guarantees an absolute right of the fetus to live.
In the case H. v. Norway, the Commission went somewhat further in the direction of the latter, by not excluding that in certain circumstances the fetus may enjoy a certain protection under Article 2. The Commission based its conclusion also referring to the divergence specifically on the jurisprudence of the Constitutional Courts of Austria, Germany and Norway on the matter[12].
The Austrian Constitutional Court ruled in 1974 that Article 2 ofthe Convention, did not cover unborn life, while the German Constitutional Court held in 1975 that the word "everyone" in the phrase "everyone has a right to life" in the corresponding provision in the German Basic Law, referred to "every living human being" – and that the right thus did extend to (living) unborn human beings.[13]
Finally, the Norwegian Supreme Court pragmatically paraphrased: "…abortion laws must necessarily be based on a compromise between the respect for the unborn life and other essential and worthy considerations. This compromise has led the legislator to permit self-determined abortion under the circumstances defined by the 1978 Norwegian Act on Termination of Pregnancy …"
In different European countries, abortion is generally allowed within a period of 12 weeks from the beginning of pregnancy; however, this period varies according to the respective countries. France, as a country where there has been a constant struggle of women for their rights, has had a progressive trend in terms of abortion. In 1975, a law was issued which allowed abortion until the tenth week of pregnancy, a law which was in force for 26 years. Then in 2001, the time to have an abortion is extended for another two weeks, so that even if the fetus is deformed or the mother's life is in danger, any type of abortion performed after the first 12 weeks will be

[12] H v. Norway, No. 17004/90, May 1992.
[13] H. v. Norway, Claim no. 17004/90, Decision on Admissibility of 19 May 1992.

considered illegal and will have appropriate sanctions. In Switzerland, on the other hand, abortion is a criminal offense under the Swiss Criminal Code.[14]

Article 21 of the Constitution of the Republic of Albania stipulates that "*the life of a person is protected by law*". The Republic of Albania has ratified the European Convention on Human Rights[15]and the International Covenant on Civil and Political Rights[16] and Article 116 of the Constitution of the Republic of Albania[17]it is determined that the international acts ratified by law have legal force in the entire territory of the Republic of Albania.Consequently, the protection of the right to life is also based on the protection provided by international acts. The right to life in Albania has enjoyed protection since its inception. Life was considered sacred and abortion was a punishable act by the public and by the legal acts in force during this period.

The People's Assembly approved on December 7, 1995 the Law no. 8045, "*On termination of pregnancy*". Although its Article 1 provides that the Law guarantee the observance of every human being from the beginning of life, there are exceptions that this principle can be violated when necessary and under the conditions set out in this law.The law "On termination of pregnancy" guarantees the respect of every human being from the beginning of their life, i.e. from the stage of their conception. Termination of pregnancy is allowed only for health reasons (mother and child) and for psychosocial reasons in the case of an extramarital pregnancy of minors up to 16 years where the termination of pregnancy is done with the approval of the parent or legal guardian. Except in cases of termination of pregnancy for health reasons, voluntary termination is also allowed at the request of the mother.

Our criminal code, in its section V which deals with criminal offenses that endanger life and health from abortion or failure to provide assistance, provides for fines or imprisonment of up to five years in cases of abortion without the consent of the woman[18]excluding justified cases of protection of women's health, this offense is punishable by a fine or imprisonment of up to five years. In continuation of this section, Articles 94 and 95 provide for sanctions for illegal abortion, considering it a criminal offense and the measure is aggravated when the cause of abortion is endangered or caused the death of the mother.[19]Providing means for termination of pregnancy is considered a criminal offense in Article 95[20] .

From the interpretation of the above provisions of the Albanian Criminal Code, it is clear that abortion in our country is not prohibited, but limited. This is also in connection with the constitutional provision of Article 21 of the Constitution of the Republic of Albania where the right to life is sanctioned.

[14.] Article 118-121 of the Swiss Criminal Code, StGB, Abtreibung.

[15.] Article 2 of the European Convention on Human Rights.

[16.] See Article 6 of the International Covenant on Civil and Political Rights.

[17.] See Article 116 paragraph 1 of the Constitution of the Republic of Albania where it is determined that "Normative acts that are effective in the entire territory of the Republic of Albania are": a) the Constitution; b) ratified international agreements; c) the Laws; ç) normative acts of the Council of Ministers.

[18.] See Article 93 of the Criminal Code of the Republic of Albania "Termination of pregnancy of a woman without the consent of the woman".

[19.] See Article 94 of the Criminal Code of the Republic of Albania where it is determined that "Interruption of pregnancy which is not conducted in public hospitals or specifically licensed private clinics, or by a person who is not doctor, or after the time allowed for the interruption except in the case when this is imposed because of a justified health-related cause, constitutes criminal contravention and shall be punished to a fine or up to two years imprisonment. If the offence has caused danger to the life or resulted to death, it shall be punished to a fine or to up to five years imprisonment".

[20.] See Article 95 of the Criminal Code of the Republic of Albania.

Law no. 8045, dated 7.12.1995 "On termination of pregnancy" for the first time legitimized the abortion process but with the restriction to be performed only by a specialist obstetrician-gynecologist in health institutions, which could be state or private, but according to the Guidance of the Minister of Health and Environmental Protection[21]

Regarding the deadlines within which abortion is allowed; the law stipulates that "Termination of pregnancy for medical reasons can be done until the 22nd week of pregnancy, if a commission consisting of 3 doctors, after examination and consultation, deems that the continuation of pregnancy and / or childbirth endangers the life or health of the woman[22]. In cases where the woman assesses that the pregnancy is causing her psychosocial problems, voluntary termination can be performed within the 12th week of pregnancy. Provisions of the Criminal Code should be subject to revisions based on the social changes that society has undergone.

1.1 Beginning of life and the health of the pregnant woman

The ECHR does not predict the beginning of life. Does it start at the moment of conception or with the birth of the fetus? This allows member states to decide in their jurisdiction the specification of such a moment. It can be said that in Europe we have a strong and almost absolute protection of the right to life of unborn babies, i.e. the prohibition of abortion, as in Malta, Poland or Ireland,[23] which is a state known for its pro-life policies and one of the states that has submitted a number of measures to the ECHR on abortions, where it makes a detailed prediction of the rights of human fetus. The rights of these beings pass or are divided into three stages:

A. the rights of a fetus (fetal rights) (first day of pregnancy up to the 60th da)
B. the rights of a human life (day 60 to day 100 of pregnancy)
C. the rights of an unborn child (from the 100th day until his birth)[24]

In the third stage, in which the "form of life" is already considered a child, i.e. in the third month of pregnancy, the still unborn child (fetus) is considered a human being and is protected by this code, with full rights with any other human being. The law practically does not allow abortion under any circumstances. Treatment of the mother on the other hand is permissible when her life is in danger and if the death of the still unborn child is predictable but with unintended and unavoidable consequences, but such tolerance does not mean an authorization for abortion as it does not allow an attack on the right to life of the unborn child and gives the same equal protection to the life of both mother and child.

Any action that directly contributes to the death of the child, even for the negligence of the doctor, constitutes a criminal offense and brings the same consequences as if the child were alive.

In the context of the issue of abortion, the Federal Republic of Germany presents an interesting case study where life in the mother's womb is protected by the Constitution as an independent legal interest and the duty of the state for protection not only prohibits direct interference by the state in the life that is developing in the womb, but requires it to act as a protector and supporter.[25]In principle, the protection

[21] See Article 3 paragraph 1 of Law no. 8045, dated 7.12.1995 "On termination of pregnancy".
[22] See Article 9 paragraph 1.
[23] A, B, C vs Ireland, Decision nr 25575/5, September 2009.
[24] Article 60/2 of the Irish Civil Code.
[25] In a decision of the German Constitutional Court dated 25 February 1975, The Fifth Statute to

of the child in the womb is a priority for the whole period of pregnancy over the right of self-determination of the pregnant woman and should not be questioned for a certain period of time.A continuation of the pregnancy is unacceptable only when termination is necessary to avoid any risk to the life of the mother of the child or a risk of a very serious injury to her health condition.
The obligation of the state to protect every human life, the life that develops in the mother's womb but also that of the mother herself, making the embryo that is considered as an independent being, is under the jurisdiction of the constitution and not in the power of the mother herself. Making such a definition to the embryo, the termination of pregnancy in this case is not part of the organization of private life, or the right to privacy of the mother herself, in which the legislator himself is forbidden to intervene, but is under protection of the state like any other human life.

2. Euthanasia

The word euthanasia comes from the Greek "eu" which means good, and "thanatos", which means death; hence, it is literally translated as good death. According to Medical Ethics, the precise definition of euthanasia is "a deliberate intervention undertaken with the express intention of ending a life, to relieve intractable suffering". However, those who support euthanasia define it as a good and merciful death, and those who oppose it say that it is a fancy word used instead of the word death.
Euthanasia raises several difficult and overlapping sets of questions.
First of all: when does life – and therefore the right to protection of life by law – end?
Secondly: is it acceptable to provide palliative care to a terminally ill or dying person, even if the treatment may, as a side-effect, contribute to the shortening of the patient's life? And should the patient be consulted on this?
Third, may, or must, the State "protect" the right to life even of a person who does not want to live any longer, against that person's own wishes? Or do people have, under the Convention, not just a right to life, and to live – but also a right to die as and when they choose: to commit suicide?
And fourth: can the State allow the ending of life in order to end suffering, even if the person concerned cannot express his or her wishes in this respect?[26]
Euthanasia bears a resemblance to suicide. The main difference lies in the fact that the person who seeks ◎his euthanasia" is at that moment physically incapable of ending his own life and thus requires the participation of another person to finalize the act. A prerequisite, therefore, but also a conceptual element of euthanasia is the desire or even simply the consent of the person to end his life.For consent to be

Reform the Penal Law of June 18, 1974 was declared incompatible with Article 2 paragraph 2 of the Constitution, as it did not respond to the required extent to the constitutional obligation to protect life that is being created, a decision which was completely contrary to a decision of the US Supreme Court on the same issue (Selected decisions of the German Constitutional Court, p. 128). "…pursuant to Article 1 of the Basic Law, the decision should be inclined in favor of giving priority to the protection of the life of the child in the womb, to the right of self-determination of the pregnant woman. This can be affected by pregnancy, childbirth and the growth of the child in many possibilities of personality unfolding, while the unborn life is destroyed by termination of pregnancy. Therefore, according to the principle of as careful balance as possible, priority should be given to the protection of the unborn baby's life.This advantage applies in principle throughout the pregnancy and should not be questioned for a certain period of time. …"

[26] https://rm.coe.int/handbook-8/16806fc13.

valid, the person seeking euthanasia must have peace of mind and enjoy mental health in order to express his true will.[27]In cases where it is difficult or impossible to give the patient consent, it is possible that the decision for euthanasia is based on the presumed will, that is, what the individual would ask for if he or she were able to do so.This theory still remains controversial[28]. The second conceptual element of euthanasia is identified in the existence / presence of a second person.Death in euthanasia is caused by a third party, which should aim to physically eliminate the patient. Another condition for creating the conditions that would confront us with an act of euthanasia, is the health condition of the patient, which in turn would leave no doubt about the safe death of the latter causing inevitable suffering and pain.In these cases it is presumed that in the process of pain, although it remains to be discussed, as in many cases, it cannot be scientifically concluded that the patient feels pain[29]. Finally, the process of ending a patient's life must be methodologically studied, treating each case as unique, in order to ensure a rapid death, eliminating within the limits of possibility the possible pain and suffering, and absolutely respecting and not violating the dignity of the patient.

Euthanasia comes in several different forms, each of which brings a different set of rights and wrongs. A division is made according to the manner of ending the life of the person.

Active euthanasia, is whena person directly and deliberately causes the seriously ill patient's death.Active euthanasia is when death is brought about by an *act* - for example when a person is killed by being given an overdose of pain-killers.

On the other hand, ***passive euthanasia,***is whenthe patient's life is not taken directly, but when the latter is simply left to die. An example of passive euthanasia is the omission of medication necessary to prolong a patient's life. This difference is morally unsatisfactory, because in the case of passive euthanasia, a person even though he does not directly kill the patient, is aware that the result of inaction will cause the death of the patient. This can be done either as a result of turning off the medical devices that keep the person in question alive, or by not performing the operation that can extend the life of the patient for a short time.Another division of euthanasia types depends on the patient's desire to end his life.

Voluntary euthanasia occurs at the request of the person who dies ***non-voluntary euthanasia*** occurs when the person is unconscious or otherwise unable to make a meaningful choice between living and dying, and in this case, an appropriate person (a relative of the patient) takes the decision on their behalf. Non-voluntary euthanasia also includes cases where the person is a child who is mentally and emotionally able to take the decision, but is not regarded in law as old enough to take such a decision, so someone else must take it on their behalf in the eyes of the law, mainly parents, who also have custody of the child.

The Netherlands became the first European country to legalize euthanasia in 2001, but only in specific cases and circumstances. Leeuwarden Court ruled that:*the physicianshould not bear criminal responsibility when the material and procedural requirements for performing euthanasia are met*.The Supreme Court rendered the most important decision on this issue in 1984 when it accepted termination of life, only when certain specific criteria are met:

27. Casonato, C., 2009: 14.
28. Pakes, F, 2005:119.
29. Giunta, F., 1997: 42.

A. A specific and voluntary request from the patient;
B. An unbearable pain and a hopeless situation with no prospects for improvement;
C. There should be no other more reasonable alternatives to relieve the pain;
D. Euthanasia should be performed under the administration of a physician and the doctor himself should have previously consulted with another competent and independent physician. [30]

This decision paved the way for the law on allowing euthanasia passed by the Dutch parliament in 2001, with an amendment to Article 293 of the Criminal Code and defining the specific cases of allowing euthanasia. In September 2002 it would be Belgium which would follow a process similar to the Dutch one but with its specific characteristics. In this context, the opinion given by the Belgian High Administrative Court is important, which emphasizes that this law on euthanasia is not contrary to the clauses provided in the ECHR.The Court noted in particular, following an analysis of the case law of the ECHR, that the positive obligation of States to protect the right to life should be clearly balanced against the right of individuals to self-determination.This means that the obligation of the authorities to protect the life of every person must be proportionate to the right of the individual to be protected from inhuman treatment and punishment (Article 3 of the ECHR), and the right to physical and moral integrity which derives from the right to respect for private life (Article 8 ECHR).

Germany is also one of the countries that legalizes euthanasia. A decision of the Federal Court of Germany discussed active euthanasia, when the latter released a solicitor, Mr. Wolfgang Putz, who had advised the daughter of a woman in a coma, Mrs. Kullmer, to remove the feeding tubes, i.e. the tubes that artificially kept her alive. Earlier the patient had expressed that he wanted not to be kept artificially alive. She had fallen into a coma in 2002 and had remained in such a state for five years until her own daughter, advised by this lawyer, removed the tubes.In this way, this court has clarified the cases in which cases similar to the latter are involved, where incurable diseases and terrible pain, but always with the main condition of giving consent by the patient.

In the UK, euthanasia is not legal and is even punishable under the Criminal Code, although it often happens that a relative of the patient becomes seriously ill, help him die and then ask him to reduce the sentence from premeditated murder to simple murder.This reluctant attitude towards premeditated suicide reflects the fact that UK law traditionally aims to maintain social order.

The legitimacy of euthanasia is an open debate for many countries, perhaps because there is still no code or convention that has defined in detail the moment of beginning of life and the moment of its end.There is still no unification of practice but also of legislation on such an issue where consensus continues to be lacking.

3. Suicide and assisted suicide

Most religions characterize suicide as a sin, while in some countries it is characterized as a crime. The term suicide (suicid) was first used in the 13th century. It used to be called "homicide" (homicid) of oneself. Suicide is not the epitome of strength and often comes after a long period of depression. Suicide seems like a solution when the person thinks there is no solution to his problems. Suicide is banned in most societies. From a legal standpoint, committing suicide in most countries of the world is not

[30] Leenen, 2001.

considered a crime because if it were to be considered as such, its perpetrator should be punished, and a dead person cannot punished. Assisting suicide is considered a crime in many countries.

With regard to assisted suicide, the European Court of Human Rights always leaves a wider scope for the assessment of national domestic courts when dealing with this issue. The question arises whether we are before the violation of Article 2 of the ECHR in the case where analgesic treatment is given to a person in serious health condition, who is dying, and whether this treatment has the side effect of accelerating the death of the patient[31]On this issue, the Parliamentary Assembly of the Council of Europe recommends that member states should: ensure that, unless the patient chooses otherwise, a terminally ill or dying person receives appropriate pain relief care even if this treatment as a side effect may contribute to shortening the individual's life. ECHR, in the Pretty case[32], which I will refer to below, referred to Recommendation 1418 (1999). With regard to the agreement on this issue and the recognition of the individual's freedom of choice in this recommendation and in state practice, it must be acknowledged that the possibility of such an approach does not conflict with the Convention. In terms of whether euthanasia can be considered acceptable and in conformity with the Convention even in the absence of a clear expression of the will of the person concerned, and not assisting suicide, has not yet been determined by the Convention authorities. Merciful killings are considered admissible under Recommendation No. 1418 of 1999, in cases where the patient so requests, such as the removal of the apparatus that kept the patient alive as in the above case of Mr. A. The issues before the ECHR consist in the fact that a seriously ill person who is in good mental health, has the right to choose to die by committing suicide rather than to continue living, and if so, if that person can seek assistance from others to accomplish this, or whether the state has the right or obligation to intervene in its prevention. In considering these claims, the Court refers primarily to Article 2 of the ECHR and Articles 3 and 8 in such a way as to demonstrate its holistic approach to the rights protected by the Convention.[33]

3.1 The death penalty

The death penalty is a very important issue which is often discussed and evaluated separately from other issues in its social context. Efforts to abolish the death penalty are evidence of the level of civilization of the society in which we live. The issue of abolition of the death penalty is the main theme of initiatives relating to the protection of life, given the fact that this punishment is a clear violation of the right to life[34]

Article 2 of the ECHR, the second sentence in the first paragraph refers to the death penalty. It says: "*No one shall be arbitrarily deprived of his life except in the case of a death sentence imposed by a court of law when the offense is punishable by law under the laws of the State party to it"* (thus almost all States Parties to the Convention), this provision has been replaced by the provisions in Protocols 6 and 13 of the Convention, which abolish the death penalty in peacetime and in all circumstances respectively.

The legal position regarding the death penalty has undergone an evolution since the Soering case was decided.[35] The de facto repeal observed in that case in relation

31. Kroff. D,2011:18.
32. Broën, A., 2002:8.
33. https://uet.edu.al/images/doktoratura/Gerhard_Ismaili.pdf.
34. Daci.J,2011:247.
35. Soering vs UK.

to the twenty-two Contracting States in 1989 has taken place in a de jure repeal in forty-three out of the forty-four Contracting States and in a moratorium on the State which has not yet repealed the punishment, namely Russia. This near-complete abandonment of the death penalty in peacetime in Europe is reflected in the fact that all Contracting States have signed Protocol No. 6 and forty-one States have ratified it, meaning all but Turkey, Armenia, and Russia. This is further reflected in the policy of the Council of Europe which requires the new member states of the Council of Europe to abolish the capital punishment, as a condition for admission to the organization.

As a result of these developments, the territories covered by the member states of the Council of Europe have become an entire area where no capital punishment is given. Such a visible development can now be considered to have been marked by the signing of the agreement of the Contracting States to abrogate, or at least modify, the second sentence of Article 2/1, especially when attention is paid to the fact that all States have already signed Protocol No. 6 and that this protocol has been ratified by forty-one states. The question may arise as to whether it is necessary to await ratification of Protocol No. 6 by the three States which have not done so, before concluding that the exception relating to the death penalty in Article 2 has been modified substantially. Against this solid background it can be said that capital punishment in peacetime is considered an unacceptable form, which is no longer allowed thanks to Article 2.[36]

Albania ratified this protocol in 2002, based on the fact that our country is a member of the Council of Europe. Protocol 13 to the ECHR consists of the abolition of the death penalty in all circumstances, including for acts committed in time of war. This act does not create additional obligations for states but is the first international act which does not allow the death penalty in any period. The above shows the importance of the adoption and almost universal ratification of Protocol No. 6 of the Convention, which abolishes the death penalty in peacetime, and of the widespread (but not yet universal) adoption and ratification of Protocol no. 13. Article 1 of Protocol no. 6, abolishes the death penalty by stipulating that ◎*The death penalty will be abolished. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*" . It is therefore necessary to guarantee these acts to ensure the life of the individual based on the fact that the death penalty is irreversible, and that in order to respect the right to life, this punishment must be abolished in domestic law. In those countries where the death penalty continues to be legal, there are major problems in regards to respecting international norms and standards, especially in limiting the death penalty only to the most serious crimes, excluding juvenile offenders from its scope, and the guarantee of a fair trial.[37]

The global abolition of the death penalty is one of the main goals of the EU policy for the protection of human rights.

Conclusions

The existence and implementation of the death penalty for many centuries shows that it does not exert a strong influence on the dynamics, structure and prevention

[36.] https://rm.coe.int/handbook-8/16806fc13d.

[37.] https://uet.edu.al/images/doktoratura/Gerhard_Ismaili.pdf.

of crime. The main motive of any society should be "better to prevent than to punish". The fight against crime is complex and there is every possibility for it to be comprehensive, especially since there are other alternative sentences such as life imprisonment. This fact should serve every state in order to abolish the death penalty as a cause which violates the essence of the right to life.

In this respect the use of the term "absolutely necessary" in Article 2 indicates that a stricter and more compelling analysisof necessity must be employed from that normally applicablewhen determining the necessity in a democratic society.

With regards to substantial obligations, the state has the negative obligation not to provoke the death of the individual intentionally and the positive obligation to take reasonable measures for the efficient and effective protection of a person's life. In the categories of positive obligations are preventive and procedural obligations. Preventive obligations include the obligation of the state to establish a legislative system and an enforcement apparatus of this system to sanction violations of the right to life, and to protect any person if there is reasonable evidence to believe that his life will be endangered.

The procedural obligation of the state intervenes after the right to life is violated, regardless of the person who provokes it and consists in the need to launch an investigation to determine the circumstances in which the violation of the right to life occurred and to identify those who committed it, as well as to hold them accountable. The investigation must be thorough, immediate and in-depth, and the effective involvement of relatives must be made possible in order to protect their legitimate interests.

The Court emphasizes that the moment at which a person's life is said to have begun is a matter that falls under domestic law. Member States have room for interpretation. In determining the scope of Article 2 for persons, the Court on the right of the fetus to enjoy the right to life states that it is subject to restrictions. These restrictions are intended to guarantee the life and health of the mother. The fetus cannot be considered a person directly protected by the Convention.

The Court in the interpretation of Article 2 does not create the conviction that the right to life can be interpreted in a completely opposite sense, including the right of the individual to die through a third person or a permit from the national authorities. Article 2 can leave no room to be interpreted as the right to die and not the right to live. The right to die cannot be interpreted as a negative obligation of the state under Article 2.

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Treaties concluded by the government, their status, role and application during the communist regime in Albania

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Abstract

The process of conclusion of international agreements is a very important one, based on the Viena Convention "Onthe law of treaties" 1969, and also is a very complicated process which combines and brings an interaction between international and national law of a state. In this context, while international law provides the procedure of conclusion of treaties, the national law provides other elements like the authorities and organs with the competence to conclude treaties, natyre and categories of treaties and agereemets that can be concluded by each organ, the process of producing full powers, control of constitutionality of a tretaty, ect. According to the albanian legislation treaties can be concluded in the name of state, of the governement, local authorities and special institutions. Depending on the authority that concludes the agreement and the importance it has for the state, legislation defines the means of expressing consent to be bound by the agreement/ treaty, whether it will be ratified, approved or accepted. However, we must emphasized that the conclusion of a treaty of any nature, regardless of the body or authority that concludes it, is an issue of foundamental importance because it is related to the intertaional relations that the state builds, its position in the international arena but also to the international reponsibility in case of breach of inetrnational obligations arising from these tretaties.
This paper aims to analyze the procedure of conclusion of international agreements and treaties by the goverment and the approving phase during the period of 1944- 1990. The purpose of this material is to study and expain the authority to conclude and approve international intergovenmental agreements, their role and application during the comunist regime in Albania, from a perpective of qualitative methodology based on the research in the literature and adequate legislation related to it.

Keywords: treaty, intergovernmental agreements, retification, approval, application.

Introduction

Treaties are agreements between two or more subjects of international law, through which they create, change or terminate rights and obligations in the international arena between them. The importance of treaties in the international legal order can be seen from several perspectives. Firstly, treaties are the main source of international law in terms of the importance and advantages they present compared to other sources of law, being written and non-fluid norms. Secondly, they are the only way today through which the parties can establish and maintain international relations between them.
The law of treaties, as part of international law, was developed relatively late compared to other branches of international law. We must keep in mind that it studies how treaties are concluded procedure, means of expresing consent to be bound by a tretaty, as well as other institutes related to them, such as reservations or invalidity of treaties.

Until the Second World War, the law of treaties functioned as legal corpus of costumary law and the custom was the main source of inetrnational law. With the establishment of the United Nations, began the first attempts to codify international law in general and the International Law Commission created by the General Assambly, selected the law of treaties as the first area in need of codification (Shqarri. F, 2016).
The work of drafting "a treaty on treaties" was a very challenging mission, which after about 23 years and about 292 meetings concluded on 22 May 1969 with the drafting of the Vienna Convention "On the Law of Treaties" (Villiger. M, 2008),which regulated the procedure of concluding treaties between states and on the other hand created a flexible and balanced system of international regulation where the national interests of each party find solutions (Aust. A, 2011).

I. Approval as an international act to establish the consent to be bound by a treaty

The Vienna Convention on the Law of Treaties provides for the steps of concluding a treaty, more specifically a) the conduct of negotiations, b) the expression of consent to be bound by atreaty, c) the entry into force of the treaty. Regarding the means of expressing consent to be bound by a treaty, the Convention itself explains that they may be ratification, accession, acceptance or approval, or any act by which the parties may decide to express their consent.[1]
For the approval process, the Convention itself does not make any substantial distinction from other means, implying that it is in the willof the parties to further provide and explain the approval process, its elements and procedure.Approval, like other means of expression of consent, as defined by the Convention is an international legal act, insofar as it is a process through which the parties relate temselfs to international rights and obligations.
However, we can not deny the combination in this process between the norms of international law and the norms of domestic law, as long as it is the state itself that determines the bodies that have the competence to approve a treaty and also the procedure to be followed in such cases. Approval is a process which expresses the consent of state bodies to assume rights and obligations in the international arena through a treaty signed by their representatives authorized by fullpowers.
Approval as a mean of expressing consent to be bound by a treaty is provided with by the Convention together with acceptance and ratification. According to Article 14 of the Convention: *"1. The consent of a State to be bound by a treaty is expressed by ratification when: 6 (a) the treaty provides for such consent to be expressed by means of ratification; (b) it is otherwise established that the negotiating States were agreed that ratification should be required; (c) the representative of the State has signed the treaty subject to ratification; or (d) the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation. 2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification."* which means that the approval can be done in cases when the treaty itself requires such a thing or that the parties have agreed at the stage of negotiations, as well as in cases where in the fullpowers of state representatives who

[1]. Art. 2.a) of Vienna Convention "On the law of treaties": *"... (b) "ratification", "acceptance", "approval" and "accession" mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;..."*

are part of the negotiating groups it is specified that the signature will have a simple effect and will be followed by approval in the competent bodies.
There is no difference between the ratification process itself and the approval on the basis of the Convention, as it is seen from the above article, it deals more with cases when from an international point of view it may be necessary to express consent by such means, but it is the right of domestic lawto specify and distinguiush this processes as well as to make the categorization of agreements that may be subject to each procedure.The ratification process is generally a process used for those categories of agreements that are not subject to the ratification process and is usually made by the government or executive bodies of a state.

II. Approval during the period 1946-1976 in Albania

After the end of the Second World War, begins a new stage of the Albanian state in terms of its construction but also in terms of the concetration of powers and competences in one institution, which will definitely be reflected in the competence and the right to conclude treaties and international agreements in the future.In 1946, the Constitution of the People's Republic of Albania was approved, which divides the power between the Presidium of the People's Assembly, the People's Assembly and the Government, but in terms of competencies it seems to have strengthened the Presidium the most.
Article 54 of this Constitution specifically provides for the powers of the presidium, among which it is mentioned that *"... ratifies international treaties, except when it deems it appropriate for ratification to be done by the People's Assembly ..."* (Luarasi. A, 2014).If we analyze this provision in relation to other competencies of the Presidium we will understand that in fact this was the body that represented the state in relations with other states and consequently with the full competence to conclude treaties (Shqarri. F, 2016) .
This Constitution also does not mention any kind of categorization of agreements depending on their importance or any other means of expressing consent, except ratification which according to it is an exclusive right of Presidium and only in special cases it may decide to divide this competence with the People's Assembly.
Taking in consideration that approval usually is a mean of expressing by the consent to be bound by a treaty which is not subject to the ratification process, can we think that it is the use of a wrong terminology and that in fact the purpose was to give the Presidium the right to approve and not ratify?The answer would be negative, because first of all the Presidium itself is part of the Assembly and not of the government, and on the other hand we must be clear that the agreements ratified by it were not of minor importance in relation to the state activity so that we can think that these were agreements that, in terms of importance, did not need to be ratified, even if we take into account the broad powers that the Presidium had in terms of concluding agreements and international relations.
The provisions about the competencies of the Government under this Constitution do not mention its right to conclude agreements or to express consent to be bound by a treaty through approval, but only its obligation to maintain international relations with other states and to take care of implementation of international treaties and obligations.

Given that the Constitution of 1946, as we mentioned above, did not properly clarify the bodies with the power to conclude treaties other than the Presidium, there were also no clear rules regarding the documents to be used for the entry into force of treaties, the preparation of the fullpowers, other means and processes of expressing consent, it was proposed to draft a regulation on the procedure of concluding treaties[2] and the Presidium of the People's Assembly of the People's Republic of Albania, approved with the DecisionNo. 157, dated 10 August 1964, the "Regulation on the preparation of documents used for the conclusion and entry into force of treaties, agreements and conventions ".

This regulation stipulates that the right to conclude bilateral or multilateral treaties and conventions has the Presidium of the People's Assembly, the Council of Ministers and the Minister of Foreign Affairs. Regulation 1964 in Article 2.2 provides that the Council of Ministers approves and denounces agreements that have the approval clause and that the Council of Ministers also has the right to denounce those agreements that are concluded on its behalf but are not subject to ratification or approval[3].

Article 3 of the Regulation of 1964 provides that "the approval of agreements or conventions is done by a special decision of the Council of Ministers. Based on this decision, the Ministry of Foreign Affairs formally notifies the interested party for the approval of the relevant agreement or convention.

III. Approval during the period 1976- 1991

The adoption of the 1976 Constitution brought about some changes in terms of the ability to conclude treaties, as the powers of the Presidium in this regard were not mentioned and were distributed to the People's Assembly and the Council of Ministers in accordance with the 1964 Rules of Procedure and the practice followed until at that point in terms of treaty making**.**

Specifically, Article 67 of the Constitution provides "*The People's Assembly has the following main competencies: ... ratifies and denounces international treaties of special importance*" while Article 81 states that "*The Council of Ministers has the following main competencies: ... concludes international agreements , approves and denounces those that are not subject to ratification*" thus making the means of expressing consent to be bound by a treaty and the bodies with this competence depending on the importance they present.

A few years later, was aproved the Regulation of the Presidium of the People's Assembly with the Decision No. 243, dated 27.1.1978, amended by decision no. 292, dated 21.1.1983. This Regulation stipulates that the Presidium and the Council of Ministers have the right to conclude bilateral and multilateral international treaties and agreements, and this right also belongs to other ministries or institutions that may conclude agreements based on the field of activity, but in this case they must obtain the authorization of the Council of Ministers, reaffirming the government's competence not only to conclude treaties but also to express its final consent to be bound by them.

[2.] Behar Shtylla, Minister of Foreign Affairs at 1964, Report on the Draft – Regulation on the preparation of documents used for the conclusion and entry into force of treaties, agreements and conventions.

[3.] Decision No. 157, dated 10 August 1964, the "Regulation on the preparation of documents used for the conclusion and entry into force of treaties, agreements and conventions ".

Conclusions

In the 1946 Constitution the international agreements, their conclusion and the expression of consent to be bound by a treaty were an exclusive competence of the Presidium of the People's Assembly, which could decide to share such competence with the People's Assembly, while The government is only the implementing body of the treaties.

During this time there was a lack of categorization of agreements into interstate, intergovernmental and interdepartmental, and in the same way only ratification was mentioned as a means of expressing consent. This situation was corrected in 1964 by the "Regulation on the preparation of documents used for the conclusion and entry into force of treaties, agreements and conventions", which not only categorizes agreements, but also mentions the right of the Council of Ministers to approve international agreements which are not subject to the ratification process as well as the relevant procedure in these cases.

The 1976 Constitution merged the powers of the Presidium to conclude international agreements, but this Constitution clarifies more clearly the powers of the People's Assembly and the Council of Ministers as bodies not only with the power to conclude treaties but also to express consent to be to conclude these treaties through ratification or approval.

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Criminal offences against environment

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Abstract

The concept of "environment" to which doctrine and jurisprudence refers is considered a comprehensive concept. In fact, the definition of "environment" seen exclusively from the point of view of ecological evolution would be quite restrictive and insufficient. In order to reach a reasonable and complete definition, it is necessary the approach between ethic-philosophical evaluation theories, economic considerations and scientific definitions.
Whatever damage is caused to an element of the environment, sooner or later it will produce consequences for the whole system, causing serious and inevitable damage. For these reasons is unacceptable, the idea that criminal law should have as its object the protection of other legal relations and not those related to environmental protection, as an area of lesser importance.
The provision of criminal sanctions is an indicator of social responsibility different from administrative sanctions or compensatory civil mechanisms. Sanctions and mechanisms that serve criminal law are much sharper than those used by civil or administrative law and can give the effect of their most comprehensive environmental protection.

Keywords: environment, crime, criminal, punishment.

Introduction

In everyday language the meaning of the environment can change from one context to another. The environment mean "the space that surrounds an animal or a person in which it moves or lives", just as it can constitute a "complex of social, cultural and moral values in which a person finds and develops his personality". At the same time when we talk about the environment we can understand it as "a set of physico-chemical conditions (such as temperature, lighting, the presence of salts in water and on the ground, any movement of the vehicle) and biological (the presence of other organisms) that allows and encourages the life of living beings ".
From a legal point of view, the variety of meanings of this concept is the reason why most legal interpreters have found it difficult to find a clear definition of the concept. As imposed by Article 116 of the Constitution of the Republic of Albania, lawyers first refer to the basic act when it comes to the protection of values and public interest. Article 59 of the Constitution lists the social objectives according to which:
"*The state, within the constitutional competencies and the means at its disposal, as well as in addition to initiative and private responsibility, aims at:*
.....
d) a healthy and ecologically suitable environment for today's generations and the future;
dh) rational use of forests, waters, pastures and other natural resources the basis of the principle of sustainable development ...."
The Constitution, as well as in relation to other concepts, does not provide definitions, but as a basic act with supreme legal force guarantees only the responsibility of the state for the realization of a healthy environment. The details of the manner of

environmental protection are followed by specific laws in the field of environment as well as in criminal legislation.
Albanian environmental legislation is a set of specific laws which protect certain elements of it. Criminal legislation in the field of environment is one of the most important laws in this field due to its specificity as a guarantor of this object that belongs to us all.
The Albanian Law on Environmental Protection of 1993 defines the environment as: *„.... the totality of natural and human elements and factors with their actions and interactions. Elements, phenomena and products are represented by water, air, soil and underground, solar radiation, plant and animal organisms as well as all natural processes and phenomena that derive from their interaction and that condition life. Human factors are represented by the being of society and activity its economic and social*.[1] "
This law was abrogated by law no. 8934 dated 05.09.2002, which redefined the term considering the environment as:
"*..The community of interactions of biotic and nonbiotic components that promote and feed living life on earth, including the natural biophysical environment of air, soil, water, diversity of biological ecosystems, human health, cultural and scientific values and heritage , religious and social .. "*
With the law no. 10431 dated 09.06.2011 "On environmental protection" the term environment is considered as:
"*Natural components: air, soil, water, climate, flora and fauna in the totality of interactions with each other, as well as cultural heritage, as part of the environment created by man*.[2] "
This law has been drafted in accordance with European law in order to approximate the legislation in this area. Specific laws in the field of environment serve to clearly define how a healthy environment is guaranteed but also to determine which actions will constitute damage or pollution to the environment.
These specific laws serve as the basis of criminal legislation which punishes environmental pollution. The Criminal Code in its article 1 / b lists one of the main values that has the duty to protect and ensure criminal legislation:
"*The criminal legislation of the Republic of Albania has the duty to protect the independence of the state and the integrity of its territory, human dignity,. rights and freedoms, constitutional order, property, environment, coexistence and understanding of Albanians with national minorities, as and religious coexistence from criminal offenses, as well as their prevention. "*
Criminal offenses are based on violations provided in specific laws which exceed the risk of administrative offenses

2. Criminal offenses in the field of environment

First of all, it should be clarified that the term "environmental criminal law" is used as a consequence of the conventionalism and the priority that this issue has already received at the international level. This concept derives from the general principles of criminal law, which individualize this branch not on the basis of its problems, but on the basis of the consequences provided in the case of violation of the provisions that have as their object these relations.

1. Law 7664 dated 21.01.1993 "On environmental protection"
2. This law is fully aligned with Directive 2004/35 / EC of the European Parliament and of the Council of 21 April 2004 on environmental liability, prevention and repair of damage to the environment. CELEX number: 32004L0035, Official Journal of the European Union, Series L, no. 143, dated 30.4.2004, pages 56-75.

Thus, the criminal law of the environment includes all those rules of a criminal nature that, pursuing the purpose of environmental protection, provide for criminal sanctions as a result of their non-compliance.
The complexity of these provisions which is a consequence not only of the lack of organization, but also due to the technical elements of their interpretation, has conditioned the need to evaluate them in a particular perspective by individualizing a dimension independent from the legal concept of the environment[3].
These particulars may not be grounds for being automatically recognized as environmental criminal law, or at least not as a separate part of criminal law.
This terminology as mentioned above is a consequence of the conventionalism of scholars of this subject. Regarding the criminal provisions in the field of environment, the special lies in the fact that they are related to specific laws which regulate the respective areas where the violation of the environment has been identified.
Criminal offenses in the field of environment according to the Albanian criminal code are those provided by articles 201-207 of the Criminal Code:

- Air pollution;
- Waste management;
- Transportation of waste;
- Dangerous activities;
- Nuclear materials and hazardous radioactive substances;
- Damage to protected species of wild flora and fauna;
- Damage to protected species of wild flora and fauna;
- Trade of protected species of wild flora and fauna;
- Habitat damage in environmentally protected areas;
- Ozone depleting substances;
- Prohibited fishing;
- Illegal deforestation;
- Cutting of decorative trees;
- Violation of quarantine;
- Abandonment of the companion animal;
- Intentional killing of a companion animal;
- Animal abuse;
- Fights between animals.

Each of these offenses protects one of the specific elements of the environment. The specificity of these offenses is the fact that in order to determine criminal responsibility according to them we must refer to specific laws according to the general law of the environment. The perpetrator of actions that harm or damage the environment can be penalized under criminal law only if the action is not punished administratively.
Predicting ecological crimes, regardless of whether they are provided for in the criminal code or other special laws, is the only way to protect environmental values, which are more common, general and irreplaceable.[4]
Environmental crime is considered doubly dangerous as:
It is directly evidenced in the damage or endangerment of the natural good itself; secondly but no less importantly it affects the general interests of the community to

3. L. Ramacci, *Manuale di diritto penale dell'mjedise*, Padova, 2012, page 16.
4. Così F. Bricola, *Politica criminale e politica penale dell'ordine pubblico*, in *La questione criminale*, 1975, page 221.

live in a healthy environment.
We all feel violated, offended, damaged by an action directed towards a natural good, towards a part of the environment that surrounds us, in which we live and develop our existence. The main reason for experiencing these illegal actions in this way is found in the feeling of being involved in a system based on biological relationships, which merge with other living beings. We are all part of a natural scenario to protect and preserve for generations to come. This assertion is manifested in the attitude of each of us at the moment of becoming aware of a crime related to environmental pollution. It is this general feeling that indicates the urgent need for immediate intervention capable of stopping or at least preventing the possibility of a further breach. Whatever damage is caused to an element of this link, sooner or later it will produce consequences for the whole system, causing severe and inevitable damage. For these reasons, the idea that criminal law should have as its object only the protection of other legal relations and not those related to environmental protection, as an area of lesser importance, cannot be accepted.[5]
It is not the law that creates criminally punishable situations and actions, it is not the law that prescribes crimes in advance. It is the reality itself and the illegal situations that present the need for criminal protection and the provision of legal protection. Although at first glance it seems that criminal law provisions merely provide for a supportive system of sanctions for the norms of other branches of law. Indeed all these norms maintain an autonomous value and a specific legal individuality. At the moment when a concrete request from the civil society comes for the protection of the environment, presenting specifically that this protection is deficient from the administrative point of view, the legislator must take over the task to "photograph" the reality and fix it in special norms and specified behavior to be punished.

3. Criminal protection of the environment through community law

In order to ensure an adequate level of environmental protection as provided for in Article 174, paragraph 2 of the EC Treaty, it is necessary to tackle problems related to environmental crime.
The European Union and its member states have adopted a number of legislative acts which have provided guarantees and protection for the environment and its constituent elements. However, according to studies, the sanctions provided by the criminal legislation of the member states have been insufficient to guarantee the standards provided by Community law in environmental protection. Not all member states have provided for sanctions of such a repressive degree appropriate for serious crimes against the environment, although it is already known that only through criminal sanctions can effective protection be guaranteed. The reasons for this are various:
In the first place, the provision of criminal sanctions is an indicator of social responsibility of a qualitatively different nature from administrative sanctions or compensatory and civil mechanisms.
Secondly, administrative measures or fines risk not giving the required effect in the case of insolvent persons, or in the opposite case when their financial power is very

5. Fiandaca-Musco.Diritto penal.Parte generale Bologna ed III 34.

large and the fine imposed is an incalculable measure.
Thirdly, sanctions and mechanisms that serve criminal law are much sharper than those used by civil or administrative law and can give their fullest effect to environmental protection.
Finally: The fact that various bodies intervene in this investigation, which may be related to the issuance of pollution permits or licenses, makes this investigation more impartial. In addition to the different nature of the sanctions used by the criminal legislations of different states, problems are encountered and of different degrees of criminal punishment for the same violation.
Given that environmental crimes often have a transnational character, the perpetrators of these acts may gain advantages due to the asymmetry in sanctioning these crimes.
For the above reasons, the European Union, in order to unify the protection and penalization of environmental crimes, chose to adopt Directive 2007/0022 "On the criminal protection of the environment".
Eventually a middle ground was found by adopting a directive which is an act with legal force, which for the signatory state has binding force in terms of purpose, but not the means by which this purpose is achieved.
So the states that sign this directive are obliged to achieve the standards set out in it using individual policies.
The Directive provides for certain crimes against the environment which are to be regarded as serious criminal facts by all the criminal legislation of the Member States. This regardless of whether they were committed intentionally or through negligence. Even participation or incitement to commit these criminal offenses should be punished without any doubt. The criminal liability of legal persons in connection with these offenses is provided in detail.
These crimes should be punished through appropriate, proportionate and dissuasive punishments when committed by natural persons and by criminal sanctions or not for legal persons.
Regarding the crimes against the environment which are committed in certain circumstances, for example when they have caused serious consequences, a minimum level similar to when they were committed by natural persons and when they were a consequence of the activity of legal entities should be provided.

Conclusions

Currently, the environment is considered and studied in its globalization as human habitat and as a necessary condition for human life, which serves as a legal basis for the affirmation of the existence of an essential right which belongs to the community.
Some authors use a much broader definition, liberated from anthropological theories by giving preference to ecological theories. According to them, environment means: "ecological balance of the biosphere or reference ecosystems[6].
An appropriate definition of the concept of "environment" is provided by the European Commission:
"The community of elements that in their complexity create the spaces, environments and living conditions of man and society in the form in which they are manifested.[7]"

6. Caravita, Il Diritto pubblico dell'mjedise, Ed. Mulino 1990.
7. Consiglio dei Ministri per la Protezione dell'Mjedise, in G.U.C.E. n. C52 del 26 maggio 1972.

The interest of environmental protection does not belong to an individual subject, but to everyone! It has as its object the protection of a good with an irreplaceable and general character. The protection of this good must have a comprehensive character and criminal legal protection acquires a special importance precisely because of the object of special importance of community interest.[8]

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8. Protopisani, Aspetti preliminari per uno studio giurisdizionale degli interessi collettivi, in Diritto e Giurisprudenza 1974, page 801.

Histochemical Detection of Secondary Metabolites in Two Varieties of Species *Ocimum basilicum* L. Cultivated in Durrës, Albania

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Abstract

The article gives the histochemical assessment of both varieties of sp. Ocimum basilicum L., var. maximum and var. minimum, cultivated in Durrës, Albania.
In this study we are using histochemical techniques for the detection of secondary metabolites in the trichomes of Ocimum basilicum L. var. maximum and minimum leaves. The study of secondary metabolites in medicinal plants have very important values in the pharmaceutical-medical aspect. Two techniques are used to achieve the material in the study; a) hand-cutting technique and b) epidermis extrusion technique.
Detection of secondary metabolites with the histochemical method is performed using these specific chemical dye dyes; a) iodine for the detection of alkaloids, b) sudan for the detection of lipids, c) FeCL3 for the detection of phenols and d) K2Cr2O7 for tannins. Materials from the upper and lower epidermis of the leaf after staining were analyzed under optical microscope and stereomicroscope. Certain dyes noted the presence of various chemicals in trichomes and the level of coloring of trichomes evidenced the difference in the amount of these compounds. The variation in the presence and amount of metabolites in the two varieties of Ocimum basilicum L., grown in the Durrës area in Albania makes possible the detection by histochemical methods at the level of optical microscopy of the varieties or populations richer in these compounds for a more efficient practical use. Detection of secondary metabolites in this way represents a fast and economical traditional method that can be used as a starting point for more in-depth pharmacognosy studies.

Keywords: Chemical dye, histochemistry, secondary metabolites, trichomes.

Introduction

Plants produce a large number of secondary compounds that are utilized as pharmaceuticals, nutriceuticals, natural pesticides, flavourings, fragrances and for other non-food or fiber purposes. These compounds have diverse biological activities, presumably as a result of the co-evolution of the producing plants with pathogens, herbivores, pollinators and other organisms (Marin et al., 2006).

The Lamiaceae is a large family, rich in aromatic species used as culinary herbs, folk medicines, fragrances, etc. Many species of this family possess essential oils secreted by glandular trichomes. In the family Lamiaceae, there are two main types of glandular trichomes: peltate and capitate. The studies in which these glandular trichomes have been investigated, comprising morphological, structural and histochemical analyses of trichomes as well as chemical composition of essential oils, (Bosabalidis and Tsekos, 1982, Werker et al., 1985a, Werker et al., 1985b).
Glandular trichomes are widely distributed over the aerial reproductive and vegetative organs of plants of the Lamiaceae, a family of great economic importance.

They are the primary secretory organs of these plants, and their structures can vary widely among species (Werker et al., 1985a, Werker et al., 1985b).
The essential oil produced by these glandular trichomes may act to protect the aerial parts of the plant against herbivores and pathogens (Werker, 1993), and the biological activity of the secondary metabolites in the secreted products is of interest to the pesticide, pharmaceutical, flavouring and fragrance industries (Duke, 1994).
Genus Ocimum, member of Lamiaceae family comprised of almost 200 species of herbs and shrubs.
Genus *Ocimum* is distributed over Asia, Africa, Central and Southern America. The genus *Ocimum* is cultivated for its essential oil which displays many potent pharmacological application (mosquito repellent, antimicrobial, antioxidant,wound healing, antimelanoma, radioprotective) culinary, perfume for herbal toiletries, aromatherapy treatment and as flavouring agent. (Arya &Thakur, 2012).
Ocimum basilicum L., named commonly as sweet basil, is a popular culinary herb belonging to the Lamiaceae family is originally native to India and other Asian regions. Nowadays, it is cultivated all over the world.
Traditionally, the basil leaves are used in folk medicine as a remedy for a large number of diseases, including cancer, convulsion, diarrhea, epilepsy, gout, nausea, sore throat, toothaches, and bronchitis. It is also a source of essential oil containing biologically-active constituents which possess antioxidant and antimicrobial properties (Ahmed et al., 2019).
All *Ocimum* species consists of glandular and non-glandular trichomes distributed on both adaxial and abaxial leaf surfaces, The glandular trichomes are of peltate and capitate types. The peltate hairs more frequent consist of one cell body and four cells head. Three different types of capitate hairs could be distinguished: type I consisted of a bicellular body and a bicellular head; type II had one cell formed body with an unicellular elongated head; Type III is similar to type II, but the glandular cell is quite spherical and the stalk is longer. On *O. basilicum*, the type II is more frequent. The non glandular hairs on the leaves of O. basilicum are uni- or bi-cellular (Stefan et al., 2013).
Histochemical methods have been developed for qualitative and quantitative analysis of virtually all cellular components, including proteins, carbohydrates, lipids, nucleic acids and the range of ionic elements occurring in cell solutions. These methods, in combination with various microscopic imaging techniques, can be utilized in the study of essential oil secretion in plants (Gersbach,et al., 2001). Plants may synthesize many secondary metabolites, which can help plants survive and reproduce in the natural environment.
Histochemical methods make it possible to locate chemicals in cells, organelles, and intercellular spaces.
In this study we used histochemical tests for the detection of secondary metabolites in the glandular trichomes of *Ocimum basilicum* var. *maximum* and var. *minimum*.
These are two of the most cultivated varieties in the Albanian territory and are known for their morphologic differences. We used the histochemical study method to see possible differences in chemical aspect between these two varieties.
The secondary metabolites that we tried to detect in this study using the histochemical techniques are:
Alkaloids which are a group of important secondary metabolites. Many alkaloids are

toxic, which are used for plants to protect themselves against the aggression from other organisms, and this instinct action is an important ecological function.
Many kinds of alkaloids are effective ingredients in most medicinal plants, so that they are applied in the treatment of diseases in traditional herbal medicine.
Alkaloids, with obviously physiological activity, have lots of functions, such as anesthesia, analgesia, antibacterial and antiviral effects. Alkaloids have been and continue to be the object of human interest concerning new possibilities for their safe utilization and ensuing health benefits (Jing et al., 2014).
Phenolic compounds and are very useful for their therapeutic potentials. They consist of simple phenols, benzoic and cinnamic acid, coumarins, tannins, lignins, lignans and flavonoids (Bilal et al., 2012).
Tannin is the heterogeneous group of phenol derivatives, usually related to glucosides. Tannins are particularly abundant in the leaves (xylem) of many plants (Dhale, 2012).
Fats are widely distributed in the plant body and are found in small amounts in every plant cell.The aim of this study was also to investigate the morphology, distribution, and histochemistry of glandular trichomes.

Materials and methods

Ocimum basilicum L. var. *maximum* and *minimum* was cultivated in vases in Durrës, Albania. The mature plants were taken in the vegetative phase and studied in the Cytology-Cytogenetics laboratory of Biotechnology Department at Natural Science University of Tirana.
We used fresh leaves from two varieties of *Ocimum basilicum* var. *maximum* and *minimum* in the vegetative phase. We analyzed 5 leaves from 5 plants for each variety. The sections were treated with appropriate reagents to localize components such as alkaloids, phenols, tannins and lipids in the leaves.
Detection of secondary metabolites by histochemical method was performed using these specific chemical dyes:
Wagner reagent for alkaloids
To test for the presence of alkaloids, leaf sections were stained for 10 minutes each with Wagner's reagent and an orange/brown colour was indicative of alkaloids. Wagner's reagent is made up of 1.27 g iodine and 2 g potassium iodide dissolved in 100 ml dH_2O (Furr & Mahlberg, 1981).
Sudan for lipids
Sudan III and IV (Sudan Red) were used to test for lipids. Leaf sections were immersed in Sudan III and IV for 15 minutes before being rinsed with 70% ethanol (to remove any excess stain) and then mounted in 70% glycerol. Cutinized or suberized walls or lipid inclusions stained orange to red (Brundrett et al., 1991; Pearse, 1968).
$FeCL_3$ for phenolics
Sections were placed in 10% ferric trichloride and a dash of sodium carbonate was added and left to stain for 15 minutes at room temperature. Ferric trichloride causes *orto*-dihydroxyphenols to react with the ferric ions resulting in the production of deep green or black deposits.
Iron (III) chloride operates in other classes of simple phenolic compounds. Drops of reagent at 10% solution were put in the cuts, keeping them for 15 minutes and then rinsing them in water. The blue-black or dark green color shows the phenolic

compounds (Johansen, 1940**).**

$K_2Cr_2O_7$ for tannin (phenol derivates)

$K_2Cr_2O_7$ potassium dichromate test, which is based on the formation of a product colored by the condensation of free phenolic hydroxyl groups with the chromium of the reagent. Potassium dichromate detects the presence of tannins, keeping the cuts in an aqueous solution of potassium dichromate to 10% for 30 - 60 minutes , then washing in water and continuing to put in water for optical microscope observation. The color that indicates the presence of tannins (phenolic compounds) is reddish brown (Gabe, 1968).

Histochemical tests were studied with:

Stereomicroscope 4.5X magnification photographed with phone camera (samsung S7) On the free hand cutted leaves of *O. basilicum* L. var. *maximum* and *minimum* were added some drops from each of the chemical dyes. This was done on both leaves surfaces for both varieties. Observations were performed before and after staining to see the differences.

Light optical microscope Olympus observation and were photographed with phone camera (samsung S7) or C 200 digital camera.

For the microscope observation we have used two techniques to obtain the material in the study;

a) Hand cutting technique

Using a razor to make thin transverse cuts in the leaves. Cuttings were made carefully to 2/3 of the leaf length. These cuts were placed on a slide and the specific dye we used was added using a pipette. Manual cutting of fresh plant material is quite useful when applied for histochemical analysis because the artifacts that appear during tissue fixation and inclusion can be avoided (Albrechtova, 2004).

b) Epidermis peel off technique.

Carefully manually we peel off the epidermis from both leaf surfaces. We place them on a slide and added on top the cover slide. By means of a pipette, we add the specific dye to the side Fig. 1.

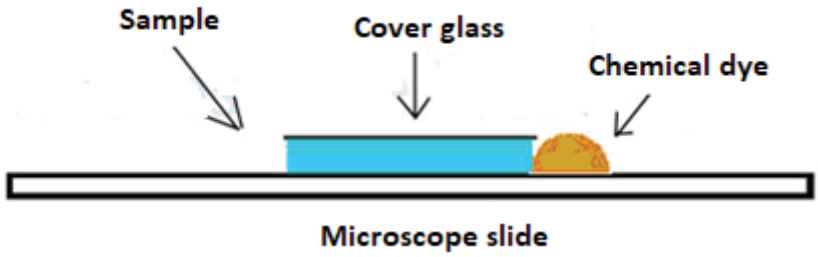


Fig.1. Histochemical methode, microscope slide preparation for epidermis peel of technique.

Results and discussion

From the observations with stereomicroscope with magnification 4.3X it is noticed the presence of peltate trichomes in both types of varieties of *O. basilicum* L. In the

case of staining with FeCl3 for the detection of phenols the change in the color of the trichomes is very noticeable Fig.2.a.b. In case of other chemical dyes the action of the chemical reagent on the peltate trichomes is less noticeable.

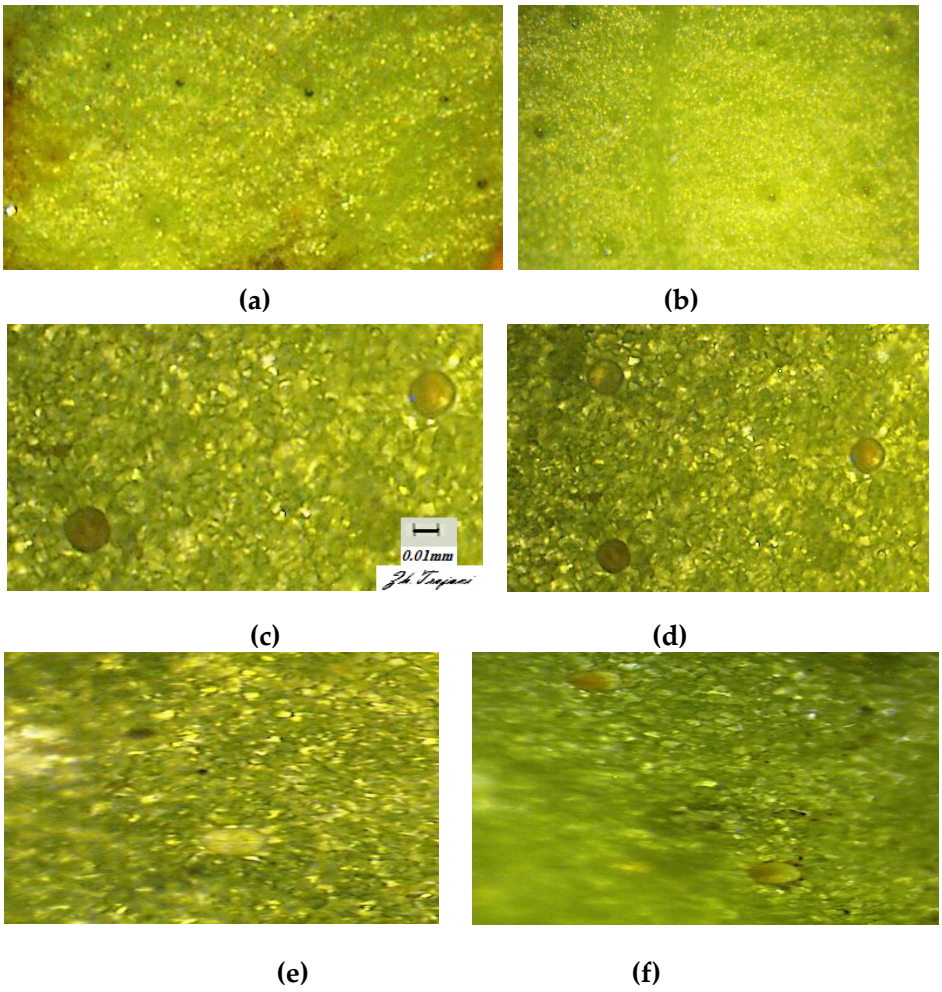


Fig. 2. *Ocimum basilicum* L. var.*minimum***.** Stereomicroscope 4.3X a) stanied with $FeCL_3$ and b) without staining. Light optic microscope with 10X : staining with $FeCl_3$ c) *O. basilicum* L. *maximum* and d) *O. basilicum* L. *minimum*. Staining with Wagner reagent e) *O. basilicum* var. *max* and f) *O. basilicum* var.*min*. Photo with phone (Samsung S7).

The same preparations observed under a stereomicroscope were passed for observation under an Olympus light optical microscope with 10X magnification. Observations at this level show the staining of peltate trichomes which have taken on a dark brown or green color from treatment with FeCl3 which indicates the phenol presence Fig.2.c.d (Johansen, 1940). The leaves stained with wagner reagent, show some changes in the color of peltate trichomes. The reaction has happened resulting in a pale yellow-golden color, which indicates the presence of alkaloids Fig.2.e.f

(Furr & Mahlberg, 1981). In both varieties of *O. basilicum* var. *maximum* and *minimum* color intensity are almost the same Fig.2.
In the leaves samples that we prepared with hand cutting technique and stained with histochemical reagents we could note the presence of alkaloids in the peltate trichomes which were stained brown Fig.3.a.c and the capitate trichomes stained yellow Fig.3.b. We noted that non-grandular trichomes Fig3.d remain discolored, which indicate no reaction, therefore no alkaloid is present.

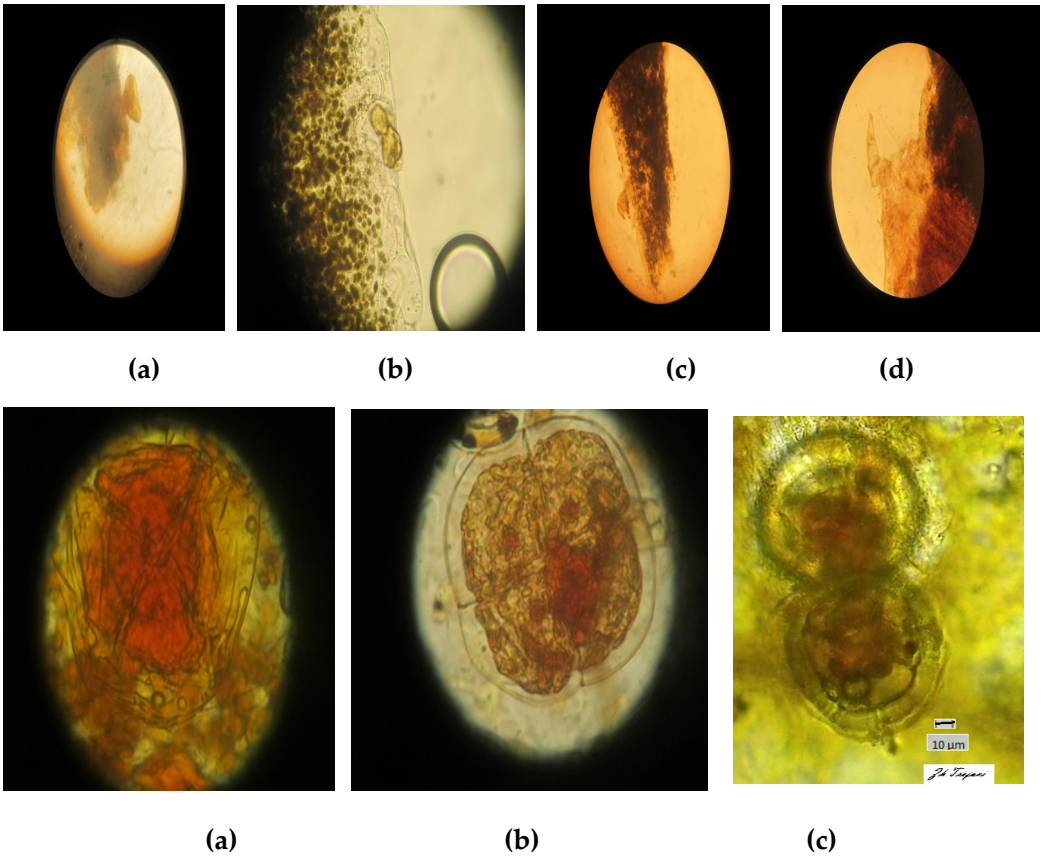
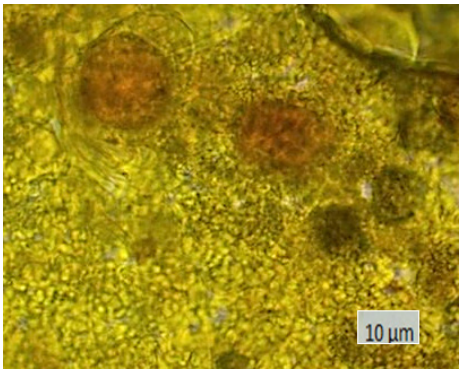
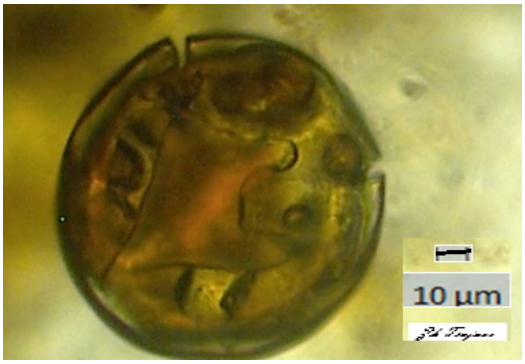


Fig. 3. *Ocimum basilicum* stainded with wagner reagent for alkaloide detection a) var. *minimum* peltate grandular trichomes magnification 100X, b) var. *minimum* capitate grandular trichomes magnification 100X, c) var. *maximum* peltate grandular trichomes magnification 40X and d) var. *maximum* non-glandular trichomes magnification 40X. Photo with phone (samsung S7).

Leaf samples from both varieties obtained by the epidermis peel off technique and stained with chemical reagents for specific histochemical tests were observed with the Olympus light optical microscope.The photos are taken from the side tube with samsung phone (samsungeS7) and C200 digital camera.





(d) **(e)**

Fig. 4. Light microscope observation of histochemical tests. *Ocimum basilicum* a) var. *maximum* abaxial leaf, magnification 100X stained with Wagner reagent. b) var. *minimum* stained with Wagner reagent, magnification 100X, c) var. *minimum*, stainded with $K_2Cr_2O_7$, magnification 40X photo with C200 camera, d) var. *minimum* stained with Sudan abaxial leaf, magnification 40X and e) var. *minimum* stained with $FeCl_3$, magnification 100X, C200 camera.

Based on the observations made we constructed Table.1

Chemical dye	**Target metabolite**	**Observed color**	**Peltate trichomes**	**Capitate trichomes**
Wagner reagent	Alkaloide	orange/ brown colour/	++	+
Sudan III	Fats	orange to red	+	+
$FeCl_3$	phenol	deep green or black deposits	++	+
$K_2Cr_2O_7$	tannin	reddish brown	++	+

Table 1. Staining intensity of glandular trichomes treated with appropriate reagents for the detection of target metabolites.- no staining, +staining, ++ intense staining.

From the observation with optical microscope on the leaves of *O. basilicum* var. *maximum* and *minimum* stained with chemical dye we notice:
Treatment with Wagner reagent (for the detection of alkaloids) stains dark brown peltate trichomes and light brown/yellow capitate ones.
Treatment with Sudan IV (for fat detection) colors the peltate trichomes intense orange red and the capitates trichomes light red.
Treatment with FeCl3 (for the detection of phenols) stains peltate trichomes with dark green, and light green capitate trichomes.
Treatment with K2Cr2O7 (for the detection of tannins) stains the peltate trichomes reddish brown and light brown capitate trichomes.

Between var. *maximum* and *minimum* we do not notice noticeable changes in the staining intensity of the glandular trichomes.

Conclusions

Results of the study indicates that there are three types of trichomes present on the adaxial and abaxial surfaces of the leaves; non-glandular and two types of glandular trichomes. Non-glandular trichomes that are uniseriate, multicellular and function as a physical barrier against environmental conditions. Glandular trichomes consisted of peltate trichomes and capitate trichomes. Peltate trichomes comprised of four head cells, a very short, almost non-existent stalk cell and a large basal cell. We noticed type II capitate trichomes compose of one cell formed body with an unicellular elongated head.

Both varieties of O. basilicum var. maximum and var.minimum have the same type of trichomes. The peltate grandular trichomes appear more frequent on the abaxial leaf surface.

The histochemical stains showed the presence of the phenolic compounds, alkaloids, tannins and general lipids in the glandular trichomes of both varieties.

Between peltate trichomes and capitate ones the difference in staining intensity was evident which confirms a higher metabolic activity of peltate trichomes.

No noticeable difference in staining intensity was observed between both varieties.

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Surgical treatment of hallux valgus

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Abstract

This systematic review aims to illustrate the published results of "minimally invasive" procedures for correction of hallux valgus. Based on former systematic reviews on that topic, the literature search was organised by two independent investigators. MEDLINE was systematically searched for available studies. The keywords used were "hallux valgus", "bunion", "percutaneous surgery", "minimally invasive surgery", "arthroscopy", "Bosch" and "SERI". Studies were assessed using the level of evidence rating. A total of 21 papers were included in this review. These studies described a total of 1,750 patients with 2,195 instances of percutaneous, minimally invasive or arthroscopic hallux valgus surgery. Clinical reports of results after minimally invasive hallux valgus surgery at meetings are common. Published results in peer-reviewed journals are less common and the majority of papers are level IV studies according to the level of evidence ratings. We found one level II and three level III studies. Reported complications seem to be less than one may see in one's own clinical practice. This possible bias may be related to the fact that most studies are published by centres performing primarily minimally invasive hallux valgus surgery.

Keywords: Surgical treatment, hallux valgus.

Introduction

The earliest reports of surgical hallux valgus correction date back to Gernet in 1836. Procedures for resection of parts of the first metatarsophalangeal (MTP) joint by the colleagues Hueter, Mayo [1], Keller [2] and Brandes [3] became the most popular.
Since these techniques were proven to fail, correctional metatarsal osteotomies replaced them; again our ancestors in the nineteenth century had already thought the same way. The first reports date back to Reverdin [4] who described in 1881 a subcapital closing wedge osteotomy for the correction of hallux valgus deformity. It then became popular as the Hohmann [5] osteotomy.
From the beginning of the use of osteotomies for the treatment of hallux valgus deformities, surgeons distinguished between distal and proximal osteotomies. While Hohmann [5], Wilson [6], Mitchell [7] and chevron [8] osteotomies were representatives of the distal osteotomies, Loison [9], Balacescu [10], Ludloff [11], Trott [12] and crescentic Mann osteotomies [13] were representatives of the proximal osteotomies. One might think that after more 160 years of facing the problem of hallux valgus surgery the ideal treatment should have been found. In 1931 Peabody [14] thought that he had found it. He stated that all of his patients were happy and there were no complications. Unfortunately he was wrong and surgeons are still seeking wisdom. Helal in 1981 [15] counted more than 150 different techniques and the number has con- tinued to increase.

At least a minimum consensus among surgeons has been established. Minor and moderate deformities [rated by intermetatarsal angle (IMA) and hallux valgus angle (HVA)] may be treated by distal osteotomies, while more severe deformities are best treated by proximal metatarsal osteotomies, which have been mathematically proven to give the best corrections.

Ferrari [16] published a systematic review in 2002 and concluded that there was no compelling evidence for an advantage of any of these techniques over any other particular type of surgery.

The role of minimally invasive techniques

Minimally invasive surgery has gained popularity in all fields oforthopaedic and trauma surgery. The theoretical advantages are potentially decreased recovery and rehabilitation times, reduced surgical time and less stress to the patient.

One may distinguish between minimal incision surgery, percutaneous surgery and arthroscopic surgery [17]. Arthroscopic hallux valgus surgery is certainly not a standard procedure [18]. It is demanding, time-consuming and carries the potential risk of nerve injury [19, 20].

Early reports of percutaneous hallux valgus surgery date back to the 1940s [21] in the USA, where podiatrists were trying to circumvent the restrictive laws regarding surgery for podiatric physicians. Early power equipment for minimal incision metatarsal osteotomies was developed in the 1960s.

Peter Bösch modified the popular Kramer osteotomy after a conversation with the podiatrist O.T. New. His so-called subcapital osteotomy (SCOT) technique [22] became the origin of all percutaneous techniques of hallux valgus surgery that were later invented. The disadvantage of the percutaneous technique is the fact that surgery is performed without direct visualisation of the different tissue layers and intraoperative fluoroscopy is mandatory. The bony procedures are performed using a high-speed power bur which entails the disadvantage of bone loss which leads to shortening of the metatarsal.

The minimal incision hallux valgus surgery is a technique where the smallest necessary incision to create the osteotomy is performed by using a power saw blade. These techniques are generally not performed under fluoroscopy [21].

The current question is whether it is justifiable to use percutaneous or minimal incision hallux valgus surgery based on the actual medical literature.

Literature search and data extraction

Based on the systemic reviews by Mafulli et al. [17] and Roukis [21] the literature search was organised by two independent investigators. MEDLINE was systematically searched for available studies. The keywords used were “hallux valgus”, “bunion”, “percutaneous surgery”, “minimally invasive surgery”, “arthroscopy”, “Bosch” and “SERI”.

Once the relevant articles had been retrieved, they were hand-searched for further references fitting the search pattern. Only articles published in peer-reviewed journals were included. If a reference could not be obtained it was excluded from consideration. Studies were assessed using the level of evidence rating introduced by the Journal of Bone and Joint Surgery (American Volume) in 2003 [23].

Results

A total of 21 papers were included in this review. These studies described a total of 1,750 patients with 2,195 instances of percutaneous, minimally invasive or

arthroscopic hallux valgus surgery. Almost all studies were level IV studies, three studies could be rated as level III and one study as level II (Table 1).
Bösch et al. [24] and Markowski et al. [25] published in 1990 and 1991 the preliminary results with the SCOT (percutaneous) technique in 45 patients and 64 feet. The average follow-up was 16 months (range eight to 32 months). The range of motion decreased from preoperatively 66.5 % of the patients presenting a range of motion between 70 and 110° to 35 % at final follow-up. There were also 9 % pin track infections.
In 2000 Bösch et al. [22] reported much better results in a seven to ten year follow-up study. Of the 98 feet the HVA was corrected from preoperatively 36° (range 14–54°) to 19° (range 7–40°), and the IMA was corrected from 13° (range 6–18°) to 10° (range 3–18°) at follow-up. Complications included four deep infections and four cases of delayed bone healing.
Portaluri [26] in 2000 published a series of the Bösch technique in 143 patients with 182 operated feet. The radio- logical results were almost identical to those Bösch et al. [22] reported. Only two patients had a pin track infection, two had early accidental pin removal and eight had reported superficial infections.
Magnan et al. [27] in 2005 reported on 118 consecutive percutaneous distal metatarsal osteotomies at an average of 35.9 months. Significant correction of all radiological parameters was reported. In 61 % either plantar or dorsal displacement of the capital fragment was noted. Only one deep infection at the osteotomy site and superficial skin irritation by the Kirschner wire were reported. First MTP joint range of motion of less than 30° was seen in seven patients (6.8 %).
In 2013 Iannò et al. [28] presented 72 patients (85 feet) treated with the Bösch method with an average follow-up of 73.3 months. HVA, IMA and sesamoid position were statistically significantly corrected ($p < 0.1$ for all). Complications included three cases of avascular necrosis (AVN) of the meta- tarsal head, malunion in four feet and two cases of skin irritation due to the Kirschner wire.
A multicentre study of the distal percutaneous metatarsal osteotomy according to Isham was presented by Bauer et al. [29]. A total of 189 feet were prospectively followed with a mean follow-up of 13 months (12–24 months). The osteotomies were percutaneously performed and no internal fixation was used. The American Orthopaedic Foot and Ankle Society (AOFAS) score improved from preoperatively 52 points on average to 93 points at follow-up. The median range of motion decreased from 90° preoperatively to 75° which is an average of 17 % loss of motion. Neither nonunion, AVN nor malunion of the capital fragment was reported. The authors state that their technique requires a learning phase before being able to produce reliable acceptable results.
In a single-institution study Bauer [30] reported his own results with the percutaneous Isham technique. A total of 104 cases in 82 feet were followed for a median of two years. AOFAS score, HVA and sesamoid position were significantly improved. Due to the philosophy of the Isham technique correction of the IMA is only possible to a limited extent. Besides two cases of limited range of motion, two cases of complex regional pain syndrome (CRPS) and six cases of distal metatarsal articular angle (DMAA) overcorrection, no complications were reported.
Radwan and Mansour [31] performed a comparative study between 31 percutaneous distal metatarsal osteotomies (Bösch technique) and 33 distal chevron osteotomies. The operative time results revealed on average seven minutes less surgical time with

the percutaneous surgery. There was no difference in bony
healing and radiographic parameters. The mean range of motion was almost identical in both groups. They further described that limited dorsal range of motion occurred more often in the chevron group. According to the report there was no nonunion or malunion after the percutaneous distal metatarsal osteotomy.
Roth et al. [32] presented a retrospective comparative study of the percutaneous (Bösch) and the standard Hohmann techniques. There were 88 percutaneous and 36 open osteotomies performed. Radiological parameters revealed similar results in both groups. The complication rate with 15 % infection, 10 % nonunion and 6 % CRPS in the percutaneous group was much higher than in the open group.
In 2009 Maffulli et al. [33] compared a series of 36 Scarf osteotomies with a series of 36 Bösch osteotomies. The mean operative time for the Bösch technique was significantly less then for the Scarf osteotomy (19 vs 42). Radiographic evaluation revealed similar results with both techniques. Range of motion at follow-up was not reported in this series. There were three pin track infections after the Bösch technique.
Giannini et al. [34] performed a prospective comparative study of the SERI (simple, effective, rapid, inexpensive) and Scarf osteotomies. Twenty patients with bilateral hallux valgus deformities underwent a Scarf on one side and a SERI osteotomy on the other side. All patients underwent clinical and radiological follow-up at two and seven years. The results of the radiological correction between the two groups were similar in respect of HVA, IMA and DMAA. In this study there were no reported intraoperative or post-operative complications in either group. All osteotomies healed properly. Most interesting were the reported surgical times. A very short surgical time of 17 minutes on average with the Scarf osteotomy was even topped by the average surgical time of three minutes with the SERI.
Enan et al. [35] evaluated the early results of the minimally invasive hallux valgus correction using the minimal incision Hohmann-type technique. At a mean follow-up of 21 months (12–36 months) 24 patients with 36 operated feet, a preoperative IMA≤18° (9–18) and an HVA of more than 17 and less than 40° formed the study group. Without knowing the pre- operative AOFAS score, the score at final follow-up was 91.1 points. In only 44.4 %, the position of the metatarsal head was found without plantar (47.3 %) or dorsal displacement (88.3 %). Shortening on an average of 2.2 ± 2.8 mm was noted. The HVA was corrected from an average of 27.7° (18–37) to 14.6° (8–24) and the IMA from 11.2! (10–18) to 5.8°(4–12). As complications only three feet with mild inflammatory skin reactions around the outlet of the K-wire were observed.
Discussion
Post-operative range of motion and stiffness after the percutaneous or minimally invasive Hohmann-type osteotomy [27, 35] is a matter for discussion. Despite the fact that a K-wire is inserted for six weeks beside the joint capsule and the first MTP joint has no range of motion for six weeks the reported numbers of stiffness are low [27, 35]. In their original paper Markowski et al. [25] reported a decrease of range of motion in 31 % of patients.
Radwan and Mansour [31] compared the mean post- operative range of motion after the percutaneous Bösch method and distal chevron. Although the first technique includes fixation of the first MTP joint for six weeks while the distal chevron allows immediate range of motion and as described range of motion exercises after four

weeks, the presented results showed almost identical mean post-operative range of motion at follow-up. Unfortunately most studies do not report the post-operative loss in range of motion [26, 32].

A potential disadvantage of the percutaneous and minimally invasive distal metatarsal osteotomies according to the Hohmann technique is the plantar or dorsal malalignment. While Bösch et al. [22], Scala and Vendettuoli [36], Sun et al. [37], Giannini et al. [34] and Radwan and Mansour [31] did not report metatarsal head position at follow-up, Magnan et al. [27] reported 61 %, Enan et al. [35] 55.6 % and Iannò et al. [28] 4.7 % dorsal or plantar malalignment.

Most studies did not mention the incidence of malunion or nonunion after percutaneous or minimally invasive distal metatarsal osteotomies.

Kadakia et al. [38] planned a randomised prospective study. Due to their early complications with the minimally invasive technique they stopped the study. One may argue that despite the fact that the authors were extremely experienced foot and ankle surgeons, their experience in minimally invasive hallux valgus surgery was minimal and they started the study with the first patient they planned for surgery.

We found three comparative studies of minimally invasive distal metatarsal osteotomies vs open hallux valgus operations. All studies revealed similar corrections of all radio- graphic parameters. Maffulli et al. [33] reported a highly significant shorter surgical time with the percutaneous technique (19 vs 42 min), while in Radwan and Mansour's [31] study only a minimal but statistically significant difference (50 vs 58 minutes, $p = 0.015$) was reported. In Giannini et al.'s [34] study an extremely short surgical time was reported. Duration of surgery is an issue in hallux valgus correction; nevertheless, this should not be the only argument when choosing one procedure over the other.

Reported complications vary among the studies. While Giannini et al. [34] reported no complications at all in their comparative series, other authors noted complications. Bösch reported in 1990 pin track infection in 9.5 % and Roth et al. [32] in 15 %. Bösch et al. [22] stated in 2000 that the infection rate decreased after completing the learning curve. Bauer et al. [29], Portaluri [26], Scala and Vendettuoli [36] and Iannò et al. [28] reported few incidences of pin track infections.

Correction of radiographically measured deformity is the objective aim of hallux valgus surgery. This can certainly be achieved using minimally invasive hallux valgus surgery. Comparisons of minimally invasive and open techniques revealed similar results of both techniques [17, 31, 32, 34, 44, 45].

Conclusions

Clinical reports of results after minimally invasive hallux valgus surgeries at meetings are common. Published results in peer-reviewed journals are less common and the majority of papers are level IV studies according to the level of evidence ratings. We found one level II and three level III studies. Reported complications seem to be less than one may see in one's own clinical practice. This possible bias may be related to the fact that most studies are published by centres performing primarily minimally invasive hallux valgus surgery. Correction of deformity is certainly similar to open hallux valgus surgery. One definite advantage is the reduced time of surgery, and the disadvantage especially with the Bösch technique is the potentially reduced range of

motion after surgery.
Studies of higher levels of evidence with larger numbers of cases should be conducted.

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Promoting active learning in nursing education through teaching strategies

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Abstract

The learning process in nursing is unique in that a nursing student should be able to perform the activities of the profession in live situations. Adopting teaching strategies to promote student engagement and active learning is a vital component of the faculty role. But instructors are reluctant to change their teaching approachesfor several reasons. Educational technologies provide opportunities for new approaches to education delivery. Strategies such as cooperative learning, role play, simulations, case study, problem-based learning, questioning techniques and concept mapping involve the engagement of student and lecturers in the learning process. The results of numerous studies suggest that engaging students in active learning is more likely to meet learning outcomes and apply the concepts in the practice setting.This literature review describes evidence supporting the use of active-learning strategies in nursing education and also offers strategies for implementing active learning in nursing curricula in the classroom and during nursing practice experiences. Lecturers in nursing education should consider how to best incorporate these strategies in a classroom, laboratory, clinical or online environment.

Keywords: active learning, teaching strategies, nursing education, problem-based learning, cooperative learning.

Introduction

One of the essential requirements of healthcare systems to meet the broad needs of patients is the employment of well-qualified nurses.[1]In this respect, one of the important responsibilities of nursing education systems is providing high-quality education to nursing students and preparing competent nurses, so that they can provide patients with safe and high-quality care in the future.[2-4] Adopting teaching strategies to promote student engagement and active learning is a vital component of the faculty role.[5]

The purpose of this paper is to describe evidence supporting the use of active-learning strategies in nursing education and also offers strategies for implementing of active learning in nursing curricula in the classroom and during nursing practice experiences. Active learning helps educators shift from a teacher-centered approach to a student-centered approach, this due to evidences supports the use of active learning to stimulate higher-order thinking and improve student motivation to learn.[6] Lecturers in nursing education should consider how to best incorporate these strategies into their teaching.

Reports in the nursing education literature also support use of active learning in the classroom. Bonwell and Eison (1991) popularized the concept of active learning. Defined as learning activities that engage students, active learning encourages students to think deeply about what they are doing.[7]Active learning is based on constructivist theory, which emphasizes that, in order to learn, students need to be engaged with the content. With active learning the student are the primary knowledge

creators and focus.[8]Middleton (2013) described the effectiveness of active learning in an undergraduate curriculum for developing health professionals capable of integrating knowledge, theory and leadershipin a classroom setting.Active learning promotes higher-order critical thinking skills and involves teaching strategies such as case studies, class debates, think-pair-share activities, role playing, peer teaching, gaming, the 1-minute paper or questions embedded into a lecture.[9]Improvements in academic achievement are only one positive result of using interactive and engaged approaches. An abundant amount of research shows that students who are engaged in active learning are more likely to meet learning outcomes (National Survey of Student Engagement [NSSE], 2013 and apply the concepts in the practice setting. Their findings also showed that nursing student scored significantly higher on some aspects of academic engagement than other professions.[10]

The following questions was used to guide this literature review: 1.What teaching strategies have nursing educators used to promote active learning? 2. How they have integrated active learning into teaching? To answer these questions, I reviewed the literature to identify the most significant studies and theoretical foundations regarding specific teaching strategies to promote active learning and the practices of active learning implementing. The Medline, Google Scholar, Nursing Edition databases were searched using the following key terms: active learning, cooperative learning, problem-based learning, teaching strategies.

Active-Learning Teaching Strategies

Problem-based learning: Problem-based learning uses clinical problems and professional issues as the focus for integrating all of the content necessary for clinical practice. It is a highly structured and learner-centered method of teaching and learning, where real-life problems are the basis of the initial learning content. The five steps in the problem-based learning process include analysis of problems, establishment of learning outcomes, collection of information, summarizing and reflection.[11]There is a positive relationship between problem-based learning and critical thinking among students was reported in two reviews of quantitative studies. Problem-based learning has also positive effects on the outcome domains of satisfaction with training, clinical education and skill course.[12]

Case-based Learning: This strategy represents an in-depth analysis of a real-life situation as a way to illustrate class content. Case-based learning is well-suited for interprofessional or peer-group learning, may be completed online or in class. In case-based learning cases stimulate metacognitive knowledge, retention and recall. Case studies are especially helpful for adult learners who desire peer interaction, support for prior experience and validation of thinking.[11]

Team-based learning: Team-based learning is a shared learning and teaching approach, which is frequently used by health sciences educators in their preclinical and clinical programs to foster self-directed learning.[13] In nursing education, Dearnley (2018) reviewed the outcomes of team-based learning in nursing education programs to explore the experiences of nursing students regarding to this strategy. They discussed that there is a great body of evidence, which supports team-based learning, as collaborative teaching and learning strategy, for sustaining and enhancing students' engagement.[14]

Cooperative learning: Teams of learners work on assignments and assume responsibility and reflective learning outcomes. Cooperative learning and similar activities

promote active and reflective learningandencourage teamwork, providing opportunity for students to become accountable for their own and others`work.[11] In the pilot cooperative learning project ofYang (2012) a group of nursing students worked in teams to explore epidemiology data, synthesize the literature, and develop an evidence-basedplan for nursing intervention and evaluation pertaining to a public health issue. It was concluded that having students work in teams might be a viable strategy for preparing the next generation of nurse for inter- and intra-professional collaboration, as well as an effective way to expose students to constructive approaches to teamwork and prepare them for evidence-based nursing practice in the future.[15]

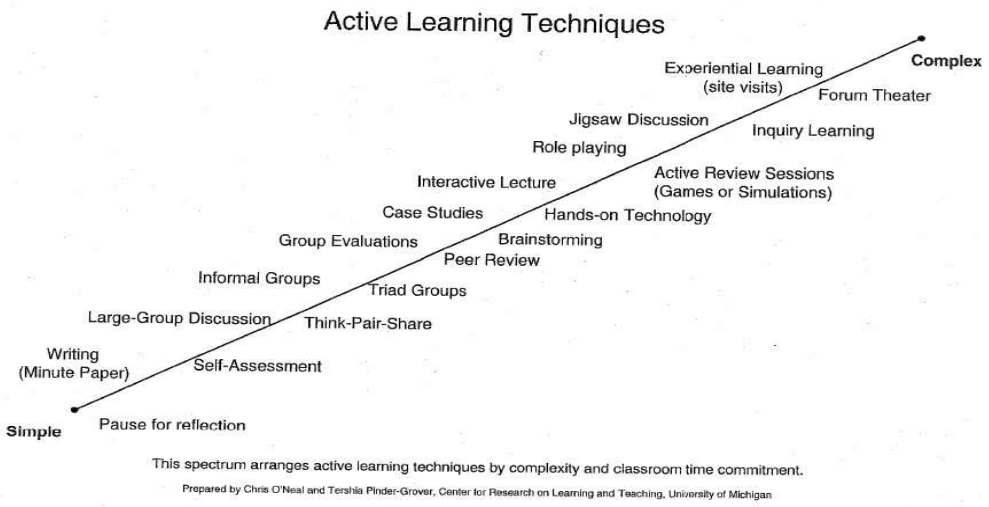
Active Learning Implementing

The selection of teaching methods is one of the most complex parts of teaching, yet it may receive little attention because educators, unless taught otherwise, assume that the way they were taught is the best way to do it. They select strategies with which they are familiar and comfortable, without much thought as to whether those strategies are the most appropriate ones for the material. For educators who are aware of the many teaching methods available to them, and who wonder which is the best, there are several factors they should consider.The selection of method depends on the outcomes and type of learning you are trying to achieve.[16]

Bloom`s revised taxonomy (Andersen & Krathwohl) can be used to categorize teaching strategies to promote student engagement. The kind of knowledge to be learned are composed of four types: factual, conceptual, procedural and metacognitive.[12]If you want to present facts and rules, a lecture with handouts, or a computer tutorial may be appropriate. If you want to mold attitudes, case studies, discussion, or role-playing may work the best. If your goal is to motivate the learners, gaming would be a good choice. If you want to encourage creativity and problem-solving skills, your best approach might be problem-based learning or individual projects. Course content also dictates methodology to some extent. A class on isolation technique may be effectively taught by demonstration, computer simulation, or hands-on practice, but would be poorly taught by means of Socratic questioning.Choice of teaching strategy also depends on the abilities and interests of the teacher. As you begin to use various methods, you will find that you feel comfortable with some and not with others.Using a variety of teaching strategies in one class or course can help to meet varied learning styles.Another factor that influences the selection of teaching methods is the number of studentsin the class.Teaching individuals or very small groups can be done best through modules, computer programs, or handouts with explanations. With small groups, discussions, role-playing, or cooperative learning also can be effective. Large groups lend themselves to lectures, audiovisuals, and maybe case studies. Also, an educator's instructional options are limited to the resources of the institution.[16]

Nursing is an occupational field that demands critical thinking. As such successful nursing education requires the imparting of higher-level skills, specifically the ability to analyze situational information and apply what one has learned.[17]Implementing an active-learning approach often is not easy and may involve overcoming numerous barriers.The large amount of time required to devise the specific components of

active learning. Some teachers may lack the confidence to implement active learning or may feel that it is risky to share control of the class session with students. One strategy to address these potential barriers is careful planning of the class session, perhaps by creating an agenda or outline that details session goals along with placement and time allotment for active-learning strategies. It may be easier to start by implementing active learning on a small scale.[6]This spectrum, prepared by Chris O'Neal & Tershia Pinder - Grover, CRLT University of Michigan, suggests the active learning techniques based upon the amount of preparation time that might be needed to enact them in the classroom.[18]



Other potential barriers include lack of student interest, willingness, or preparedness to participate in active learning. Giving students clear expectations and instructions on how to participate in this type of classroom learning experience can be helpful. Students can be held accountable for pre-class preparation by being quizzed or given an alternate short in-class assessment. If students are expected to learn basic course concepts through pre-class preparation, such as reading assignments, instructors should not use class time to lecture on these basic concepts but rather should be forthright and help students understand the rationale for implementing active learning. An institutional culture that is supportive of using active learning and provides incentives for faculty members to implement active learning is of paramount importance.Creating a suitable environment in which students can learn, think, be assessed, and receive feedback is important. Finally, instructors should seek ways to motivate student participation, such as awarding participation points or promoting friendly competition. As a result, students may even prove to be more excited and motivated to learn.[6]

Another important point is that educational strategies were mostly used in the classroom, and few were able to be transferred to clinical settings. Therefore, because more than half of nursing education takes place in clinical settings, the findings of

these studies do not support the role of these strategies in increasing the academic engagement of nursing students in clinical education. In contrast, previous studies have shown that nursing students have greater motivation, both internally and externally, to learn clinical activities; therefore, they are more engaged in these activities.[19-20] Clinical teaching is so complex enterprise that few researchers have tackled the issues that need to be addressed.Active learning involves students talking about, writing about, and thinking about what they are learning as well as manipulating and applying information.[16]Various strategies can support active learning during practice experiences, but combinations of these strategies are most likely to be effective in helping students achieve their educational goals.[21-22]

In the experiential setting, preceptors may use Socratic questioning to guide students in identifying pertinent problems, which further develops the student's skills. Socratic questioning is a time-honored teaching method in which the teacher responds to the learner's question with a carefully directed question intended to promote additional reflection and discovery.[23]

Simulations are activities or events, such as performing basic lifesupport on a patient simulator to manage a cardiac arrest, that mimicreal-world practice. Simulations provide the opportunity for students topractice within their scope of practice, think critically, problem solve,use clinical reasoning, and care for diverse patients in anonthreatening, safe environment. Incorporating simulations into anursing curriculum as a teaching and learning strategy offers nurseeducators the opportunity to support learners' educational needs byproviding them with an interactive, practice-based instructionalstrategy.Simulations can be integrated into nursing courses, laboratoryexperiences, and clinical courses to promote more active andexperiential learning at most schools of nursing (Katz et al., 2010). In a simulated experience, faculty members have an opportunity to observe students more closely and to allow students to demonstrate their potential more fully.[11]

Problem-based learning applies particularly well to experiential learning and comprises a foundation for learning when students are actively engaged in patient care. The patient-care environment provides an endless supply of real-world problems for students to solve. In this setting, students must be given an opportunity to determine what subject content they already know and what further information is needed.[23]

Self-assessment is essential to life-long learning, but it must be a self-directed behavior, in which learners seek formative assessment feedback from others.[24] At least initially, students will need preceptors to model and facilitate this behavior. Formative feedback is essential to deep learning and should be based explicitly on student performance of specific abilities.[25-27] Feedback can be short, verbal formative assessments that occur frequently and are not summative evaluations and do not involve comparisons with other students. To help students achieve and readily engage in self-reflection, preceptors should provide timely and constructive feedback that helps students develop into reflective practitioners.[28]

Service learning provides students an opportunity to develop knowledge, skills, attitudes, values, habits, and ethics that cannot be learned solely in the classroom. It not only enhances the community through service but also can act as a powerful reflective learning experience for students.[29] Specifically, service learning should: meet identified needs in the community and establish a relationship between the community and the academic institution; foster civic responsibility and a sense of caring for

others; be integrated into pharmacy curricula; provide students with structured time for reflection on the service experience; extend student learning from the classroom into the community; and balance the service provided with the learning that occurs. Active-learning opportunities in the didactic setting help set the groundwork for experiential learning by involving students in their own instruction and facilitating progression from dependent to independent learning.[30]

Conclusions

A variety of teaching strategies can be used to provoke active learning in nursing students. According to Hayward & Cairns, the goal of educators should be to "… prepare students to become competent clinicians, clinical thinkers, critical thinkers, problem-solvers and collaborators, team players, self-directed learners and effective communicators".[31]Active-learning strategies should be incorporated into nursing curricula through both didactic courses and nursing practice experiences to help students progressively advance to deeper levels of learning. Nursing students must be prepared to be self-motivated, lifelong learners who can meet the challenges they will face as nurses in an ever-changing healthcare environment.

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The original way of ownership acquisition in Kosovo, Albania and North Macedonia

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Abstract

The research paper, titled "The original way of ownership acquisition in Kosovo, Albania and North Macedonia", consists of very useful information and suggestions in the field ofcivil law in general, with particular emphasis on the manner of acquiring ownership by origin in some regional countries. Herewith it is aimed to elaborate "how is to be acquired the ownership right by origin" which actually contains very important institutions and the potential ways to acquire this right.

Keywords: Ownership, acquisition, Kosovo, Albania, North Macedonia.

Introduction

Taking into consideration that the institution of ownership is one of the oldest and most important institutions of civil law, namely the institution of real right in particular, I expressed the desire to work on this topic, that is the original way of ownership acquisition in the Republic of Kosovo by doing a comparison with the countries in the region such as the Republic of North Macedonia and Albania.
Ownership is not only a right over a certain thing, but it is also a legal-ownership relation. Ownership represents the factual and legal power over a certain thing and that is exercised by the holder of the right either from his ancestor, where the right derives from or from the right that is acquired for the first time (original acquisition) where such a person for the civil law is the initial owner over the certain thing. Ownership right in Kosovo represents one of the biggest problems in the field of civil law. If we take examples from the statistical data that the court currently has, we notice that the largest number of cases in civil cases, meaning the largest disputes, are in the field of ownership, respectively the number of cases that have the institution of ownership as the object of dispute. My focus will be mainly on the laws of these countries where there will be a scope of scientific work, i.e. the original way of ownership acquisition, but there will not be left unmentioned other units that are taught in studies alongside this topic such as: ownership, derivative way of ownership acquisition, termination of ownership, protection and so on. So, these are units that are continuously taught in line with each other and giving the meaning without any of these would be incomplete. While dealing with this topic, I will try to get opinions from both theory and practice as well as do their comparison to our country. The scientific paper that we will be dealing with is in line with the general methodological and scientific approach while looking into the great importance of ownership trying to better explain this phenomenon believing it is reasonable to first define the term "ownership", characteristics of ownership, acquisition of ownership, protection of ownership, termination of ownership, etc. In the past, in Roman times, the institution of ownership was unrestricted and was considered by the state as a divine right. But, in Kosovo and the countries of the region, ownership, although it is an absolute real right, which enables the holder himself wider authorizations,

the right to use, utilise and dispose, has also its limitations that we will try to treat separately in the paper. A very attractive chapter will be the original way of ownership acquisition knowing the fact that for the owner to have the right of ownership over his thing, he must have the right of regular legal constitution (establishment), meaning it may happen that a person has the power over a thing but does not have the ownership, i.e. has possession of the thing and does not have the legal basis for which that right (ownership) is thought to have been acquired. Legal basis in this case can be a contract, donation, will, etc.

II. Ownership rights

II.1. The notion of ownership

Ownership is one of the most difficult institutions for various scholars, and as such causes a lot of trouble in its proper study. Ownership is considered one of the main, most important institutions of the socio-economic relation and of any legal order of a state. It should be noted that other law institutions are derived or arise from the institution of ownership.

Due to its legal nature, ownership is a very complex and difficult institution to be studied, defined but also defined only in relation to the legal relations of the rule of production of a socio-economic structure.[1]

Since Marx, Engels and others, all ownership legal relations are subject to their permanent replacement, whether by historical or constant changes. In terms of contemporary law, ownership by many civilians, has as a common point the institution of ownership as the most important and primary in civil law. Historically, it turns out that every certain legal order corresponds to a certain form of ownership, which changes (evolves) with the corresponding changes of a certain social order. Marx and Engels wrote that "the different stages in the development of the division of labour are at the same time different forms of ownership, that is, each degree of division of labour also determines the interrelations of individuals in relation to the material, the means of labour and the product of labour".[2] Ownership is not only right over the thing but it is also a legal-ownership relation.

Due to the importance, the label given to the right of ownership is subject to regulation not only by law but also by the constitution, and by various international conventions. According to the Constitution of the Republic of Kosovo,[3]the right of ownership enjoys a fairly rigorous and fairly well defined legal protection as well as by the LPORR of Kosovo (Law on Property and Other Real Rights).[4] From this it

1. Ejup Statovci: "Pronësia, Origjina dhe Zhvillimi" (Ownership, Origin and Development)- Comparative study, Prishtina 2009, p.13.

2. See: "Marx-Engels, Njemacka ideologija, (German ideology), p.12, quoted according to Prof.Dr.Ejup Statovci.

3. Constitution of the Republic of Kosovo, Article 46, paragraphs 1, 2 and 3, where in paragraph 1 it is decisively stated "The right to own property is guaranteed", paragraph 2 "Use of property is regulated by law in accordance with the public interest", paragraph 3 "No one shall be arbitrarily deprived of property. The Republic of Kosovo or a public authority of the Republic of Kosovo may expropriate property if such expropriation is authorized by law, is necessary or appropriate to the achievement of a public purpose or the promotion of the public interest, and is followed by the provision of immediate and adequate compensation to the person or persons whose property has been expropriated".

4. Law No. 03/L-154, on Ownership and Other Real Rights, Article 18, paragraph 1, which states, "Ownership is the comprehensive right over a thing. The owner of a thing may, unless it is not contrary to the law or the

is clear that the ownership right, in addition to being the main and most important institution of civil law, is also a fundamental human right, which is also defined in the Universal Declaration of Human Rights; European Convention for the Protection of Human Rights and Fundamental Freedoms, and its Protocols. The definition of ownership in most countries is similar.

The definition of ownership, based on the authorizations carried by a holder of that right, is also defined in the laws of the region, respectively the civil codes as a clearer and more direct definition.[5]The Civil Code of the Republic of Albania also defines the institution (notion) of ownership.[6]So, this shows how important the ownership institution is for justice and for civil law in particular. The ownership right is a fundamental right which is also included and guaranteed in international law.[7]

Ownership, as a scientific concept, is categorized by legal science in two meanings:

- Ownership as an economic category;
- Ownership as a legal category.

As an economic category, ownership represents the appropriation of tangible or intangible assets by persons, whether individual or group. Meanwhile, as a legal category, ownership represents the regulation and sanctioning of economic relations of ownership. This type of sanctioning of the economic relation is done by the law where as a result of this, the economic ownership relation takes the form of a legal ownership relation. These two categories, both economic and legal, are linked to each other due to the fact that they appear in every society and in every legal system. However, great philosophers such as Marx and Engels have given opinions regarding ownership, especially in their works. Although they talk about ownership in both meanings, sometimes in the economic meaning and sometimes they talk about ownership as a right, these were contradictory to their theses in their opinions even though they belonged to the same time. Ownership as an economic category is thought to have appeared since the time of the philosopher Marx, who when it comes to ownership as an economic category precisely gives the first results of this category respectively of this term.

III. The original way of ownership acquisition

Another division in addition to the derivative way of ownership acquisition is also the original way of ownership acquisition. This way of acquisition, unlike derivative acquisition, where the right of ownership is derived from the ancestor and we had the continuation of the right of ownership, in the original acquisition the right of ownership is not derived from the ancestor, but over the things on which no one has had ownership rights, respectively no one has been the owner.

The original acquisition of the right of ownership exists when the acquirer does not rely on the right of his ancestor but only on his right. This means that the original way of acquiring the right of ownership can be constituted on the things on which no

rights of third parties, deal with the thing in any manner he sees fit, in particular possess and use it, dispose of it and exclude others from any interference".

5. See: Prof.Dr.Abdulla Aliu "E Drejta Sendore (Pronësia), (Real Law (Ownership)), Prishtina 2006, p.76, which states "The right of ownership is a real right, which enables its holder to possess, use, utilise and dispose of a certain thing within the limits provided by law".

6. See:Civil Code of the Republic of Albania, Tirana 2009, Article 149, which states "Ownership is the right to enjoy and dispose of things freely within the limits set by law".

7. Universal Declaration of Human Rights, Article 17.

one has had the right of ownership, respectively the things of no one (*res nullius*) and the things which are ownerless or abandoned (*res derelictes*). The Law on Basic Legal Property Relations (LBLPR) provides in Article 21, "according to the law itself, the right of ownership is acquired by creating a new thing, by joining, mixing, building on someone else's land, by dividing fruits, by acquired prescription, by acquisition of ownership from the non-owner, by occupation and in other cases determined by law".

So, these were some of the ways that were explicitly defined in the Law on Basic Legal Property Relations.[8]According to the LPORR of the Republic of North Macedonia, Article 113 enumerates some of the original ways of ownership acquisition. In these cases, the right of ownership is not acquired from the ancestor but on the basis of law. It should not be understood that only the original acquisition of ownership is a legitimate acquisition, while other cases are not lawful, e.g., when ownership is acquired by contract or other legal work. No property right can be acquired in violation of the law. But, in the case of original acquisition, the right is acquired according to the force of law. In this regard, lawmakers use the expression "The ownership right is acquired under the law itself."

The law of North Macedonia stipulates that the acquisition of ownership according to the law is done by creating a new thing, by mixing, by joining (merging), by building on someone else's land, by acquired prescription, by dividing fruits, by acquisition of ownership from the non-owner, by occupation, by merger and by changing of the river bed and creating of the flow and in other cases provided by law".[9]

With adoption of the LPORR of 2001 and then of 2008, as general laws in the field of property-legal relations, in the legal system of the Republic of North Macedonia, it represents one of the processes for the creation of a new legal-property legislation. It seems to be based on the Constitution of the Republic of North Macedonia, in the legal system of the Republic of North Macedonia we have the adoption of some other general laws which regulate the power of things and given the desire for the accession of the Republic of North Macedonia to the EU, the legal system of the Republic of North Macedonia although it had constantly adopted new laws, in order to harmonize them with the legislations of the EU states, it adopted a group of laws which regulate the issue of things, especially things that are in the interest of the state. According to the LPORR of the Republic of North Macedonia, when it comes to ownership acquisition either in a derivative or original way, it provides that the right of ownership is acquired on the basis of law, legal work and inheritance.[10]

Similar to this are provisions provided by the LPORR of the Republic of Kosovo, and CCA where it is stated that the right of ownership can be acquired in the following ways: by law, legal work or inheritance. According to the definition that the right of ownership is acquired by the law itself, it means the fact of the acquisition of that right in cases when all the conditions or circumstances provided by legal provisions are presented. Acquisition of ownership by law is undoubtedly the original way of the right, respectively the acquisition of ownership because it is derived directly from the law and not from its ancestors as we had the case with the acquisition of ownership in a derivative way.

According to the LPORR of the Republic of North Macedonia, "the right of ownership

[8.] See: LBLPR, Article 20, quoted according to Prof.Dr.Abdulla Aliu, quoted work p.111.

[9.] PLOPR, of the Republic of Macedonia, Article 113, quoted according to Prof.Dr.Abdulla Aliu, p.111.

[10.] PLOPRof the Republic of Macedonia, Article 112.

according to the law is acquired by creating a new thing, by mixing and merging, by building on someone else's land, by acquired prescription, by dividing the fruits, by acquisition of ownership from the non-owner, by occupation, by merger and by changing the river bed and by creating an island and in other cases provided by law".[11]

However, even though it is said that the right of ownership is acquired by law, here it should not be understood that the right of ownership cannot be acquired through any legal work or through inheritance, but the law provides this form as a legal institution regardless of the way of acquisition and the right of ownership is always acquired according to the force of law itself.

IV. Legal titles for the original way of ownership acquisition

There are several types of the original way of ownership acquisition. These legal titles in legal science but also in relevant laws such as LPORR of Kosovo, North Macedonia, CCA of Albania, are the legal basis for the original way of ownership acquisition.

However, there are still legal titles for the original way of ownership acquisition, such as occupation, usurpation, and such that were once a sufficient basis, respectively with them was acquired the right of ownership as a regular legal basis.

But the same case does not happen today because occupation, usurpation, in our country and in places where the scope of my topic is, it is considered a criminal offense and not a legal title for ownership acquisition in any such way.

I will deliberately deal with only a few titles that are more current today such as:

- *Expropriation;*
- *Nationalization;*
- *Denationalization;*
- *Construction on someone else's land, etc.*

IV.1. Expropriation

Expropriation is the forced transfer of immovable private property to public (state) ownership for general interest and with compensation. At the same time, the general interest in the regulations is not generally defined, but the criteria for its meaning are given by counting with the most typical examples; the immovable property can be expropriated when necessary for the construction of business, residential buildings, municipal, health, educational, cultural and other facilities of general interest.

For the expropriation of the immovable property, compensation is given (so-called fair compensation), in cash, and with the agreement of the parties, it can also be with the compensation of the other property where in this case the expropriation is presented not only as a termination of ownership (in the expropriated notice), but also as a way of ownership acquisition (on immovable property which has been accepted as compensation) (190).

The importance of this institution and the sharpness of the problems that derive from it, has made that even the highest legal act of a state, i.e. the constitution to explicitly provide for issues related to expropriation. The Constitution of the

[11] Ibid, Article 113.

Republic of Kosovo contains the provisions for expropriation, Article 46 paragraphs 3 and 4 provides: "3. No one shall be arbitrarily deprived of property. The Republic of Kosovo or a public authority of the Republic of Kosovo may expropriate property if such expropriation is authorized by law. 4. Disputes arising from an act of the Republic of Kosovo or a public authority of the Republic of Kosovo that is alleged to constitute an expropriation shall be settled by a competent court" (191).

As we treated above the expropriation as a certain legal relation, which is regulated by constitutional provisions, this form of acquisition of ownership also refers to special laws that deal with and regulate in detail expropriation, as a way of acquisition of ownership. Given the constitutional and legal basis of the legal relationship of expropriation, it shows the great care shown by the state, in order to protect and balance the public and private interests (192). Also in Kosovo, as in the countries of the region, expropriation is regulated in detail by a special law which is the "Law on the expropriation of immovable property".

According to this law, the object of an expropriation may be private ownership or other private rights in or to immovable property, with the exception of rights in or to immovable property that falls with a class of property that the Constitution or the Comprehensive Proposal specifically provides shall not be subject to expropriation (193).

The expropriating body is the President of the Assembly, if the immovable property is completely located within the boundaries of the Municipality and the expropriation is clearly and directly related to the achievement of one of the public goals: - Implementation of an urban or spatial plan which has been approved and announced by municipal public authority.- Construction or expansion of a building or facility which will be used by a municipal public authority to exercise its public function. - Construction, expansion, establishment or placement of infrastructure. - Municipal roads which provide transport services to the public. - Public facilities needed by a municipal public authority for the provision of educational, health and social welfare services within the municipality. - Pipes used to provide water supply and sewerage services for settlements within the municipality. - Municipal landfills and places for disposal of public waste.

While the government is authorized to expropriate property for any other lawful public purpose which is not defined in points of sub-paragraph 2.4.4 of this article, if the conditions set out in this law are met. The expropriation procedure can be initiated by the responsible expropriating body such as the mayor or the government on its own initiative or after submitting a request to the expropriating body. Claims can be submitted by a public authority or Public Enterprise (195).

The expropriating body takes a final decision to approve or reject the expropriation request only during the six (6) month period which begins forty-five (45) days after the entry into force of the preliminary decision (196). If the owner of the immovable property who is the object of the expropriation procedure thinks that the preliminary decision is contrary to the law on expropriation, he has the right to file a complaint to the competent court on the legality of the proposed expropriation, a complaint on the amount of compensation, complaint for compensation of damages suffered from partial expropriation, complaint against the legality of the decision for temporary use of the property (197).

For the expropriated immovable property is given the compensation, which is based

on the market value of the property, which is determined in accordance with the provisions of this law and bylaws, which compensation is paid in euros or another currency that can be freely exchanged. (198).
After the entry into force of the final decision and the payment of compensation, the cadastral office registers the property in the name of the respective municipality or in the name of the Republic of Kosovo (199).
This law provides provisions for the temporary use of immovable property in private or public ownership, if such an action is necessary to take urgent measures to protect life, health, property, restore public order, war, disturbance of public order or similar extraordinary events (200).

IV.2. Nationalization

Nationalization is also the transfer of private property over certain things to state ownership (209). Thus, it is a measure, which is taken by the state and has to do with the acquisition of ownership from private persons, in exchange for the reward for strengthening and expanding the state economy (210). Nationalization, like confiscation, does not apply only to things, i.e. on property, but in the whole property complex which constitutes the nationalized enterprise, when it is in question the legal person or the property of any person (when the enterprise of the natural person is nationalized).
Thus, the state acquires the ownership in its entirety in an original way, but without legal continuity, respectively the derivation of the rights and obligations of the natural and legal person whose property is nationalized. If a new enterprise is created from the items (buildings, machines, equipment, etc.) that belonged to the nationalized enterprise, it receives the items from the body that established it (the state), and not from the former owner of the nationalized enterprise (211).
Nationalization as a state measure was taken in the former Yugoslavia and communist Albania from 1945 to 1990. In this period and in this case the property was taken not for public interests, but for the strengthening of the state economy (212).
In the former Yugoslavia the most well-known laws on nationalization were: the Law on the Popular Proclamation of Pastures and Rural Forests (213), then the Law on the Nationalization of Private Economic Enterprises (214) and especially the Law on the Nationalization of Leased Buildings and Construction Land (215).
These laws nationalized the private economic enterprises of interest to the state, then the immovable property owned by foreign nationals, the leased buildings were nationalized and the construction lands became socially owned.
With the Law on Nationalization of Leased Buildings and Construction Land, the owners were deprived of residential buildings and arable land. A leased building was considered a residential building which has more than two large apartments or three small apartments.
The Law nationalized not only the buildings, which were leased on the day of entry into force of nationalization which on the day of entry into force of the Law (26.12.1958) became socially owned. In addition to residential buildings, business buildings and construction lands were also nationalized.
The municipality has compensated the nationalization of buildings, inadequate compensation and that within a period of 50 years (216). While with the law on

changes and the amendment of the Law on nationalization of private economic enterprises it goes even further in the circle of nationalized enterprises.
In particular, all immovable property owned by foreign citizens and foreign private or public legal entities becomes the property, and with this Law the loss of the right of ownership over immovable property existed even for the citizens of the SFRY who became other state citizens (217).
The loss of citizenship of the then SFRY was another legal basis for the loss of private property ownership and its conversion into people's property, and this was done without any compensation.
With the law of 1948 on nationalization, it is determined that in the case of nationalization of the economic enterprise then the nationalization directly includes the land on which the building of the enterprise is built, because at this time there is no possibility of two rights - the right to land and the right to the building.
This division into land ownership and building ownership in the legal system of the former Yugoslavia will be more strongly presented by the Law on the Nationalization of Leased Buildings and Construction Land (218).
The law provided that construction land shall be nationalized in cities and localities of the civic character, both constructed and unconstructed.
The executive authorities determined which is considered urban land and which the locality of the construction region is.
Nationalized construction land was considered socially owned. Decisions of the competent bodies determined which lands were nationalized as construction land.
The competent bodies were at the municipal level.
Compensation was provided only for unconstructed land.
The compensation, although small, was made in instalments within a period of 50 years (Article 46) without interest and without revaluation. In the nationalized construction land, all encumbrances were settled except the real servitudes.
Compensation for nationalized construction land was made by the Federal Executive Council (former Yugoslav Government).
Indirect nationalization of construction land came in question in the case when the leased buildings were nationalized (when it took place outside the territory declared a construction land). In these cases, not the whole plot where the building was located was nationalized, but only the land on which the building was located and the surrounding land for the building to function.
For the implementation of the law, there was a decree on the procedure for the implementation of nationalization in leased buildings and construction land.
This measure today in the conditions of free market economy and liberal democracy, it is legally unacceptable and has no legal basis to evoke upon and that the state is prohibited by law from doing nationalization.
This is based on the constitutional principle expressed in Article 46, paragraph 1, of the Constitution of the Republic of Kosovo, according to which "the right to property is guaranteed."

IV.3. Denationalization

The campaign for the nationalization of property, which began on 25 October 1917, and continued even after the end of the Second World War, was painful and resulted

in the taking of private property from former owners not under the rules of civil law or other legal basis generally for their compensation, but with decrees and laws of an imperative nature (violent, coercive).
The aim of nationalization was not to find an efficient mechanism of the economy but to create the basis - state property, on which the foundations of the socialist state would be built. The act of nationalization ensures, in fact, the concentration of capital and the revocation of property relations, it does not in itself ensure efficient control, much less direct decision-making of the stakeholders of production.
The revocation of private property and its nationalization had negative effects. The newly constituted state assumed the functions of owner and assumed control over production. The concentration of capital in the hands of the state provoked the centralization of control, respectively provoked the free market economy.
With the change of the legal system, after the 1990s, in the former socialist states began the process of returning the properties that were forcibly taken by the state. The return of property to former owners is a historic turning point in legal-property relations.
In most cases, the process of returning property to those who it had been forcibly taken from by the state is referred to as property denationalization.
For this, laws wereadopted for the denationalization of assets seized by force by the former SFRY.
In many countries coming out from the former Yugoslavia, the law on denationalization had been adopted, as well as in the Republic of Albania.
In Kosovo, the law on denationalization has not been adopted yet, and in this regard we still have regulations such as the case is with UNMIK Regulation No.2003/13, on the transformation of the right to use socially-owned immovable property, which did not regulate the issue of restitution of property rights to those who were arbitrarily (forcibly) deprived of property.
Equality considerations point to the need to return what was taken by the communist government from the former owners before privatization or to compensate the latter (or their descendants) for the loss of property.

IV.4. Construction on someone else's land

Superstructure on someone else's building or in the part of the co-ownership is also the artificial union of the immovable properties. This type of construction should be distinguished from the placement of movable items onsomeone else's building in which the rules of joining the main item with the accessory apply.Superstructure means a considerable volume of work or considerable value in relation to the total value of the building (144). The superstructure is obliged to give compensation to the owner, which is also determined by a special procedure, as the cause of the superstructure. Different civil legal relations can be established between the building owner and the superstructures. The superstructure is a consequence of any contractual relationship between them (despite the existence of the administrative act for the superstructure), for the joint ownership, long-term lease or similar. If we do not have a previous contractual relationship between them, as a rule, the superstructure acquires the right of use in the physical part of the building in the form of ownership on the floor (145).

Conclusions

The results achieved from all the material elaborated above, which are very important and which address the problems in the civil field are the right of ownership where it represents one of the oldest and most important legal institutions of civil law in general, respectively the most important legal institution of real law, in particular.
This right is considered a fundamental, main, legal-property institution, respectively as a fundamental right in real law which, in addition to being regulated by law, is guaranteed by the Constitution of the Republic of Kosovo. The right of ownership is a subjective right, with an absolute character, which enables its holder to use, utilise and dispose of a certain thing in the most absolute way possible. Ownership therefore represents power with the broadest powers where the right of disposition is the highest authority that a holder has over a certain thing. Ownership, being considered as a very important right, has been provided by international acts, including the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Freedoms, and its Protocols, etc. The ability of the owner to exclude third parties from the influence of ownership, characterizes ownership as an absolute right, which mainly applies to all (*erga omnes*). This right is reserved only for the owner. Ownership as a legal power over an object can be acquired on the basis of certain legal facts, provided by the objective norms of positive law, and in no other way. The right of ownership is acquired on the basis of law, legal work, and inheritance, as well as on the basis of the decision of the competent state body. The ways of ownership acquisition are divided into derivative ways of ownership acquisition (derived) and the original way of ownership acquisition (source) which ways of acquisition are provided by the LPORR of Kosovo, No.03/L-154.
Derivative acquisition of ownership is a way of acquiring ownership from the old holder to the new holder or new owner. Derivative acquisition of property requires two moments: the legal basis (title) (*iustus titulus*) and the manner of acquisition (*modus aquirendi*). In derivative acquisition, the legal title is the contract, legal work, while the way of acquisition is the registration in public books, when the rights over the immovable property are in question, and the delivery of the thing, when the movable property is in question. Whereas the original acquisition of the right of ownership exists when the right is not derived from the ancestor on the basis of some other legal fact, so there is an interruption of the legal continuity between the right of the ancestor and the new owner.
There is a large number of legal titles for the acquisition of original ownership taking part in the acquisition of original ownership according to law.
So the original acquisition of ownership is done only in the ways prescribed by law and in no other way. According to the legal provisions, the ways of acquiring original ownership in the Republic of Kosovo are: acquired prescription; acquisition of ownership by the non-owner; acquired ownership of lost or found items; occupation; processing; creating a new item; merging and mixing items; expropriation; nationalization; seizure; on the basis of an administrative permit; court decisions; acquisition of ownership of bee land, renting and comassation. With the creation of the new communist system after the WWII, in Kosovo, the creation of legal-property relations was characterized by taking the property from landowners, by violent means that for us was the institution of nationalization and denationalization, and by

discriminatory laws of agrarian reform, confiscation of property, a process that lasted until the fall of the communist system in the late 1990s, when the transformation of social property of former owners began based on the laws of denationalization, de-expropriation, de-confiscation, etc.

In Kosovo, North Macedonia, Albania, Slovenia, Croatia, Germany, the Czech Republic, and many other countries, relevant laws have been approved for the return and compensation of land property to former owners, according to which laws are sanctioned property rights for former owners and their heirs over the nationalized, confiscated immovable property, which was taken away by force and other violent forms of state in an unjust and discriminatory manner. Although there is no international act obliging states to return nationalized property during the communist period. Even the case law of the European Court of Human Rights has not been able to force states to return property to such a category. This is because the European Convention for the Protection of Human Rights says that there is no retroactive action at the time when property nationalizations took place because these countries were not signatories to the Convention.

While the Republic of Kosovo is the only country in the Western Balkans from the former socialist states which has not yet adopted a law on the denationalization of properties nationalized by communism, which is one of the essential requirements and a prerequisite for political, economic and social stability. The adoption of a law on denationalization would also help in the process of privatization and liquidation of various socially-owned enterprises in our country. All post-communist states have dealt with solving this problem as a necessity of clarifying property rights as a precondition for a free market but also for the creation of an independent judiciary in Kosovo society. The law on denationalization should also be considered as one of the laws of the package of laws on privatization. Although it is probably not the time for Kosovo to enter into the resolution of this rather complex problem, this is necessary because a significant number of property claims before our courts are directly related to the return of nationalized or expropriated property (agrarian reform) during the communist period, and these claims must be addressed. The law on denationalization is also necessary for a transparency in the procedure of liquidation of socially-owned enterprises and the resolution of property disputes of this nature, in the same way for all citizens. Therefore, the lack of a clear legal basis may allow the law to be applied in different ways for the same cases. Moreover, the fact that the laws of Serbia issued after 1990 regarding the restitution of property have not been repealed, there is a risk of implementation of such laws by the courts (where this has also happened in practice). Kosovo should not allow the issue of property restitution to be resolved spontaneously, the legal situation allows for a spontaneous form of property restitution, which other post-communist states has avoided by creating a centralized system through a Strategic Plan for restitution of properties, respectively compensation and has adopted the relevant laws for their implementation. Kosovo has an immediate need to develop a Strategic Plan on how to deal with such property restitution cases equally for all citizens of the Republic of Kosovo. Kosovo should take a political and legal position on how these properties will be returned, how much they can be compensated (compensation with other property or compensation with money using the Privatization Fund, but the value must be reasonable given the possibilities of Kosovo state budget), on which the

legal basis of the former communist system can call former owners for property restitution, and other similar forms. The Assembly of the Republic of Kosovo should adopt this law, since the fulfilment of these conditions for the regulation of property is one of the main preconditions to have foreign investors but also one of the conditions for the integration of Kosovo in the institutions of the European Union and other relevant organizations.

For land issues in Kosovo, laws should be adopted which would define:

a) *The relation of Kosovo or the Municipality to former owners, whose land has been denationalized;*
b) *Legal rounding of the right of social ownership over the land as land owned by the Municipality where the land is located and a part also owned by the state (Kosovo);*
c) *Legal relations to natural or legal persons, who have been allocated socially-owned land on use;*
d) *Privatization of agricultural land and construction land and other lands; e) The Assembly of Kosovo will also contribute to these issues by adopting new concrete laws on unresolved issues regarding property rights.*

So, from all the material elaborated above, we can reach some conclusions which are important for the field in which the study of this topic has been done.

Ownership is a fundamental right of property law and is the most important legal relation between subjects (people) in relation to certain things. Ownership is one of the oldest legal institutions born with the birth of man himself. It represents a right which, in addition to being regulated by law, is also guaranteed by the Constitution of the Republic of Kosovo, Albania and North Macedonia, where our study also extends to the mentioned countries. Considering that ownership, as a very important right, has already transcended the legal relations of domestic law, it is regulated by international acts and conventions, including the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols. We can therefore conclude that ownership is a right which enables its holder the full right to certain items to use, utilise and dispose of the item freely (*ius utendi, fruendi et abutendi*) and may require from third parties that they do not obstruct the exercise of these powers in a legal order permitted and guaranteed by the state.

The ability of the owner to exclude third parties from the influence of ownership characterizes ownership as an absolute right, which mainly applies to everyone (*erga omnes*). This right is reserved only for the owner. In every legal system, even in our system, property is defined as the broadest and absolute power over things, but it is a limited right. The right to property is subject to certain restrictions which may be of a general nature but also those that are specific. By general constraints we mean those constraints on those items which are of particular importance to society, economy, culture or something similar. Thus, agricultural land has been declared a general good; therefore it must be realized in accordance with the nature and purpose of the thing in the conditions and forms provided by law. Special restrictions include restrictions for foreign natural and legal persons as well as for neighbouring properties. Restrictions on foreign natural and legal persons are more legal restrictions for security reasons and for economic reasons, but also due to the greater economic, cultural connection and the affirmation of human rights in the international community we can conclude that these restrictions for foreign natural

and legal persons have significantly improved. In our country but also in Albania and North Macedonia foreigners can acquire the right of ownership according to the conditions provided by law. Restrictions on neighbouring properties are also direct legal restrictions on neighbouring properties. So according to the law, the owner has been given some authorizations for the property which belongs to him, with which the owner of the neighbouring property obliges him or her to bear with him, or to ask the neighbouring owner to do something or refrain from something with which he as owner by law has the right to do so.

Thus, the immediate task of the Republic of Kosovo remains the adoption of two laws vital to the normal development of the justice system and in particular on property issues such as the Law on Denationalization and the Law on Nationalization of the property of former owners who by violence and arbitrary forms were taken property by the state.

After studying and analysing this field, we can conclude that ownership as a legal power over an item can be acquired on the basis of certain legal facts, provided by the objective norms of law, and in no other way.

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The impact of dreams in the social life of ages 8-40+

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Abstract

The purpose of this research is to try to address the question of how much do dreams affect social life? In particular the paper aims to present the hypotheses: (1) Dreams can have an impact on the temporary or long-term mood of people, such as; and (2) Dreams can influence their social perception. The methodology of this paper is based on the collection and data by reviewing the specific literature on this topic and examining empirical studies. Initially an overview is made about the social impact of dreams and after reviewing the literature and presentation in general the results of the questionnaire are presented by N:302 respondents. This number of respondents includes only the participants in the survey, but not those in other methods such as interviews, focus group, free essays, archival data and the application of the technique of incomplete sentences which together with the respondents of the survey, form total number, N = 407. Based on the tracking methods and literature used, the results support the predicted hypotheses.My two students took care of completing the questionnaires; Shefki Braimi, Ernest Hoti - Prizren .

Keywords: dreams, the impact of dreams on social life, influence.

Introduction

Every culture,including ours,think that dreams have meanings. In some cultures people think that dreams transmitt messages from the gods or predict the future. Psychologists define dreams as auditory or visual experiences of the mind while we are asleep.The average person can see 4-5 dreams a night,approximately one in two hours of total time spent asleep.If we wake people up in the REM sleep phase,they report graphic dreams around 80-85% of the time (Domhoff,2003). During REM sleep,around 50% of the time people report less impressive experiences similiar to concious experiences when we are half awake.Dreams are often so vivid that its hard to distinguish them from reality (Domhoff,2005). In psychology literature there isnt any general factulization for dreams known till today.There are alot of researchers preoccupied with dreams trying to give meaning to every dream they have.What is more,this preoccupation goes beyond boundaries that even the smallest element is given a clarification and meaning. Psychiatrist and psychologist Sigmund Freud has given one of the biggest theories on dreams.This theory is called the *psychoanalytic theory of dreams*. Based on this theory,dreams are the fullfilment of crushed desires and motives,crushed and placed in human subconciousness. Lately in psychology literature there is word on the theory of synthesizing activism of the brain.According to this theory,the brain during the sleep phase activates itself and then synthesizes it in the form of dreams.This is the MekKril and Hoffman theory (Nushi,2002). There has been a large interest on dreams since the early civilization times and the researches and studies done till today have shown limited results that have caused many diverse interpretations.

Closely related to the idea that dreams can have a correlation in social perception, is the thought that dreams can greatly affect people's feelings towards the protagonists of dreams, as well as their thoughts. Meanwhile, no less important is the hypothesis that the impact of dreams is smaller on social behavior, although this factor can not be ignored. But, reserved when we generalize the conclusions, we put forward the view that the impact of dreams on social life differs depending on individuals, their age, gender, place of birth, religion and education. I am convinced that dreams are an additional dimension of our mind, that dimension which when we put it into perspective, gives us the key to our vast room of knowledge. But, of course not all people deal with dreams in this context and not all try to put it into perspective. Of course, one cannot deny (Brown, 2002) the idea that dreams are the key to the mind, but one can deny the pervasive influence it tries to give to this experience. It is certain that the social impact that dreams can have cannot be clearly and conclusively proven, but such research is very important to start the path of social impact research that displays unconscious experiences. It is an initiative to understand those experiences, which although inexplicable have a great impact on human manifestation. Perhaps not to such an extent and not with all people, but with a certain limit, dreams can be taken as a factor of social influence. Even if this conclusion cannot be accepted, it can easily apply to a certain section of people. This is also the reason that the impact of dreams on social life can not be ignored.

II-Methodology

A.Methodology: Contrary to the idea that only a self-analysis of dreams would lead to a clear explanation of the influence of dreams on human life (Jack Keroucas & Robert Creeley 2002), we chose all possible methods, making a combination of many tracking and research procedures in psychology.. First the questionnaire is applied, then the interviews, archival data, essays, focus groups and finally the unfinished sentence technique is applied.

Participants : With a non-random categorization, 40 participants aged 8 to 12 years were divided on one side and 96 others aged 13 to 16 years, then 52 respondents, make up the number of subjects in the age group 17 to 20 years, same as in the category of 21 to 40 years, where we have 66. Meanwhile, at the age of more than 41 years we have 48 subjects, which sums up the total number of 302 respondents who participated in the research. This number of respondents includes only the participants in the survey, but not those in other methods such as interviews, archival data, focus groups and the application of the technique of unfinished sentences, which together with the respondents of the survey, form the total number, N = 407.

B.Study Hypothesis :

H-1. *Dreams can affect people's temporary or long-term mood,*

H-2*. Dreams can have an impact on their social perception*

C.Instruments ; *The questionnaire was constructed after many discussions including the consultation of various books that indicate the creation and proper use of the questionnaire in data collection. Three interview methods were applied: structured interview, semi-structured interview and unstructured interview. Another method used in research was the analysis of archival data.*

D.Procedure ; *After defining the research topic and providing the questionnaire that we*

would use for our research, in order to see if the questionnaire is appropriate we made an initial application of the questionnaire to a group of 20 subjects who were not part of the sample. This is done in order to see if the questionnaire is understandable. Then we applied the questionnaire to the respondents, where it was distributed to 350 respondents. However, 302 valid questionnaires emerged from this figure. The survey was conducted in different settings and it took an average of 10-15 minutes to complete the questionnaire. Respondents were given clear instructions for completing the questionnaire. The entire survey application lasted 7 days, where the data analysis then began. Data processing and analysis was done with the statistical package for social sciences (SPSS 12.0.1) Regarding the interview with 30 subjects, in the first type, so in the structured interview, the same questions are used as in the questionnaire, while in the unstructured and semi-structured interview,the interviewer would have a greater freedom of maneuver, with the sole purpose: penetrating the social impact of dreams.

III- Study results

Study Results;

"Numbers speak in research, but we have to understand their language," said psychologist Edgard Rubin. There is no doubt that 302 research respondents have shared with us valuable experiences, which have been translated into numbers and constitute important data for this research. However, not with an in-depth statistical analysis, but with a superficial-descriptive analysis, some of the meanings conveyed by the numbers in this research will become clear. The questionnaire was initially distributed to 350 respondents. However, out of this figure, only 302 questionnaires were valid. Therefore, statistical analysis includes only this number, ie 302 valid questionnaires. Out of 302 respondents participating in the research, 153 or 50.7% were male, while 149 or 49.3% were female. This proportion has provided a good opportunity to freely measure the difference between the two sexes and the social impact that dreams have on them. . Another dimension that has been given importance in our research has been the age of the respondents. Despite the fact that the age in our research is from 8 to 80 years old, a more special focus is seen on adolescence and early youth, target groups that have aroused our interest more, perhaps also due to the fact that they are easier contactable. Regarding the place of residence of the respondents, the research has very quickly revealed a truth, that in the interpretation of dreams and in the importance given to them there is no difference between the respondents who live in the city and those who live in the town and the village. However, in the survey, in direct proportion of the rural population to the urban population throughout Kosovo, were selected by random sample, 215 or 71.2% respondents from the city, 23 or 7.6% respondents from the town and 64 or 21.2% from the village. Another dimension that is thought to be very important and that has been given special attention during the analysis of the social impact of dreams, is religion. Behind each symbol hides a culture, a belief and a personal opinion of individuals. These and other thoughts lead to the idea that religion influences the interpretation of dreams, the way people choose to accept them. However, even against the will, research with the possessive sample has proved impossible, due to the fact that the population has a Muslim-majority composition and therefore our sample is dominated by this religious belief. Only 4 or 1.3% stated

that they belong to the Catholic faith, 1 or 0.3% to the Protestant one and 1 or 0.3% stated that they do not belong to any religion. On the other hand, only 3 research subjects have no education at all, while the majority are those with primary education 111 or 36.8%. Also, subjects with secondary education make up the second largest part and are followed by subjects who have completed university with 77 or 25.5% of all respondents. Education in combination with the age of the respondent has also highlighted a valuable data; that the impact of dreams varies more when it comes to age than education. Hence it has been observed that our respondents state that they are influenced by dreams even if they have completed schooling or even belong to a profession such as doctor or lawyer. Another important fact that deserves attention as we address the social impact of dreams is seen from the beginning. A simple glance at the number of respondents who stated that they see dreams often and very often is enough to then give indications regarding the impact they can have on social life. 36.8% of respondents stated that they see dreams often, while 7.9% stated that they see dreams very often. On the other hand, respondents who stated that they rarely see dreams make up the majority of them, with 55.3%. However, the very fact that no one can say that they do not experience dreams, shows that their impact can be significant. It can not be imagined that an almost real and very vivid experience, such as a dream, passes without any analysis by the experiencer and without any influence. Adding to this the fact that a large number of respondents state that they often and very often dream, then it is undeniable that their influence is considerable. Then, when all this is supported even by the subjects who declare that they see clearer dreams, our idea that the impact of dreams is considerable, increases. Since dreams often occur, and in addition are clear, "identical" to real experiences, then these experiences can not pass without any impact. Only 78 or 25.8% stated that their dreams are vague in most cases, but that even this may have indications in their thoughts and feelings, for the fact that subjects are more concerned with finding the meaning of vague dreams.With an almost identical percentage, respondents stated that they see pleasant dreams more often (62.6%) than unpleasant ones (37.4), as they remember more pleasant dreams (63.9%) than unpleasant ones (35.8%). This suggests that even the impact of dreams is greater if the dreams are pleasant. This is due to the fact that the perception and the ability to remember these contents are in direct proportion to the impact that the dream can have. A fact that lets us know that a dream can have a social impact, are also the people who appear during this sleep experience. We have hypothesized that a dream may have an impact on the individual's relationships with others, on their thoughts about them, on their judgments, feelings, and attitudes toward them. This idea is reinforced by the fact that 98 or 32.5% of respondents said that in a dream they see people from society, those with whom they will interact both before and after the dream. Also, the second figure that most often appears in the dreams of respondents is the figure that belongs to the immediate family (29.5%). This implies that to a considerable extent these data may then suggest a possible impact of dreams on these dimensions of interaction and interaction with others. In addition to the impact of dreams on different religions, which has been shown to be impossible to study, all of the above dimensions we have assumed may have a high correlation with the impact of dreams on social life.. Dreams can even unconsciously affect people's lives, but in most cases people know that an action of theirs is driven by the dream they have seen (Miller 1995). Therefore,

it is very important to measure this dimension. A big jump in support of the hypothesis is also shown by the question that directly measures the respondents' preoccupation with dreams. To the question "how much do you pay attention to dreams?", Only 85 or 28.1% stated that they do not pay any attention to them. Meanwhile, the second answer is the one most often chosen by our respondents. A total of 122 or 40.4% of the subjects stated that they pay little attention to dreams. This fact speaks best for the impossibility of bypassing this experience, just as the social influence it can exert cannot be ignored. On the other hand, 76 or 25.2% of respondents said that they are preoccupied with dreams "to some extent", implying that they are preoccupied more than other categories. Meanwhile, only 19 or 6.3% of respondents state that they attach great importance to dreams. A significant proportion of respondents believe in the theological explanation of dreams (15.6%) and the social one (25.8%), both of which assume that the dream predicts the events that will take place. By relying on this way of thinking, you will be able to see below how people's relationships with others are also built. This result is further reinforced by the fact that 117 or 38.7% of respondents believe that dreams are a prediction of events that will happen. This fact may be in support of our idea that by this kind of judgment being present people can change their thoughts, feelings and behaviors about the fact that they believe they are avoiding the unenviable situation they saw in the dream or behaving in a certain way with the idea that they are following the right path to the liked situation they encountered in the dream. However, as we predicted, 100 or 33.1% of respondents believe that the dream is a different interpretation of daily events, while 24.2% are of the opinion that these two explanations are not correct. Even the part of direct questions, which tends to measure the impact of dreams, has yielded results that support our hypothesis. As we expected, the impact of dreams on the mood of the respondents is considerable. There are 20 or 6.6% of subjects who state that dreams always have an impact on their mood, while there are 188 or 62.3% who state that dreams sometimes affect their mood. Hence, only 93 or 30.8% deny that the dream has an impact on their mood. But, it is not the first conclusion that comes as a result of the many influences that dreams have. People will not have peace if they do not interpret dreams and their meaning is not known. So, it can not be said that something new has been tried, but a little credible conjecture has been proven. This is just the part where our initial hypothesis finds support. Regarding the emotional aspect and the impact that the emotional world can have from dreams, respondents responded in an expected manner. 48.7% of them stated that dreams have no effect at all on their feelings, 33.4% of them stated that dreams have little impact on their feelings, while 15.2% to some extent. Of all the respondents, only 5 said that their feelings towards the protagonists are greatly influenced by the dream seen, hinting however that the dream has a driving force for the feelings, thoughts and actions that people receive. Unlike feelings, in judgments, respondents declare themselves more "prudent". In this area, the dominant result is one that categorically denies the impact of dreams on judgments. A total of 183 or 60.6% of respondents state that their dreams never affect judgments and evaluations of others. But, there are 117 or 38.7% who state that sometimes their dreams can influence to change the assessment or judgment they have about others, just as there are only 2 or 0.7% who state that their dreams have this influence to a greater extent . To the question of whether you ever stop to analyze

the dream you have seen? 14.9% never analyze the dreams they have seen, most of them 66.9% sometimes analyze the dreams they see and 18.2% state that they always analyze the dreams they see. But it is not just the fact that a good part of the respondents state that their judgments and feelings are influenced by dreams, which led us to conclude that this experience can influence social life. But the time that subjects spend discussing a dream with others also speaks for itself. Only 21.5% of respondents state that they do not discuss their dreams with anyone. Meanwhile, the figure of 60.9% of respondents who state that they sometimes discuss their dreams with someone, shows that there is still a large number of people who pay attention to this experience. , for the very fact that they shares them with someone and will listen to the other side, what they expresses about the explanation. Meanwhile, a smaller number of subjects state that they always consult with someone about the dreams they see (17.5%). That people are interested in dreams is shown by their burning curiosity to understand the truth behind it. It can even be taken as fact, the one proposed by Bethal. Perhaps what speaks of the great impact of dreams is also the preoccupation of respondents with their interpretation. 125 or 41.4% of respondents state that they know little about the symbols of dreams, which indicates their interest and tendency to know the secret of this experience. However, this type of questionnaire provided valuable data on the impact of dreams on social life, as well as the differences that this impact may undergo, driven by the different independent variables that each subject possesses. In Rosenberg scaling, there is a tendency of subjects to choose the edges, the well-known "flaw" of this research. However, controlled by other similarly asked questions, the subjects' answers are 'standardized' and can therefore be used as valid.

Regarding the impact of an unpleasant, sad dream on the mood of the subjects, 112 or 37.1% of them state that such a thing does not happen to them and that the presented experience does not describe them at all. Either way, the rest can be taken as support for our hypothesis. As it is seen that 62.9% of the respondents influence their mood based on the dream they have seen, whether more or less, then this can be taken as a fact supporting the hypothesis put forward. But when it comes to mood swings, when a pleasant cheerful dream appears during sleep, respondents change trend. There are only 74 or 24.5% who state that this never happens to them, while the rest agree with the fact that a beautiful dream can affect the positive change of mood. It is worth mentioning the fact that 91 or 30.1% of respondents chose to say that experience describes them fully, while 48 or 15.9% chose to position themselves in the middle of the scaling, indicating that the experience described describes them on average. All dreams tell us something, but what interests us most are beautiful dreams, those full of love ... As Gonzales claimed, in the case of experiencing a pleasant dream, respondents tend to declare that it affects more in their mood than experiencing an unpleasant dream. The changes are obvious and in this respect it can even be concluded that the positive dream affects more than the negative one and its consequences are bigger and more visible. Another aspect we have attempted to measure has been the impact of pleasant and unpleasant dreams on the subjects' thoughts. As can be seen from the results, the impact of an unpleasant dream on the thoughts of the subjects is considerable. 7.0% of the subjects state that if in a dream they see a famous person attacking and hurting them, then they will certainly change their opinion about him. Meanwhile, more than half of the respondents state that if

they are attacked by an acquaintance in a dream, this will not be able to change his opinion at all, as only 18.9% choose to position themselves in the middle of the scaling. But, if the same person appears in a dream helping and caring for subjects in a difficult situation, then we have other results. In this experience, 56 or 18.5% of all subjects choose to say that they find themselves in it completely, while those who do not describe the experience at all are less than in the first case, although the majority with 36.8% of all respondents " If I see in a dream, a famous person attacking me, hurting me, then my feelings towards him will change negatively ", this is the experience that more than half of the respondents said that he absolutely does not describe them (51.3 %), while only 23 or 7.6% say that experience fully describes them. When asked if I see in a dream a person who attacks me, hurts me, then I will treat him with reservations compared to the thoughts after an unpleasant dream, where the protagonist intends to attack or hurt, and the feelings remain almost in the same position. This speaks to a common noninfluence of negative dreams. But, based on the results of the research, 53.3% of respondents state that they do not describe the experience at all, according to which, the dream where they are attacked by someone they know can affect the behavior towards the same protagonist. Meanwhile, there are only 21 respondents that this experience fully describes and that in these cases it can be concluded that we are dealing with people who fully believe in dreams. Even when we are dealing with a positive experience, where the protagonist helps a lot in the dream, then we have a positive change of behavior. This experience fully describes 68 or 22.5%, which exceeds our forecasts. But, still, it is the rejection of experience that gets the most results with 34.4%. As initially predicted, the differences were large between women and men and the importance they attached to dreams. There is also a big difference in terms of their impact from this experience. This can be clearly seen in the results of the dream preoccupation question, when 14 female respondents stated that they are very preoccupied with dreams, compared to the other 27 respondents who said that they are not preoccupied at all. However, the number of women who are "very" preoccupied with dreams is greater than that of men. There are only 5 men who state that they are very preoccupied with dreams, compared to 58 others who state that they are not preoccupied at all. The result is almost unchanged even when talking about the impact that dreams can have on the mood of subjects. As a result, there is a greater predisposition of women to be influenced by dreams. There are 14 women who state that their mood can always be influenced by the dream they see, despite only 6 men admitting such a thing. While the difference at the climax is half as great in women, even in those who think that the dream can not affect their feelings at all, the same difference is observed. As a result, there are 13 more men than women who state that their mood is never affected by the dream they see. It is enough to analyze only the two options of answers to the question whether dreams affect your general feelings towards the protagonists of dreams, to see that differences are present at this level between men and women. It is again women in greater numbers, who influence their feelings from the first dream. There are 15 more men who choose to declare that their feelings towards the protagonists do not change at all in case they are seen in a dream. Similarly to the estimates, women have a greater predisposition than men to be influenced by a dream they have experienced, although at this level the difference is very small. Hypothesis that dreams may have different impact between subjects from village

and town, but such a thing was not proved. This can be seen quite clearly from the results of the question are you preoccupied with dreams ?, the answers to which question do not differ regardless of living in a city, village or town. If we take and analyze only the two extreme answers, "more or less", we see a great similarity, as in the other questions. 5.1% of the subjects from the city, 8.7% of those from the town and only 3.1% of those from the village are very preoccupied with dreams. The other questions also make no difference when it comes to place of residence. Therefore, we analyzed the data bypassing the village-town division. Meanwhile, the last dimension that we have paid attention to and that expected results have appeared, supporting our hypothesis, has been the impact of dreams at different ages. Our conclusion has turned out to be correct, that the age of the subjects matters in the social impact of dreams. Hence it can be clearly seen that the differences are obvious when it comes to the age of the subjects and the answers they have given. The first difference can be seen in the importance that subjects attach to dreams. It is therefore clear that the age of 8 to 12 years has the lowest level of response "not at all", which means that the impact of the dream on them is greater than at other ages.Meanwhile, the age that says they are most preoccupied with dreams is that of 13 to 16 years. Here can be seen other differences that give a clear explanation, that the age from 8 to 12 years and from 13 to 16 years pays more attention to dreams than other ages. Meanwhile, the age that has at least stated such a thing, is that with more than 41 years. To the question whether dreams affect your mood, no respondent aged 8 to 12 years has always chosen the answer, but they still have the lowest percentage in the answer ever (7.5%), which shows that the impact of the dream on the mood is great at this age. On the other hand, with a great influence on the part of dreams, there is also the age from 13 to 16 years old who has never chosen the answer (19.8%). Those who least state that the dream can affect their mood, are again the age of 41 and over, which has only 4.2% in the answer always. The influence of dreams on feelings towards the protagonists of the dream, also brings out great differences. There are two age categories, the oldest ones, which we have divided in the research, which have not chosen any answers much, and even this time the biggest impact of dreams on feelings is seen in both groups of children. However, other age groups also state that feelings towards the dream protagonist may vary depending on the dream experienced, but this can be done to a certain extent. The answers are almost identical even when it comes to the assessments and impacts that dreams can have in this dimension. Again there is a great predisposition of children aged 8 to 12 years and those from 13 to 16 years to influence their judgments by the dream they see. In this way, the support of the hypothesis becomes clearer, in the case of the impact of dreams on social life. The questionnaire, as one of the most used methods in the research and the results obtained in it, have provided support to the hypothesis, at almost all levels. The same support was provided by other methods, which further specified the reasons for the answers given in the questionnaires. The interview of 30 subjects, has given us the opportunity to understand in more detail why a dream can affect the mood, thought, feelings or behaviors of an individual towards others. But, the interviews conducted with our subjects, which have produced the same results as in the questionnaires, with a normal standard deviation, which allows the luxury of inclusion, have given us other opportunities. Not only are the answers to the questionnaire provided, but an excellent opportunity is given to explore the impact

of the dream. Hence it is clearly evidenced that the closer to reality a dream is the more it can affect the thoughts and feelings of the subjects. Not only that, but even more, the interview has given us the opportunity to understand more closely the difference that the social impact of dreams can have at different ages. It is more than clear that the interview also brought results, which show a great influence of the dream, but, this time the causes of this reality were better understood. 10 interviews with the age group from 8 to 12 years, showed that the dream is influenced by the fact that several times it was associated with the phenomenon 'deja vu'. What they had seen in the dream, had also happened in reality or what they had seen in the dream had been the same event they had experienced before. On this basis, these children state that the impact of the dream on their social perception is great. Then, those who were more discreet in the questionnaires, do the same in the interview. The age group of 17 to 20, states that it does not affect as many dreams they have seen, for the simple fact that they do not know how to interpret it. This is an almost general conclusion of 10 respondents of this age. They state that they can not believe that a dream predicts something, because they can not try it and that it does not always happen. For this reason even their doubts are mixed, but they admit that perhaps even unconsciously a dream they have seen can affect their thoughts, feelings and behaviors towards others. Meanwhile, the age that is most reserved on dreams and their impact, are those over 41 years old. This age states that they are not affected by dream s because they have proven that in most cases they say nothing. Either way, even 41-year-olds do not deny the partial impact of a dream and associate it, mostly with the things that concern them. If the dream they saw is related to an event that interests them, then it can also have a significant impact. Then, a greater certainty for the results of the questionnaire and for the statements of the subjects in the interview, also provides the focus group and the discussions that have taken place within these conversations. Often, it is enough to talk and everything about the dream becomes clear there. Focus groups, to a greater extent than interviews, have provided support for our hypothesis. This has not only happened with the age group older than 41 years. Meanwhile, two focus groups that counted from 7 participants aged 8 to 12 years and 13 to 16 years have shown valuable experiences that support the hypothesis we have put forward. "It happened to me to see a dream with a neighbor of mine. . My neighbor followed me from behind and did not stop cursing me ... since this time I have not dared to go out in front of him ", this is an experience that explains a 9-year-old girl in the focus group developed in the primary school" Ismail Qemajli ", of Prishtina. These and similar experiences show all 7 participants, which gives us to understand that even once in their lives, it happened that the dream affected the social perception of others. On the other hand, the focus group with the age of 13 to 16 years, also brings out valuable and similar experiences, but all participants agree with the fact that not every time the dream tells us something and therefore only in certain cases is it trusted to this experience. Finally, the small focus group of 3 members over the age of 41 brings out the small impact that dreams can have on them. As a subject of this age has stated, 'people cannot be preoccupied with every dream they see, because they cannot expect what they dream to happen every day'. But, despite our predictions, our hypothesis that the social impact of dreams is considerable also finds support in developed focus groups, because almost everyone agrees that in one way or another, the dream can influence their personal

experiences. Meanwhile, another task that was presented to the subjects, in order to achieve the most realistic result, was to compile an essay. We have given the subjects the task to describe a dream they have seen and to show how they felt, what they understood from the dream and what it has changed in them. Even from this method we have managed to collect valuable data. Subjects show that they are waiting for their dreams to come true and are inclined to judge dreams as experiences that foretell something. Through the method that was applied to 30 respondents, mostly aged 14 to 18 years, we were able to understand real experiences of a dream impact. One of the subjects is convinced that what he sees in the dream happens in reality and that he has seen the events that happen every day even earlier in the dream. Also, the subjects express their full conviction that every dream has meaning. It is worth mentioning the fact that in one of the accepted essays, a guy writes about a dream he had experienced. Its protagonist was his uncle, who during the dream had talked to a dead man. The boy writes that the next day his uncle had actually died. Hence he will believe that the dream foretells something and for this he may even swear. Then another who says he has befriended a boy only because he saw him in a dream to help him or even the boy who waited for a rogue from the neighborhood to beat him only because he saw him in a dream beating his brother and many Other experiences have shown, however, that the dream can also affect the dimension of behavior and not only that of thought and feelings. Another method that found application in our research was the analysis of archival data. This time we analyzed the diary sheets of the five subjects that were offered to us, where one of their dreams is described and then the ideas are thrown away what she could have described. However, it is clear from these diary sheets that the impact of the first dream is considerable. For the very fact that the subject sees fit to record in his diary the dream he has seen, this speaks to an influence that the dream can exert on him. Then, even the in-depth analysis of the dream is for explanation in itself. It is clear that this experience is very special and at least can have an impact on the subjects and can leave a scar on them the inability to explain it, which can later become their short-term or long-term preoccupation. The last technique we used in dream tracking has been the technique of unfinished sentences. In this order sentences are used that only start and do not end and then the subjects have told us what they think about the dream and in what dimension they see it. Valuable results for our research have therefore been obtained. This has probably been used more to understand the dimension that dreams involve, but it is also a tendency to understand their social impact as well. However, the results clearly speak of an average influence of the dream on social perception, and especially on thoughts towards others.Of the 30 subjects who have completed this procedure, 50% of them have shown an affinity to see people differently after experiencing a dream whether beautiful or sad. Another dimension of research has been the tracing of archival data. This has resulted in a range of data that have supported in one aspect our initial hypothesis. Whether dreams have a social impact is also shown by the fact that they were conceived in antiquity and what were the attempts of the time to discover their "secrets". First, it is worth mentioning the Egyptian interpretation of dreams, to which we have made a long consultation of archival data. In ancient Egypt, dreams were thought to be part of the supernatural world. In this culture, dreams are thought to be messages from the gods, sent to the villagers at night as a warning advice for any misfortune

or good fortune. The Egyptians were undoubtedly the first to attempt to interpret dreams, and this attempt resulted in the publication of a book containing some conclusions on the interpretation of symbols. Then, as a result of all this preoccupation, it was thought that dreaming in temples where sick people slept could bring healing to them. This is a good indication of the influence that dreams had on the cognition, emotional and behavioral world of individuals in ancient Egypt. And, it is enough to see the great influence of dreams in ancient life, to predict the impact of dreams in today's life, in these cultures, although this influence has faded significantly. Also, tracking in archival data has taken us to another culture of the social impact of dreams. The behavior of the Greeks in ancient Greece was also heavily influenced by their dreams and interpretations. This is evidenced by the art books of the time and historical books (Group author 1981). The Greeks also thought that dreams carried messages, but contrary to the Egyptians and Babylonians they did not agree that dreams could only be interpreted with the help of a priest. Whereas, the first steps in the modern interpretation of dreams in Greece were made in the 5th century BC, when Heraclitus, the Greek philosopher, assumed that the world of dreams is something created in the human mind. Even amongst the ancient Romans, dreams did not pass without explanation, just as they did affect their social life. But dreams would also be given great importance to modern Europeans. However, according to the literature we have provided, post-European Europeans have been less influenced by dreams and only a certain proportion of them have found rest and relied on their interpretations, including performers and people who have achieved 'influence them. However, according to the literature we have provided, post-antique Europeans have been less influenced by dreams and only a certain proportion of them have found rest and relied on their interpretations, including performers and people who have achieved to influence them. This category also includes Albanian culture, which enjoys various interpretations of dreams. Even the interpretations are different for the same symbol. However, traditionally, as in Greek culture and other ancient cultures such as the Illyrian one, there was a social influence of dreams. Even the chronicles of the time show a "borrowing" of the interpretations of dreams made by the Greeks from the Illyrians. This exchange has made the dream meaningful and is preserved to this day as an influential factor in the lives of people in both cultures. This can be taken as an additional fact in our conclusion, that dreams have a great impact on people's social life. This is evidenced by the many preoccupations in the past, and the various cults that live today. Therefore, people who have directly inherited the various ancient European cultures, continue to believe in whole or in part in their dreams, in their "warnings" and hence their moods, feelings, thoughts and behavior. But also the analysis of various literary works has enabled the identification of social influence. "Three Thoughts", "Death Comes to Me From Such Eyes", "Impatience of the Heart", "Crime and Punishment", "The Teenager", "Lady Camellia" and many other novels that we have superficially analyzed, contain dreams and then preoccupation of the protagonist with them. In almost all the novels mentioned, dreams have the status of an experience that foretells something. Therefore, the thoughts of the protagonist, as well as feelings and behavior change to achieve as soon as possible the goal they want and have seen in the dream. Then, what social impact dreams can have, to some extent has begun to explain even their most famous modern performer, Sigmund Freud. Freud's idea was that our dreams

are a reflection of our inner despairs that come from childhood (Nushi 2002)(4). Although, Freud considered the dream more as a summary of daily activity, he was of the opinion that the dream could influence other events and hence the reaction of the individual. Even, according to Freud, dreams were carriers of important thoughts. So what the man saw in the dream was his true thought. Unlike Freud, Karl Gustav Jung rather indirectly emphasizes the social influence of dreams. This, for the very fact that according to him, dreams are messages from ourselves to ourselves. A self-reflection is enough and it is clear that Jung said to be careful with dreams and try to explain them because they predict something for us. Jung believed that dreams were made to come true. However, these two theories are not the only ones, but they are the two most influential theories in terms of interpreting and explaining dreams. Meanwhile, even consulting the physiological aspect or consulting the physiological view of dreams can lead to results valid for our hypothesis. Hence, various findings, especially that of the University of Helsinki, which proves that unicorn twins in 60% of cases see the same dreams, indicate a phenomenon that needs attention and therefore can not be ignored quickly and without any analysis. The last idea of physiologists that the dream is nothing more than a reprocessing of daily material, which calls for people not to be influenced by dreams and not to be preoccupied with them, is nothing more than a new attempt to change trend of dream interpretation, but that does not find the support of the majority. As such, this view can be taken as contradiction of our thesis, but not as provable truth. Meanwhile, our findings from religious interpretations of dreams are important in one aspect. This for the fact that a first dream can have an impact. According to the Islamic religion, dreams can be categorized into three groups. The first, which contains the good news from Allah, the good visions. The second, which brings dissatisfaction and are driven by the devil, and the third, which contains dreams without any explanation or 'scribbles' of our mind. A whole mountain of dream explanations makes many people of this faith preoccupied with the dream they have seen and try to give it to the experience they saw in their sleep. Hence the potential for influencing behavior is also great. Christianity, meanwhile, is of the opinion that dreams are interpretations of the afterlife. They also considered dreams to be prophetic. But, the very explanations they have given to different dreams, speak of the influence that this dimension has exerted and still has. Both beliefs tell the story of dream interpretation and this may be an indication in the social world of people, who tend to understand the dream, or may even behave, think and feel differently about the fact that they have seen a dream that is similar to that of the prophets or even the symbol that is presented can be explained.

IV- Discussion

After completing the research, review and analysis of the data, our hypothesis is supported in almost all its dimensions and removes doubts about an unproven conjecture. Based on the data that have been extracted with carefully used research methods and techniques, we can conclude the initial hypothesis, that the impact of dreams on social life is considerable. This has been proven only by the results obtained from the analysis of questionnaire data, interview, focus group, diary, essays, other archival data. Subjects' responses have made it clear that the impact of

dreams on their social perception is considerable. Also, our hypothesis that dreams have an impact on the temporary and long-term mood of subjects has found support, as proven by all methods, that moods of different subjects are often attributed to a dream experienced during sleep. The fact that we have been shown to be reserved about the hypothesis that dreams can also have an impact on the feelings of subjects has turned out to be completely accurate, as has the impact of dreams on thoughts and judgments that has become clear and understandable. Also, what surpasses all predictions, is the impact of the dream on behavior, as well as the large differences that this impact suffers as it bends in both different genders and ages. Then, it had not been part of our hypothesis, but it was proved that the impact of the dream was greatest when it is enjoyable. Also, it is clearly evidenced that the closer to reality a dream is, the more it can affect the thoughts and feelings of the subjects. Then, the interviews showed that the dream is influenced by the fact that it was sometimes associated with the 'deja vu' phenomenon. What the subjects had seen in the dream, had also happened in reality or what they had seen in the dream had been the same event they had experienced before. Fortunately, their thinking and behavior is also influenced. This gives us to understand that even once in their lives, people have been able to be influenced by dreams, in one way or another. A considerable number of subjects show that they expect their dreams to come true and are inclined to judge dreams as experiences that foretell something. Other explanations of the dream, religious, scientific, socio-cultural, have also supported our hypothesis, arguing the impact of the dream on all dimensions of social life. Support for the hypothesis is also provided by indirect analyzes of dreams, such as the analysis of essays and personal diaries, where the very preoccupation of subjects to write about the dream and to understand its secret indicates an influence that the dream presents in activity of people in daily life. Since we do not have any other similar research and it is the first of its kind that directly addresses the impact of the social experience of a dream we can conclude that research has shown that however people are influenced by enigmatic experiences - dreams.

V. Recommendations

Based on the results and analysis of the research, we saw that respondents have given different versions of the impact of dreams on their psycho-emotional state, therefore we can give these recommendations on what to do so that clients or citizens do not fall prey to misunderstandings and distortion of the meaning of dreams which they see and interpret;

- Psychologists and experts in the field of psychology and social affairs should be engaged, both in writing and in the media, in clarifying and understanding dreams so that clients do not fall prey to negative distortion of the meanings.
- To hold lectures and trainings on the explanation of dreams so that clients who have dilemmas on their intervention in psycho-emotional life have a clearer view of them
- Understanding, knowing the clients but also the citizens of the age groups on the meaning of dreams will have a positive effect on not giving a negative meaning and changing their spiritual and emotional state.

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Innovations and challenges of providing free legal aid in the civil process

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Abstract

Access to justice is one of the main principles of a due process of law for the protection and redress of the violated rights of the individual, therefore this right should be guaranteed to every person, including those who are financially incapable.
In the conditions when the whole justice system in Albania has undergone a radical reform, one of the problems that was found was the ineffectiveness of the old law on legal aid. Taking into consideration the problems identified during the implementation of the old law on free legal aid, the new law was adopted, which entered into force in June 2018. This law has provided for the complete reform of the system of providing free legal aid to citizens, including the provision of primary and secondary legal aid in both criminal and civil proceedings.
In order to identify the advantages, innovations brought by the new law, in this paper we will focus on the legal analysis of providing free legal aid in the civil process, the procedural steps that must be followed to obtain legal aid from citizens, the impact it has had on citizens, the problems that have been encountered in practice aiming at identifying legal and procedural issues in order to provide concrete recommendations to improve the situation.

Keywords: access to justice, primary legal aid, secondary legal aid, financial incapacity, victim.

Introduction

The analysis of the Justice System in Albania revealed a number of problems related to the effectiveness and implementation of the old law on free-of-charge legal aid, guaranteed by the state (High-Level Expert Group, 2015). The findings and problems identified in the Analysis of the Justice System in relation to legal aid, identify problems that require concrete measures to solve them through system reform and improvement of laws and bylaws regarding the provision of legal aid.
Based on the numerous requests and complaints of citizens, mainly those with low or insufficient income, individuals who have access to court through a private lawyer, engaged various institutions, such as the People's Advocate, Minister of Justice, Council Senior Prosecutor, and the National Chamber of Advocates. (People's Advocate , 2019).
In relation to this issue, there has been uncertainty in addressing and assisting citizens on the legal path they should follow to receive free-of-charge legal aid and guaranteed by the state, as there has been uncertainty on how this law will be implemented, as well as the procedure to be followed by citizens who have often wandered from one door of the institution to another, between the Ministry of Justice, the courts and the Albanian Bar Association. The problems encountered occur because the beneficiary categories by law, with insufficient or low income, have a low level of knowledge on access to legal aid and the right to seek exemption from court fees and costs.

In addition, citizens do not have the necessary information regarding the benefits of legal aid, the procedure they must follow to obtain it and the documentation they must complete. It is worth noting that the right of access to justice is a right which must be guaranteed by the state to its citizens, as it is a fundamental right in the value of a constitutional principle.
All the above issues were put in the focus of the interest groups and the Special Parliamentary Committee "On the Reform of the Justice System", who considered that a new law should be adopted and clear criteria and procedures should be defined regarding the provision and guarantee of primary and secondary legal aid in civil and criminal proceedings.
In this paper will be analyzed the implementation of law no. 111/2017 " *On State Guaranteed Legal Aid* " in the civil process from the moment of entry into force until now, the criteria set out in the law for receiving free-of-charge legal aid, the procedure to be followed. Legal analysis will be combined with legal practice, in order to identify the advantages and disadvantages of implementing the new provisions of this law and give concrete recommendations to improve the situation.

II. Legal aid guaranteed by the state in the civil process

The reform of the legal aid delivery scheme in the civil process, brought not only changes in the criteria for receiving assistance, but also in the reform of the entire structure that will have competence in the administration of the legal aid delivery scheme.
The purpose of the adoption of a new Law was to guarantee a fast, fair and orderly access to justice to meet the Copenhagen riteria, to guarantee the Rule of Law and Human Rights in the Republic of Albania. The main goal is for the categories in need and who are most discriminated to benefit from free-of-charge legal aid services provided by the state. Through the way of organizing and providing the service, it is intended that this service be as professional and specialized as possible based on the field in which it is offered, but what is very important is to eliminate links and cases of corruption between lawyers and judges. / prosecutors due to appointment by the latter (Draft Law "On State Guaranteed Legal Aid ", 2017).
Article 2 of Law no. 111/2017 "*On State Guaranteed Legal Aid* ", specifically states that, the law has as an objective:
a) to create a system for the organisation and delivery of free-of-charge legal aid in an effective and equal manner for all individuals in need in order to enable to them access to justice;
b) to ensure the proper organization, proper administration and proper functioning of the state institutions responsible for the administration of legal aid;
c) to ensure the delivery of professionally competent, high quality, efficient and effective legal aid services.
Restructuring of the legal aid system transfers the review of requests for legal aid from the State Commission for Legal Aid in Tirana to the competent courts throughout the territory of Albania, which operate closer to the place of residence of the residents and which deal with similar issues during the application of Article 158 of the Code of Civil Procedure. Furthermore, the cases that come to trial are handled by the competent courts of the respective judicial district at a later stage when the lawsuit is finally filed so that the court becomes aware of the elements of the case at

an earlier stage when reviewing the request for legal aid and at the same time saves time in the overall preparation of the case.
The law defines "*Legal Aid*" as a free-of-charge legal service and the other services provided for in this law, for persons meeting the requirements of this law which are guaranteed and financed by the state.
Delivery of free-of-charge legal aid is based on the following principles:

- equal access to legal aid;
- equality and non-discrimination of individuals entitled to legal aid;
- professionalism in legal aid service delivery;
- quality, efficiency and cost-effectiveness of delivered services of legal aid;

The implementation of legal provisions in a concise manner is a precondition for guaranteeing effective legal aid for every citizen, who is financially unable to provide this assistance for the restoration instead of the violated rights. Providing and guaranteeing free-of-charge legal aid effectively is also a precondition for respecting the right of access to justice, as one of the fundamental rights of Due Process of law.
The new law provides for the types of forms of legal aid in civil and criminal proceedings, which are:
a) "***Primary legal aid***", which includes:

- providing of information regarding the legal system of the Republic of Albania, the normative acts in force, the rights and obligations of subjects of law and the methods of enforcing and exercising these rights both in judicial and extrajudicial proceedings;
- the delivery of counselling services;
- the delivery of advice on the procedures of mediation and the alternative means of dispute resolutions;
- the delivery of assistance in drafting and establishing of documentation to put in motion the state administration or for requesting secondary legal aid;
- representation before administration bodies, and
- the delivery of all other forms of necessary legal support not constituting secondary legal aid.

According to the provisions of Article 13 of law no. 111/2017 "*On State Guaranteed Legal Aid*" primary legal aid is guaranteed to all persons regardless of economic opportunities. Primary legal aid shall be delivered from:

- *Specially trained officers* - In this case, legal aid is provided in legal aid centers by employees with special training who are employed at these centers or in other authorized facilities which serve as centers for the provision of primary legal aid.
- *Not-for-profit organizations* - In this case the provision of primary legal aid is performed by the non-profit organization based on the authorization approved by the Minister of Justice.
- *Legal clinics attached to higher education institutions* - This assistance is provided at legal clinics set up at higher education institutions. In this case help can also be provided by students who are part of legal clinics.
- In order to benefit from primary legal aid, it is necessary to submit an oral or written request to the above-mentioned subjects (Terihati & Kurti, 2019).
- b) "***Secondary legal aid",*** which includes:
- The legal service that is offered for the compilation of the necessary legal acts for putting in motion the court;

- The delivery of counselling, representation and defense before the court in administrative and civil cases and in criminal cases for which is not applied the mandatory defense in accordance of the criminal procedural legislation.

c) "***Exemption from court fees and costs***", pursuant to the Law, and fee for initiating execution of the execution order - Is a form of free-of-charge legal aid, for the exemption from payment of court fees and other court costs, by decision of the competent court, if the criteria imposed by this law are fulfilled. "Court costs" are the expenses made in the framework of the judicial proceeding, necessary for adjudication in accordance with the meaning given in the procedural legislation, except for the court fee.

Secondary legal aid is provided by advocates included in the list approved by the National Chamber of Advocates, upon the decision of the competent court to review the request for secondary legal aid.

It turns out that pursuant to the competence defined in article 8, letter k of law no. 111/2017 " *On State Guaranteed Legal Aid* ", for 2020 the Directorate of Free Legal Aid has signed 73 contracts with lawyers who provide secondary legal aid services (Directorate of Free Legal Aid, 2021).

III. Criteria and conditions for benefiting free-of-charge legal aid

Subjects that shall be beneficiaries of free-of-charge legal aid are:

- Albanian citizens with domicile or residence in the territory of the Republic of Albania;
- Foreign citizens or stateless persons, who stay in the territory of the Republic of Albania for a temporary or permanent period and who have been equipped with permit of stay in compliance with the legislation in force on foreigners;
- Foreign citizens or stateless persons, that enter legally in the territory of the Republic of Albania, and that benefit it on the basis of international agreements ratified by the Republic of Albania or based on the principle of reciprocity;
- Asylum seekers, persons entitled to the status of refugee and persons that are in the process of appeal of administrative and/or judicial decisions for the refusal of the application for asylum or revocation of the decision on the status of refugee in accordance with the legislation in force for asylum in the Republic of Albania.

The Law on Legal Aid has defined two categories of subjects that have the right to benefit free-of-charge legal aid:

3.1. Special categories of beneficiaries of legal aid

Subjects defined in this category automatically gain the right to benefit free-of-charge legal aid, regardless of the financial income available. In this case, it is enough to prove their 'status' defined in Article 11 of the law and they are legitimized to benefit from all types of legal aid.

If we were to make a classification of subjects, the right to automatically benefit legal aid is gained by:

- **Victims of criminal offenses, such as:**

a) victims of domestic violence;

b) sexually abused victims and human trafficking victims, at any stage of a criminal proceeding;

To illustrate the manner of implementation of this provision, we are illustrating

it with a court decision, which has assessed that: " *The court states that in the case under trial the applicant has submitted a request for secondary legal aid, as she seeks to be provided with legal services through the drafting of acts necessary to set the court in motion, as well as to be advised and represented and defended before the civil court (family section) in order to resolve the dispute regarding the division of property acquired during the course of the marriage (marital property). The court notes that the applicant is a victim of domestic violence, as pursuant to the Law no. 9669, dated 18.12.2006 "On measures against domestic violence", as amended, an order of protection was issued in her favor in the sense of Article 11 of Law 111/2017. Consequently, she is subject to the guarantee of secondary legal aid and specifically the costs of representation by a legal representative in the case with the object of division of marital property. Regarding court costs and court fees in relation to the claim subject to trial, the court states that in the sense of article 19 point 3 of law no. 11/2017 the request for secondary legal aid is exempt from court fees and costs".*

- **Minors (the category of children up to the age of 18 is included)[1]:**

a) minor victims and minors in conflict with the law, at any stage of a criminal proceeding;
b) children living in social care institutions;
c) children under guardianship who request to initiate a proceeding without the approval of their legal guardian or against their legal guardian;

- **Persons with disabilities, where included:**

a) persons that benefit from the payment for disability in compliance with the provisions of the law on social aid and services, including also persons that benefit from the status of blindness;
b) persons undergoing involuntary treatment in mental health service institutions according to the provisions of the legislation in force on mental health;
c) persons undergoing voluntary treatment in mental health service institutions for serious mental diseases;
d) persons against whom the removal or restriction of the capacity to act is requested, at any stage of this proceeding;
e) persons with removed or restricted capacity to act who request to initiate a proceeding against their legal guardian, for regaining the capacity to act without the approval of the legal guardian;

- **Persons receiving social protection:**

a) persons who are beneficiaries of social protection programs;

- **Persons who have been discriminated against:**

a) persons to whom the right has been infringed through an action or inaction that constitutes discrimination on the basis of the decision of the competent organ, according to the legislation in force for protection from discrimination.

Persons belonging to the above category, in the request addressed to the court for the benefit of secondary legal aid must prove only the fact that they belong to at least one of the above classifications.

3.2 Category of persons who have insufficient income

In addition to the category of subjects mentioned above, who receive legal aid regardless of financial income, another category that is entitled to receive secondary legal aid, are persons who prove that they have insufficient income to provide legal

1. Article 3, paragraph 3 of the Juvenile Justice Code, which stipulates that:: *" A juvenile is any person under 18 years of age ".*

aid themselves.

- **When the person lives in a household**

The income of a person living in a household shall be considered insufficient, if the total income of all household members, divided by their number, is lower than 50 percent of the monthly minimum wage as defined according to the legislation in force. Referring to this criterion and the current monthly minimum wage[2], insufficiency of income will be considered if the value of income will be ALL 15,000 (fifteen thousand Albanian Lek).

- **When the person does not live in a household**

The income of a person, not living in a household, shall be considered insufficient, if it is lower than the level of the monthly minimum wage, as defined according to the legislation in force, so lower than the value of ALL 30,000.

The same criterion applies even if a person living in a household requests legal aid for a case against another member of the same household.

Another defined criterion is that the property of a person shall be considered insufficient, if its total value does not exceed the value of 36 monthly minimum wages, as defined according to the legislation in force.

Regarding the manner of analyzing the criteria for determining economic impossibility, we bring as an example a Judgment of the Tirana District Court[3], which has rejected the applicant's request becasue: *The applicant is not a subject with insufficient income to benefit from the implementation of the law "On State Guaranteed Legal Aid" referring to its definitions. The applicant results in family composition with his wife Z.B and both benefit income from the old age pension, respectively in the amount of ALL 21.678 per month and ALL 21.819 per month, in total ALL 43.497 per month. In cases when the legal aid applicant lives in a household, the income is considered insufficient and justifies the provision of secondary legal aid by the state only in conditions when the total income of all family members divided by the number of family members is more lower than 50% of the monthly minimum wage determined by the Law in force. This monetary threshold results to be exceeded in the case subject to trial in the conditions when the total family income of the applicant (43,497 ALL), divided by the number of family members (2) is higher than 50% of the value of the official minimum wage nationwide. As above, the applicant S.B. does not meet the legally binding criteria for benefiting free legal aid from the state and consequently exemption from court costs, which dictates the rejection of this request..*[4]

As above, the person seeking to benefit from free-of-charge secondary legal aid in civil proceedings must prove before the court that he has insifficient income as defined in Article 12 of the law (analyzed above).

In the Annual Labor Analysis for 2019 for the Tirana District Court, it is evidenced that with the approvalof Law no. 111/2017 "*On State Guaranteed Legal Aid*" there are 40 registered cases and 29 completed cases (Tirana District Court, 2019).

While for 2020, 181 court decisions have been issued and the situation is presented as follows (Directorate of Free Legal Aid, 2021):

2. Monthly minimum wage nationwide according to the Decision of the Council of Ministers no. 1025, dated 16.12.2020 is ALL 30.000 (thirty thousand Albanian Lek).
3. See Judgment of the Tirana District Court no. 290, dated 24.02.2020.
4. See Judgment of the Tirana District Court no. 290, dated 24.02.2020.

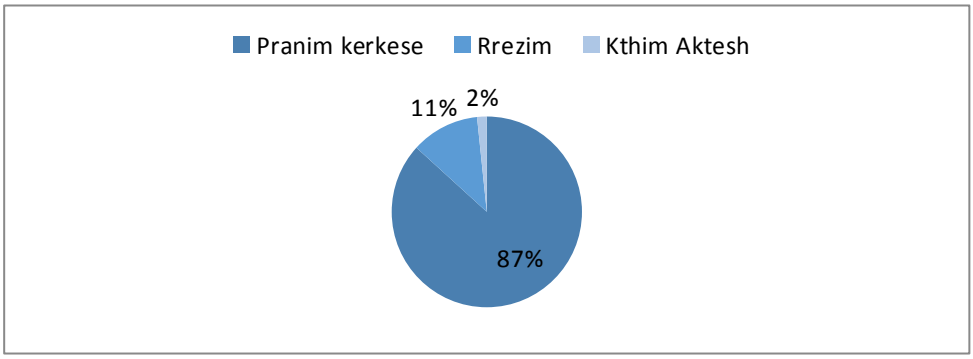

Figure no. 1

From the above data, it results that in 87% of cases the request for secondary legal aid was received, which includes (In 57% of cases the request for secondary legal aid was received, in 9% of cases the request for exemption from taxes and court costs was accepted, in 21% of cases the request for secondary legal aid and tax exemption was accepted).

Statistics show that over 64% of applicants are beneficiaries of free-of-charge legal aid, while the rest of the respondents may be potentially beneficiary categories, as it should be considered that the monitoring has a percentage of inaccuracy and if the analyzes would be done in more depth on their economic and social situation, based on the relevant documentation and the requirements of law no. 111/2017, the category of those entities that need and are beneficiaries of the free-of-charge legal scheme could be even higher (Albanian Helsinki Committee, 2019).

Promoting the law and raising the awareness of beneficiary groups about their rights is a form of familiarity with the standards of the law from a normative and theoretical point of view. This approach should be consistent with the infrastructural preparation of legal aid structures, in order to meet the needs of the community. Rights should not be theoretical, but practical and effective, because otherwise, the citizen loses faith in the state guarantee system of his rights, and gives up seeking and enjoying these rights (Albanian Helsinki Committee, 2019).

Conclusions and Recommendations

The new scheme for providing free-of-charge legal aid in civil proceedings aims to enable all persons to have equal access to a court, to seek redress of violated rights, regardless of economic opportunity. Despite the fact that the law is more than two years old, the full implementation of the law has started only in 2020, after the adoption of bylaws.

In order for state-guaranteed legal aid to be effective, we recommend that:

- measures should be taken to inform citizens about the criteria for benefiting secondary legal aid, as the number of claims rejected by the court is relatively high;
- measures should be taken to continuously train persons who will provide primary legal aid;
- measures should be taken by the Local Chambers of Advocacy and / or the

National Chamber of Advocates for the ongoing training of lawyers who will provide secondary legal assistance in order to represent and treat the case professionally and seriously.;

- the work be coordinated between the administration of the Court and the Directorate of Legal Aid in order to prioritize the decisions for accepting the request for secondary legal aid, as it may happen that the applicant's merits may be within the time limits for filing a lawsuit in court. Delays in coordination can also lead to statute of limitations and the inability to raise the issue before the court.

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DCM no. 55, dated 6.2.2019 "*On determining the procedures and documentation for the authorization of non-profit organizations that provide primary legal aid guaranteed by the state which benefit from funding from the state budget and the manner of their financing".*

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Order no. 59, dated 25.03.2019 "*On the approval of the structure and staff of the Directorate of Free Legal Aid".*

The Constitutional Court and the vetting process in Albania at the extremes of constitutional nihilism

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Abstract

The reform of justice in Albania has begun to bear fruit, emptying the organs of the judiciary but at the same time making them dysfunctional. The vetting process reflected its consequences in the new appointments of constitutional judges, appointments that seemed a distant reality, due to the political crisis and the institutional blockade of other bodies that had the competence to appoint them, such as the Parliament and the Court Supreme.
As a result, the fragile Albanian democracy remained without a Constitutional Court for three years. During this time the Constitution was at the height of its free interpretation by various political actors who have unfolded their imagination in the field of constitutional law. As a result of these interpretations, many decisions made yesterday seem almost irrevocable today, not only because some decisions / acts have given their legal effects, but also because their unconstitutionality would lead to nihilistic legal situations. Including the election of constitutional judges by the Assembly, when the latter does not have the necessary structural quorum, or does not have the number of 140 deputies required by the Constitution for its composition. Consequently, there is no quorum to vote in cases where the Constitution states "all members of the Assembly".
This whole situation, which culminated in the vacancy of the Constitutional Court, seemed like a vicious circle. If the newly formed Constitutional Court pronounces itself on the unconstitutionality of the Assembly, it declares itself unconstitutional, and so on for the other situations that have overlapped during this three-year period.
To not pass to constitutional nihilism, in the name of justice reform and the consolidation of democracy, silence on constitutional violations is probably the only solution. With the hope that the new Constitutional Court, today in times of crisis and institutional imbalances, will confirm its integrity and fidelity to the spirit of the Constitution of the Republic of Albania.
His integrity and loyalty are a conditio sine qua non for Albania's, journey not only towards a united Europe, but above all towards the consolidation of the rule of law.

Keywords: Justice reform, vetting process, Appointment of constitutional judges, Albanian Parliament.

Introduction

The Constitutional Court was established for the first time in Albania through constitutional modifications, thus the *ad hoc* body was born to protect the Basic Law, first by the legislature. This marked a clear break from the old regime and a sign of hope for the fragile Albanian democracy, in fact the new constitutional justice system has brought a "new democracy".There is no doubt that in its creation it benefited from the experience of other European countries that knew this institution years ago[1].Thus was born the so-called constitutional "jurisdiction", a collegial body, with

1. See G. D'ORAZIO, La genesidella Corte costituzionale, (The genesis of the Constitutional

judges appointed in principle in full independence.
The problem of guaranteeing the independence of the Court seems more of a theoretical challenge but in reality difficult to solve completely. So the paradox of independence arises from the fact that some of the bodies that have to appoint constitutional judges often have political shadows. So the formation of the court seems to be the result of the appointments of the President of the Republic, the Supreme Court and the Parliament, in a sort of "equilateral triangle".But the Constitutional Court must act independently of the powers that appoint it, as the guarantee of the Constitution derives from the guarantee of independence. The paradox of independence also has "invisible shadows", since no one can strip the judge of his convictions, this is an impossibility that is impossible to achieve, since conviction is hidden and uncontrollable.
Undoubtedly, the Constitutional Court comes to life from the Constitution and the relationship between the two is a dynamic and "unsolvable" genetic relationship, where judges are forced to rely on the Constitution but their interpretation requires a creative aspect[2]. It is this moment of creativity that often escapes logical control, therefore the choice of constitutional judges must be such as to give balance and balance to a personal "creativity". Because in the interpretation lies the "beating heart" of the Constitution and its longevity, but in the interpretation there is also the "Achilles heel".
In order to reduce the risk of an interpretation that inclines the scales to one side, the Constitution provides in article 125 thereof, that this court *"is composed of 9 members. Three members are appointed by the President of the Republic, three members are elected by the Assembly and three members are elected by the Supreme Court. The members are chosen from among the candidates classified in the first three places on the list by the Council of Judicial Appointments, in accordance with the law*".
It is clear that from the "Trinity" derives the effort of harmonization, balancing and balancing for the purpose of impartiality and independence of the entity, but not its insensitivity to the problems, development and conflicts of the political-constitutional institutions, not to forget the importance in the multidimensional field of fundamental human rights and freedoms. Therefore, each judge is elected, or rather should be elected to bring different sensibilities and experiences to the Constitutional Court. All this despite Article 125, paragraph 5 of the Constitution, states that the judge should not have held political functions in public administration or positions in a political party, but it is assumed that he is not politically positioned. Because it is impossible for him as a citizen to be alien to socio-political reality.
Another technical moment for the independence of judges should be noted, precisely in Article 125, paragraph 3, of the Constitution, which provides that their mandate is 9 years. No other constitutional body provides for this duration. The result is independence obtained through the secession from the political bodies that appoint them, for example the President of the Republic or the Assembly.

Court) Milan,1981; H. KELSEN, La garanziagiurisdizionaledellacostituzione, (The judicial guarantee of the constitution) inLa giustiziacostituzionale, Milan, 1981; H. KELSEN, Wersoll der Hüter der Verfassungsein? (1930-1931), (Who should be the guardian of the constitution?) Italian translationedited by C. GERACI, La giustiziacostituzionale, (Constitutional justice) Milan, 1981.

[2]. N. OCCIOCUPO, preface,*Costituzione e Corte Costituzionale, Percorsi di un rapporto "genetico" dinamico e indissolubile*, (Constitution and Constitutional Court, Paths of a dynamic and indissoluble "genetic" relationship), Giuffre, Milan, 2010.

So 9 members with a 9-year mandate. Strangely for sacred mathematics the number nine indicates absence, infinity[3], the double concept of beginning and end, death and rebirth. But we would like to imagine them more as nine Muses of ancient Greece, representing the truth of "wholeness".
As a consequence of the vetting process, i.e. the revaluation process - the latter provided for by article 179 / b of the Constitution[4] - (Added by Law no. 76/2016, of 22.7.2016) - the Constitutional Court for a long time it had only four members, leaving five other posts vacant.
One of the objectives of the constitutional reform in the judiciary is to restore the credibility of the public in the institutions of justice, without discussion on the basis of the principles of due process and respect for the fundamental rights of the entity being assessed[5].

2. Issues concerning the election of constitutional judges in Albania after the evaluation process

Article 179, paragraph 2 of the Constitution of the Republic of Albania (Amended by Law No. 76/2016, of 22.7.2016), provides that "*The first member to be replaced in the Constitutional Court is appointed by the President of the Republic, the second is elected by the Assembly and the third is appointed by the Supreme Court. This turning point is followed for all the appointments that will be made after the entry into force of this law*".
Undisputedly that this procedure should be done according to the parameters provided by the Constitution. So all the other Constitutional elements must stand to make the process legitimate.
We can mention here Article 64, paragraph 1 of the Constitution of the Republic of Albania which provides that "*The Assembly consists of 140 deputies*". Whereas Article 125, paragraph 2 of the Constitution states that "*The Assembly elects the judge of the Constitutional Court with not less than three-fifths of all its members*".However, the Constitution provides not only a structural quorum for legitimizing the organ, but also a functional quorum to be debatable and to vote less than three quintuple members of the Assembly. The member of the assisting parliament is an "unrepresented citizen". It is not doubtful whether there is a straightforward relationship between the Constitutional Court and the Assembly, to the extent that it is appropriate for the legislature to be left out of the legislature and to focus on the Constitutional Court.

[3.] In the Gospel, the ninth hour is the hour when Jesus dies on the cross, 9 is the number that closes a cycle, the end of a phase in which everything is accomplished.
[4.] Article 179 / b of the Constitution (Amended by Law no. 84/2016 "On the transitional reassessment of judges and prosecutors in the Republic of Albania", approved on 30.08.2016 by the Assembly of the Republic of Albania) provides that:
1."The revaluation system is set up to ensure the functioning of the rule of law, the independence of the judiciary and to restore public confidence in the institutions of this system".
2. "The revaluation will be carried out on the basis of the principles of due process, as well as respecting the fundamental rights of the object of evaluation".
While paragraph 3 of the same article states that the subjects that will be subject to ex officio re-evaluation are: "All judges, including judges of the Constitutional Court and the High Court".
[5.] On these aspects it is suggested to be seen, Raport studimor, Monitorimi I procesit të vettingut të gjyqetarëvë dhe prokurorëvë në periudhën janar 2017-qershor 2018, (Study report, Monitoring of the vetting process of judges and prosecutors in the period January 2017-June 2018), KomitetiShqiptariHelsinkit; Also Raport Studimor, Vettingu I Gjyqtarëve dhe Prokurorëve, shtator 2020, (Study Report, Vetting of Judges and Prosecutors), Komiteti Shqiptar i Helsinkit.

The Constitution also provides in Article 125, paragraph 1, that three members are elected by the President of the Republic. Undoubtedly, these appointments also guarantee another element of the Court, that of neutrality and imparciality.
Without forgetting that, according to article 129, taking an oath before the President of the Republic is a necessary condition as the article provides that "*The judge of the Constitutional Court begins his office after taking an oath before the President*". On the other hand, it is the competence of the Constitutional Court under article 131, point "dh", to prove the impossibility of exercising the functions of the president and to decide on his dismissal. The Court may also decide on issues relating to the suitability and incompatibility in the exercise of the functions of the President of the Republic, but not only, it can also decide on issues relating to the suitability and incompatibility in the exercise of the functions of deputies, officials of the bodies provided from the Constitution, as well as the verification of their election.
Another case of violation of the Constitution occurred in 2019 when the Council of Judicial Appointments submitted to the Institution of the President of the Republic the final lists of candidates for the filling of the two vacant posts in the Constitutional Court. Not only that in a period of 30 days it is difficult to evaluate 2 candidates, but also because the constitution itself provides a certain order in article 179, point 2 where it is explicitly stated that "*The first member to be replaced in the Constitution The Court is appointed by President of the Republic, the second is elected by the Assembly and the third is appointed by the Supreme Court*". The President's request for the subsequent transfer to the Assembly was not taken into consideration by the Council of Judicial Appointments, which elected a member of the Court upon the expiry of the 30-day term.
The same violation was ascertained by the Assembly which simultaneously elected two other members of the Constitutional Court, thus without respecting the order provided for by art. 179, point 2 of the Constitution.
Another problem encountered was the inability of the High Court to select its own members, as this same institution was unable to perform its constitutional functions in relation to the election of the members of the Constitutional Court. This dysfunction resulted from the dismissal of members of the Supreme Court who had undergone a judicial reform, as a result of which for a relatively long period it was formed by only two members.
In order to unblock the situation, the High Judicial Council turned to the experts of the EU mission "Euralius V" for legal consultation, even more absurd was the response of the latter which suggested that the members be temporarily delegated by the courts lower, it was not a *opelegis* solution. The stalemate, in fact, started from the inaction of the High Judicial Council, which had the legal obligation to approve the detailed rules within 3 months. This inaction of the High Judicial Council further aggravated the situation of the elections of constitutional members.

3. Final considerations

Today the Constitutional Court is established and functioning. His training was a challenge that lasted many years, but even the price of his training was strangely the violation of the Constitution. It seemed impossible to get out of this vicious circle without interpretations *contra constitutionem*. Certainly the constitutional mecha-

nism was not respected and often led to disagreements, at a time when the whole process required interinstitutional cooperation. There is no doubt that the Venice Commission has made an important contribution to solving the problems caused by the justice reform.

On the other hand, we see unspoken oaths before the President of the Republic, when this obligation is clearly expressed in the Constitution, even the experts of the Venice Commission in 2020 have openly declared that the oath before the President is a prerequisite for taking office. The Venice Commission also stated that the Commission of Judicial Appointments should send the list to the Assembly as soon as the President has completed his appointments and that the automatic appointment of Constitutional Court judges is illegal.

Today, Albania has an unconstitutional elected Constitutional Court. In the hypothetical case, if someone sends these procedures for constitutional interpretation to the newly formed Court, this means that the new constitutional judges risk declaring their own mandate unconstitutional, thus going into an asurd situation at the limit of constitutional nihilism.

The judicial re-evaluation process aims to restore citizens' trust in judicial institutions and these unconstitutional appointments go against the spirit of justice reform. It is true that the composition of the Constitutional Court should be based on its independence but also on its legitimacy and it seems that the newly created Court has neither one nor the other.

Perhaps the solution would be that in the future the members of the Constitutional Court can be elected by the people, giving to this body a strong democratic character.

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Labor Market Policies and Trends in Kosovo. A comparative look with the countries of the region

Sami Ahmeti

Abstract

This paper provides a descriptive analysis of key labor market indicators for Kosovo, meanwhile comparing them to countries of the region such as Albania, North Macedonia, Serbia, Montenegro and Bosnia & Hercegovina. The comparison focuses mainly in the period from 2017 to 2019. In this paper we address key aspects related to market labor such as job creation and its impact in tackling the challenges these countries face, wages, job quality, informal and formal employment, taxation of labor incomes etc. The analysis uses the data provided by the Statistical Offices of the aforementioned countries. Throughout the paper, we refer also to the report of the World Bank Group, which is a document containing a detailed analysis of the Labor Market Trends in Western Balkans. After analyzing and comparing the labor market policies of the countries, we give recommendations that the countries must take into account to improve their labor market policies and offerings.

Keywords: Labor Market Policies, Kosovo, Balkan.

Introduction

According to Investopedia, the labor market or job market, refers to the supply of and demand for labor, in which the employees provide the supply and employers provide the demand. The job market is considered to be a major component of any economy and as such is closely bounded to markets for capital, goods and services. A comprehensive view of labor market, means that it should be viewed at both the macroeconomic and microeconomic levels. At macroeconomic gauges, two important aspects include unemployment rates and labor productivity rates. At microeconomic gauges components such as individual wages and number of hours are considered.

To understand labor market, Sparreboom (2013) proposes to look at it from the macroeconomic as well as microeconomic perspective. At the macroeconomic level, supply and demand are heavily influenced by domestic as well as international market dynamics. Factors such as immigration, the age of population and education levels also influence the market labor. Relevant measures in understanding labor market include: unemployment, productivity, participation rates, total income, GDP (Gross Domestic Product) etc.

Almost every country, whether it being developed or developing, faces a wide variety of challenges when it comes to the labor market. Such challenges include, but are not limited to insufficient employment generation, underemployment, skills mismatches, labor market discrimination, working poverty etc. According to Sparreboom (2013) timely, relevant, and accurate labor market information, are essential for planning, implementing, monitoring and evaluating policies to address these and other challenges.

The main challenges in the Western Balkan region, according to many empirical

studies, have proven to be improvements in the effectiveness of the labor market. In the last five years (2014-2019) there have been improvements in the labor market situation, such as a steady increase in the number of jobs, employment and activity rates remain to be relatively low. On the other hand, unemployment rates are still high when compared to most EU member countries.

2. Literature review

According to the Macroeconomic Theory, when the wage growth lags productivity growth indicates that supply of labor has outpaced demand. When this condition is met, then there is a downward pressure on wages, as workers compete for a scarce number of jobs. In this case, employers have the final say in their pick of the labor force. This is demonstrated in Figure 1.

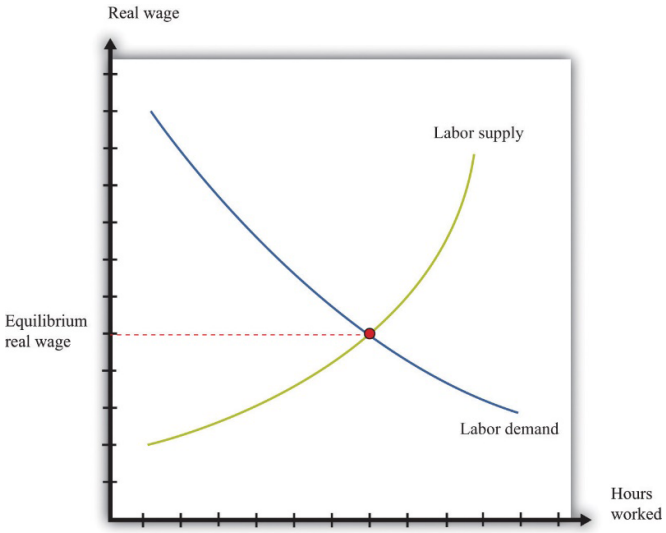

Figure 1. Labor Market curve in the Macroeconomic Theory

It if happens that the demand outpaces supply, then there is upward pressure on wages, as workers have more power and are more able to switch to a higher paying job. In this situation, employers compete for scarce labor. Factors such as immigration can change the balance between demand and supply. Increases in immigration to a country, can grow the labor supply and depress wages. This is especially true if newly arrived workers will accept to work for lower payments.

The microeconomic theory, as the term implies, analyzes labor supply and demand at individual level. This theory proposes that the number of hours an individual is willing to work will increase as the wage increases.

After describing some of the concepts related to labor market, we now turn our focus to the policies regarding labor market. According to Clegg (2015) Labor Market Policies (LMP) cover a very wide array of instruments through which governments intervene on behalf of citizens encountering difficulties in the labor market. These interventions deal mostly, but not exclusively with unemployed people. The scope and nature of government activity varies between different countries and there is

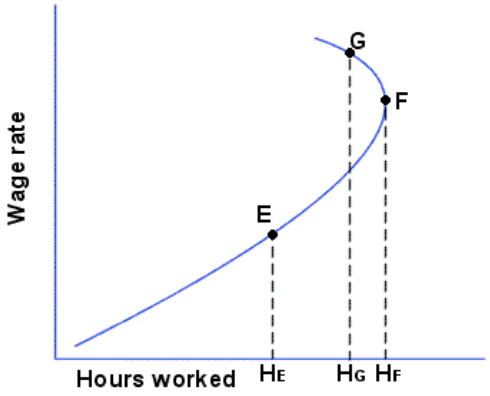

Figure 2. Labor Market curve in the Microeconomic Theory

no consensus in what works and what does not. Because of the importance of these policies, researchers have been dealing extensively with the components that make up a good Labor Market Policy.

Some interventions according to Clegg (2015) are public policies in areas such as trade, regional development, taxation, working-time regulation, education, child care etc. By convention, the concept of LMP is narrower in scope, focusing directly the groups that face particular difficulties in the labor market. Despite being in some sense very restrictive, the conventional definition of LMP encompasses a range of different public policy instruments. Eurostat (2006) identifies three broad types of action, that are called as services, measures and supports. LMP services refer mostly to the work of the public employment service as an intermediator such as the publication of vacancies and referral of the jobseekers.

LMP measures, focus on facilitating transitions from one labor market status to another. They aim to designate a series of more interventionist policy instruments, including programs

involving the creation of additional jobs for the unemployed both in the public and parapublic sectors. They include also subsidies to private employers that seek to incentivize recruitment of disadvantaged groups. Training programs are the third important type/category of labor market measures. Their aim is to enhance the employability of disadvantaged groups through instruction in formal education as well as in workplace contexts. These trainings, according to Eurostat (2006) include also job-sharing schemes, support for unemployed individuals to start their own businesses and specific measures of occupational rehabilitation for those that have reduced work capacity due to possible illnesses or disabilities.

The last category, LMP supports, provide individuals with cash transfers to compensate them financially due to their economic disadvantages as a result of their market labor situation. In most countries, there are mainly two types of support: unemployment insurance (UI) and unemployment assistance (UA). Unemployment insurance means benefits that are paid to eligible unemployed individuals to a maximum duration of the unemployment. Unemployment assistance is paid to those who remain unemployed thereafter or who are not eligible for UI in the first

place, for example due to an inadequate work or contribution history.
The categorization of LMP's into services, measures and supports, offers an alternative to an older approach that is used from OECD (Organization for Economic Cooperation and Development), that classifies labor market policies into 'active' and 'passive'. The notion of active LMP falls into Eurostat (2006) category of services and measures, meanwhile passive LMP's refer to instruments that compensate individuals financially for the loss or absence of employment.
The first LMP's that were established across many countries as government action, were employment benefits (Alber, 1981). LMP development according to the author, entered a distinctive new phase after the unemployment rose from mid-1970s and onwards. Many direct measures or actions involved the placement of young or long-term unemployed people in socially useful community employment or in large training programs. Both of these had the advantage of enabling governments to make quick reductions in the politically sensitive unemployment rate. Another characteristic of this new phase was the increase in expenditure on early retirement, as governments sought to manage and address unemployment through reductions in labor supply of older workers. This was a well-established strategy in Continental European Countries, where employers were offered with the possibility of externalizing the cost of restructuring their workforces (Ebbinghaus, 2006).
In the wake of the 1990's recession, OECD (1994) published a report that called for new directions to be taken in LMP development. This has called for new directions to be taken on LMP. The report focused on structural unemployment and was based on the premise that policies have made economies rigid and stalled their ability to adapt. The report proposed a shift from supports to services.

3. Methodology

To describe and analyze the policies and trends in Kosovo in a comparative perspective with the countries of the region, we have use used mixed methods. First, we do a literature review on the issues related to Labor Market Policies. We discuss the main ideas of LMPs from different perspectives and theories. To gain insights into trends of Labor Market of six Western Balkan's countries, we use the statistical method. Two main sources are used for this purpose: The World Bank Group report, and the report from the Regional Cooperation Council on Labor Market Policies in Western Balkans. When needed, the data is complemented using the data from the Statistical Offices of each individual country. Regarding the policies, we refer to different legislations and data gathered from the official Ministries of the respective countries.

4. Results

According to World Bank Group report (2019) all Western Balkan's countries, have had stronger economic growth in 2019 than in 2018. Despite this growth, labor markets improved at a slower pace in 2019 compared to 2018. Employment levels also grew modestly (around 1.1 percent) though 2019. The GDP in all of the countries grew from 2.5 to 3.9 percent. On average, regional labor markets recorded improvements in activity rates (up 0.5 percentage points to 62.8 percent), employment rates (up 1

percentage point to 52.9 percent). Unemployment rates went down 0.9 percentage points to 15.3 percent. Youth unemployment rates also went down 3 percentage points to 34.6 percent.

Youth inactivity and unemployment, women's activity and the share of the long term unemployed in total unemployment are especially high, are problems that the countries of the region face. Given the widespread informal economy, the quality of jobs remains also a challenge. Labor Force Surveys from each individual country, show that in Serbia, Montenegro and North Macedonia, one in five employed people works in the informal economy. People recruited for these jobs are mainly from poorer social strata, have limited access to social insurance and social protection, often earn less than others and generally do not contribute to social funds that provide access to social entitlements.

In the last decade, according to RCC (2017) the six Western Balkan countries have made progress by implementing reforms to improve the business environment and ease the entry of new companies. Most have also progressed in easing out the process of doing business. However, due to firms' non-steady growth, job creation has been low. This report points out that firms need to do more to support companies and improve their business sophistication.

a. Economic environment

As mentioned, the Western Balkan countries' overall GDP growth rose to an estimated 3.9 percent in 2019. This is seen from Figure 3. Kosovo, Albania, North Macedonia and Serbia are considered the largest economies of the region, with the highest levels of growth from year to year. In Bosnia and Hercegovina GDP growth declined between 2018 and 2019. In Montenegro, it remained unchanged.

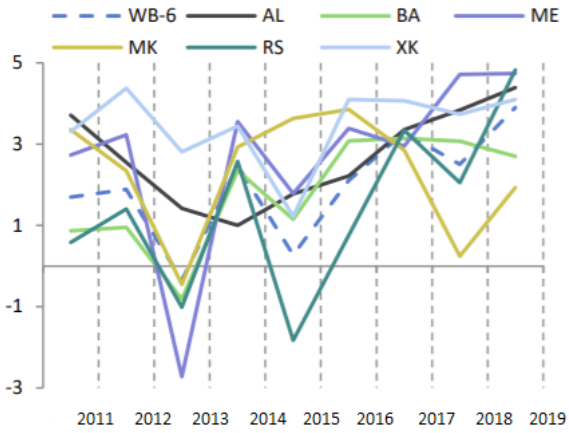

Figure 3. GDP growth from 2011 to 2019

b. Population

On average, the working-age population (15-64 years) has continually declined in most Western Balkan countries. Based on the data provided by national statistics of the countries, the overall working-age population has dropped by 0.8 percent between 2017 Q1 and 2019 Q2. In Albania, Bosnia and Hercegovina and Serbia, an above-average decrease has been present. In Montenegro the working-age population

has remained unchanged. Only in Kosovo, a positive trend has been seen, where the working-age population has increased by 0.9 percent. This is seen from Figure 4.

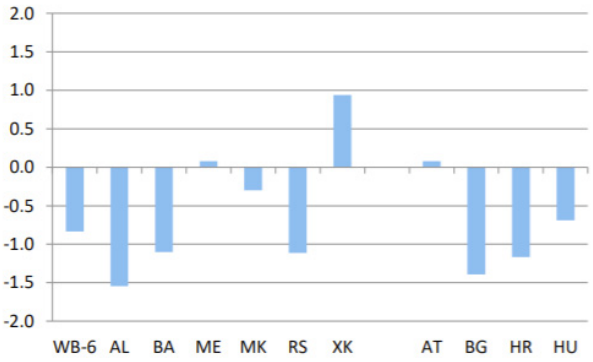

Figure 4. Changes in working-age pop. from 2017 to 2019

c. Employment rates

When it comes to employment rates, Kosovo suffers the most. This means that it is still behind the other countries of the region. In general, despite the increase in the employment rates in Western Balkan countries, these rates are still far below the European standards. For the six countries, in the second quarter of 2019, 52.9% of the population aged 15-64 years was employed. This is seen in Figure 5. We see large differences across the region. Kosovo is the weakest, with around 29 percent of employment rates in Q2 2019, whereas Albania and Serbia are the strongest with almost 60 percent of employment rates. The employment rates grew the most in Serbia and North Macedonia (around 8-10 percentage points). When compared to nearest EU countries such as Austria or Hungary, all the WB countries all behind. For example, Austria has had a 67% employment rate in Q2 2019.

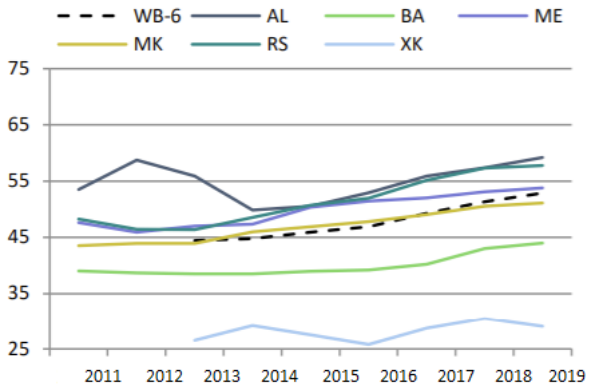

Figure 5. Employment rates in %

Throughout the region, an increase in the employment rates among both men and women was seen. Again, figures are low compared to most EU peer countries. In all

of the countries of the region, we see a gap among the employment between women and men. The regional average for men employability is 61.6 percent whereas for women is 44.1 percent. Employment rates for women are very low in Kosovo (only 12.2 percent) compared for example to Albania, which has a 52.1 percent employment rates for women. This is an issue that has pertained to Kosovo for many years. This country has not been able to address properly through its LMP's the issue of the employability of women.

Throughout the years, employment rate gaps have declined in Albania, Serbia and Montenegro. Kosovo, on the other hand, has not made a significant progress toward narrowing down this gap. As seen from Figure 6, the biggest gender gaps are seen in Kosovo and Bosnia and Hercegovina. Serbia has had the smallest gap among all the countries of the region.

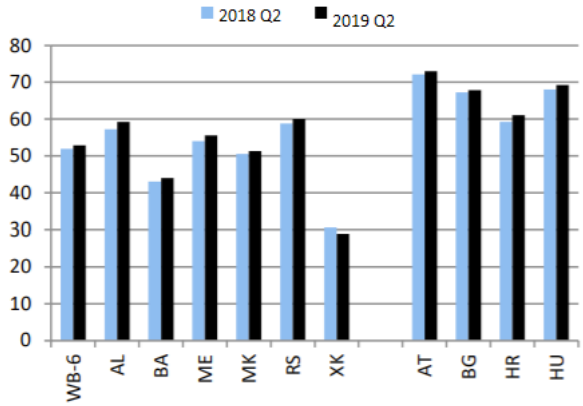

Figure 6. Employment rates in % according to gender

d. Informal employment

A large proportion of employment in the Western Balkans comes from the informal sector. Albania, Serbia and North Macedonia have data on informality that is collected regularly by the labor force surveys. They use the comprehensive International Labor Organization (ILO) definition for informal employment. This definition includes/ covers three areas: Self-employed in unregistered businesses; Wage workers without a written contract; and unpaid family workers. For Kosovo, Labor Force Surveys (LFS's) collect information about unstable unemployment or other categories of employment which are not part of administrative data sources but could include informal unemployment.

In region's countries, the total number of informal workers has risen. The highest rise is seen in Albania and North Macedonia, although the share of total employment has declined slightly. In Albania and North Macedonia, the increase in total employment was relatively higher than the rise in informal employment. Such countries have seen improvements in the informal sector due to several campaigns that have been launched. For example, Albania has launched several campaigns against informality since September 2015.

e. Wages

Wage levels across the Western Balkan countries leave to be desired when compared to most of the EU peer countries. That is, they are lower and more dispersed. Across the Western Balkans, wage levels were highest in Montenegro and Bosnia and Hercegovina, counting for around 55 percent and 48 percent of the Austrian wage levels, for example. Among the countries of the region, Albania ranks at the bottom, which accounts for only around 30 percent
of the Austrian level. Since 2011, an increase in wages has been seen both in Kosovo and Albania. In the remaining countries, there have been declines in wages, thus increasing the gap in wages between these countries and other peer EU countries such as Austria.

f. Labor productivity

In all of the countries of the Western Balkans, from the data collected, the relationship between labor productivity growth and real wage growth, was positive.

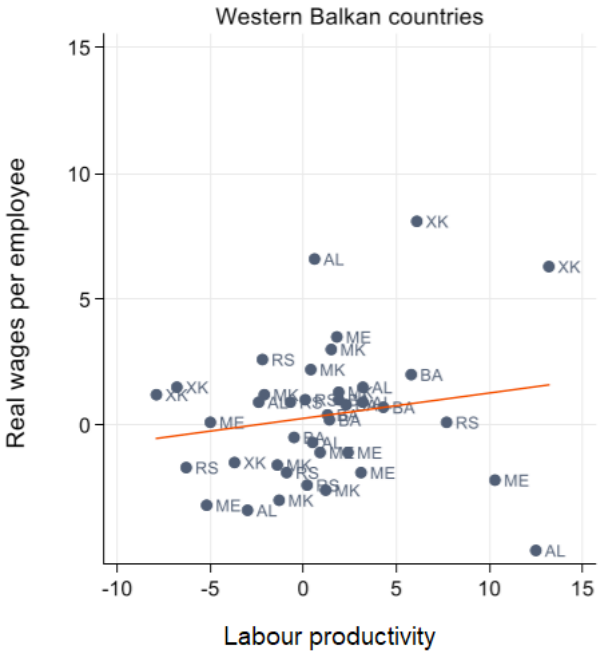

Figure 7. Labor productivity and wage growth in %

As shown in Figure 7, between 2017 and 2019, the annual real wage and labor productivity growth rates were positively related in both country groups. This correlation, according to the gathered data, is still flatter compared to the group of EU peer countries. However, as Figure 7 shows, there are differences in the correlation. Kosovo, North Macedonia and Bosnia and Hercegovina, higher labor productivity growth rates were associated with higher real wage growth rates. On the other hand, in Albania, Montenegro and Serbia, annual productivity and wage growth moved in opposite directions.

One characteristic that Kosovo has and other countries of the region do not have, is that in Kosovo the relationship between unemployment and wage growth is

negative. In Kosovo, the very high unemployment rates do not seem to be related to real wage growth

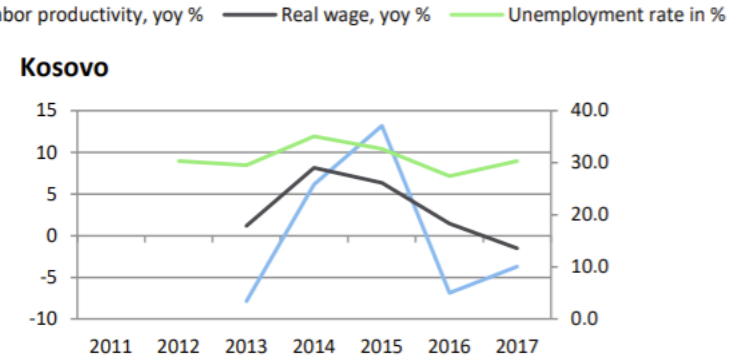

Figure 8. Relationships between labor productivity, wage growth and unemployment

g. Taxation

For more than a decade, different studies have shown that the taxation of labor has been singled out as one of the most problematic institutional features of LM in WB. Initially, the presumption was that high labor taxes would have a negative effect and impact in job creation and investment especially for the industries that are characterized by low-wages and that are labor-intensive. Koettl and Weber (2012) have emphasized the interaction between labor taxation and the social benefit system. They found that the region has high formalization tax rate. They have proposed the rules regarding the minimum social contribution bases as an impediment to the growth of formal part-time jobs and to improvements

The analysis conducted by Kovtun et al. (2014) have highlighted that labor taxation is one the main factors that affects job growth. The data we have gathered, point out that there are two important long-standing features that may considered as common or dominant across the region: The first is a reliance on social security contributions as the main component of labor taxes; personal income tax component remains mostly marginal or modest in most the countries, including Kosovo. The taxation among the countries is presented in Table 1.

All countries have individual income tax systems. A personal tax-free allowance (zero tax bracket) except in Montenegro, exists in all the countries. This provides some indirect progressivity of income tax schedules. Only in Bosnia and Hercegovina there exists a tax-free allowance for dependents (spouse and/or children).

Kosovo and Albania are the only countries where a progressive personal tax exists. As we see from Table 1, in Kosovo, taxes increase as the wage increases. The highest marginal personal income tax (PIT) of 10% in Kosovo and the top rate of 23% in Albania are still relatively low in a comparative perspective. Montenegro is the only country where personal allowances do not exist. Bosnia and Hercegovina and North Macedonia follow a more common international practice when it comes to the base for personal income tax.

	Albania	Bosnia and Herzegovina		Kosovo***	North Macedonia	Montenegro	Serbia
		FBiH	RS				
PIT rates	Under 30,000 ALL - 0%, 30,001-130,000 ALL - 13%, Over 130,001 ALL - 23%	10%	10%	Under 80 EUR - 0%, 81-250 EUR - 4%, 251-450 EUR - 8%, Over 451 EUR - 10%	10%	9% Over 750 EUR - 11% (Temporary crisis tax rate)	10%
Personal allowance	None (13,000 ALL)	300 BAM	200 BAM*	None (80 EUR)	7,357 MKD	None	11,790 RSD**
Family allowance	0	Spouse - 150 BAM, One child - 150 BAM, Two child - 210 KM, Three or more child - 270 BAM, Close family member - 90 BAM	75 BAM for every dependent family member	0	0	0	0
Tax base	Gross wage	Gross wage - PA - FA - Employee SSC	Gross wage - PA - FA - Employee SSC	Gross wage	Gross wage - PA - Employee SSC	Gross wage	Gross wage - PA
Employee SSC rates	Health - 1.7% Pension - 9.5%	Pension - 17% Health - 12.5% Unemployment - 1.5%	Pension - 18.5% Health - 12% Unemployment - 1% Child care - 1.5%	Pension - mandatory 5%, could be 10% or 15%	Pension - 18% Comp. health - 7.3% Additional health - 0.5% Unemployment - 1.2%	Pension - 15% Health - 8.5% Unemployment - 0.5%	Pension - 14% Health - 5.15% Unemployment - 0.75%
Employer SSC rates	Health - 1.7% Pension - 15%	Pension - 6% Health - 4% Unemployment - 0.5%	0.00%	Pension - mandatory 5%, could be 10% or 15%	0.00%	Pension - 5.5% Health - 4.3% Unemployment - 0.5%	Pension - 12% Health - 5.15% Unemployment - 0.75%
SSC base	Gross wage SSC minimum - 22,00LEK SSC maximum - 95,130LEK Health - uncapped	Gross wage	Gross wage	Gross wage	Gross wage Minimum - 50% of AW Maximum - 1200% of AW	Gross wage	Gross wage Minimum - 35% of AW Maximum - 500% of AW
Payroll tax	0	Clear water tax (0.5% on net wage) Accident fund (0.5% on net wage) Disability fund (0.5% on gross wage)	0	0	0	0	0
Surtax	0	0	0	0	0	Podgorica and Cetinje - 15%, Budva - 10%, Other -13%	0
Surtax base	0	0	0	0	0	Amount of PIT	0
Additional contributions paid by Employer	0	0	0	0	0	Work fund - 0.2%, Chamber of Commerce - 0.27%, Labour Union - 0.2%	0

Table 1. Labor taxation rules in WB

Conclusions

The aim of this paper was to provide a comprehensive overview of the trends and policies in the Labor Market in Kosovo and compare them to the countries of the region. Our analysis showed that there has been progress in all of the countries regarding the LMPs. Unemployment rates have declined and the employment rates have increased. However, despite the
developments there are problems that still pertain to all of the countries such as a high share of informal employment, high youth unemployment, gaps between men and women employment, that is low rates of female labor force participation etc. Our analysis showed that decline in unemployment rates have been greater for low and medium skilled workers. Another problem that we saw in some of the countries was an overall high level of labor taxes.

Kosovo has been the only country that has not increased the minimum wage both in the public and private sector. With a more generally favorable macroeconomic situation, regional policymakers have started to pay attention to supply-side problems of stagnant wages. A common impulse in this regard was to increase the minimum wage. This policy has been implemented most aggressively by Albania, North Macedonia and Serbia. Generally speaking, trade unions, favor a policy of increasing the minimum wage.

Institutions of the labor market play an important role in determining labor market outcomes. In all of the countries, we saw that there have been reforms taken. These reforms have impacted the progress in increasing the flexibility of wage and negotiation systems. The reforms have also taken place to improve the business

environment and ease the entry of new firms, and most the countries have progressed in the ease of doing business. As we have mentioned, all of the countries need to do a lot more to unlock the development potential of competitive companies and support companies in improving their business sophistication.

All of the countries are at risk from the decrease in fertility rates, negative natural growth, ageing and emigration. Kosovo, however, is the least risked country since it still has the youngest population not just in the region but in Europe also. Migration is a serious challenge for all of the countries that leads to the shrinking and ageing of the population. From the data obtained, it can be seen that almost one quarter of the population has left the region in the past decade.

Another prevalent problem among almost all of the countries has been the quality of labor supply. This is especially true for countries with a poor education system such as Kosovo and Albania. Poor quality of education, and the failure of this system to meet the demands of the labor market, are the causes of both the high rates of unemployment among the youth and the lack of quality in labor supply. These groups often need trainings, qualifications, vocational education etc. From the analysis we saw that the countries do suffer in offering the proper training, qualifications and vocational education to those needing it.

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Strengthening citizen participation in decision-making at the local level; communication triangle: Mayor of Municipality - Municipal Assembly - Local Communities
A practical example of 2014 and 2015 from Drenas

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Abstract

There is no other level of government in which citizens are as close to politics, and there no other level of government in which they are as affected by political decisions than by the decision-making processes at the local level. However, the participation of citizens in municipal policy-making remains a major challenge in Kosovo. This right, which is also one of the fundamental freedoms for the development of local democracy, largely remains far from desired, also due to the lack of willingness, knowledge and/or capacity in the decision-making process. The Law on Local Self-Government, which provides the basis of local government regulation in the Republic of Kosovo, requires municipalities to provide information, public consultation and organization of consultative committees in order to provide an opportunity for citizens to actively participate in local decision-making. However, to what extent is this legal opportunity being exercised by local institutions and citizens, for the latter to be active participants in decision-making during governing terms, and not only by casting a vote in election? This study will attempt to answer this question, and further offer an approach, or an example from the municipality of Drenas, where in 2015, we had a Commission, established by the municipal assembly, by which we established a sort of a contract for communication and close cooperation between the Municipal Assembly (members of this Commission) - the Mayor (through the Directorate for Urbanism) and heads of local communities (administrators) in the field of monitoring municipal projects to be implemented in the field during 2015, in the municipality of Drenas.

Keywords: Municipal Assembly, Member of the Municipal Assembly, Citizen participation, Administrators.

Legal Basis

Article 34, item 1 of the Law on Local Self-Government provides that each municipality may make arrangements with villages, settlements and urban quarters within its territory to ensure that all the needs of all citizens of the municipality are met.[1] Subsequently, Article 34.3 provides that the Ministry responsible for local government shall issue instructions on the arrangements between the municipality and villages, settlements and urban quarters.[2] Finally, in 2019, the Ministry of Local Government Administration (MLGA) issued Administrative Instruction no. 02/2019, which regulates the organization and cooperation of the municipality with villages, settlements and urban quarters.[3] Pursuant to this Administrative Instruction,

1. Law on Local Self-Government (No. 03/L-040), Official Gazette of the Republic of Kosovo 28/2008. Article 34, p. 10, https://gzk.rks-gov.net/ActDetail.aspx?ActID=2530.
2. Ibid. Page 10.
3. Administrative Instruction no. 02/2019, Ministry of Local Government Administration,

respectively prior Instructions, the municipalities of the Republic of Kosovo have established these advisory bodies, while with their Municipal Statutes or Regulations, they have defined in more detail the form of cooperation between the municipality and local communities.

Consolidation and practical functioning of cooperation between Municipalities and Local Communities

Thus, as mentioned above, each municipality may make arrangements with villages, settlements and urban quarters within its territory to ensure that all the needs of all citizens of the municipality are met, while the format of such cooperation may be determined by Statute and municipal regulations.[4] Within the timelines provided by law, and in a transparent manner, village councils facilitate the communication of residents with municipal authorities, allow for better representation and addressing of requests and priorities, thereby contributing to a higher trust of citizens in municipal governance. Furthermore, Village Councils serve as a bridge between the community and Municipal officials, in improving the lives of citizens. However, the data for 2019[5] show that 19 Kosovo Municipalities have not yet consolidated their Village Councils. Meanwhile, 17 other municipalities have consolidated these structures, and have also posted information on such structures on their websites. 2 other municipalities are in the process of consolidation.[6] In Drenas, the Municipality had established the Village Councils many years earlier, but their proper functioning left much to be desired.

Example of the functioning of the communication triangle *Mayor-Municipal Assembly - Local Communities* **in 2014 and 2015 in the Municipality of Drenas**

- **Informal Caucus - 2014**

From the elections of October 3, 2013 in Drenas, a Municipal Assembly came out, with 1/3 members from opposition parties.[7] This brought about an increase in the quality of the debate in the Municipal Assembly, and by that also of the decisions made for the citizens, given the use of social networks by some members to publish information about the work of the Assembly, and this consequently brought the citizens closer to municipal decision-making, and also increased the accountability of local decision-makers before citizens. One of the most heated points of the debate in the Municipal Assembly in Drenas, during the beginning of the 2013-2017 term, was the fair budget allocation for capital projects in different locations of the municipality, and the poor quality of works in the implementation of these projects. Based on this fact, in the middle of 2014, an idea came out to establish an Informal Caucus[8] made of members of the Municipal Assembly, and by contacting in advance the administrators (chairmen) of the Village Councils, they would visit most of the

https://mapl.rks-gov.net/legjislacioni-dhe-politikat/udhezimet-administrative/.

4. Article 34, item 1, and Article 4, item 6 of Law no. 03/L-040 on Local Self-Government.
5. The 2020 Report has been deliberately left out, due to the Pandemic.
6. "MUNICIPAL TRANSPAROMETER 2019"; Publication by KDI; March 2020; Prishtina, for more, see: https://kdi-kosova.org/wp-content/uploads/2020/03/16-Transparometri-Komunal-2019-ALB-09-1.pdf
7. The author was part of the Informal Caucus, and the Field Project Monitoring Commission, as a member of Municipal Assembly in Drenas, during the term 2013-2017, and re-elected in 2018.
8. The request for the establishment of an Informal Caucus, consisting of members of the Municipal Assembly was filed in a Session of 17.07.2014. For more: Minutes of this session (only accessible by official request to the Municipality of Drenas).

quarters/villages[9] to talk to them about the concerns about the fair share allocation of the capital investment budget, as well as the quality of works. In several weekends, this Informal Caucus, consisting of members of the Municipal Assembly (beyond party and gender divisions) visited 20 of the 38 villages of the Municipality of Drenas. Each visit was agreed in advance with the administrators of these quarters, and there we were received by them and other residents, who were in turn closely informed about the members of the Informal Caucus about the work being done and the challenges associated with projects in the field, largely related to the poor quality of the works. Since the time was short to visit each location (village and urban quarter), this Caucus had made efforts to call each administrator (village head) of villages the Caucus was not able to visit (also due to seasonal shorter days). Apart from the 2015 Budget document, this Informal Caucus, consisting of 7 members of the Municipal Assembly from different parties, carried also the Municipal Medium Term Budget Framework 2015-2017 to inform the Administrators about capital projects approved for 2014, for investments in their location, as well as those foreseen in the Budget Framework for the years 2016 and 2017. This Caucus also brought with itself a questionnaire, with which it collected data for its research. Each Administrator (village head) was asked the following questions: 1. Are these priority projects proposed by the village and approved in the 2014 Budget and the Municipal Medium Term Budget Framework 2015-2017? 2. Have they been informed by the Municipality about the projects that will be implemented in their location upon the approval of the 2015 Budget? and 3. When were they informed of this document (Budget 2015), if they were informed?[10] By the end of its efforts, this Informal Caucus had drafted a summary report on its work, and presented such report at a session of the Municipal Assembly in September 2014. The report also contained the following recommendations: "1. We propose to legally regulate the issue of the Village Administrators and the Neighborhood Representatives of our Municipality. Consider the possibility of remuneration for their work, even at a symbolic amount. We propose that the Administrators are given an additional power, to be part of the supervisory Commission, and evaluators of projects implemented in the village of their own residence. 2. We propose that in the future, the priorities be set in coordination with the Administrators, and prevent cases in which the projects of the Executive are not in line with those proposed by the village Representatives (Administrators). 3. We propose and it is urgently requested that in the villages, where there is no road asphalting projected for the next year, while the roads are in poor condition, difficult to pass, we request that the current budget be added another amount of 40.000 Euro to the current value of 10.000 Euro, managed by the Directorate of Public Services and Emergency. This amount of 50,000 Euros must be invested in paving such roads with gravel wherever needed, and in our visits with the group, we were told of many such roads, especially worth mentioning the roads in the village of Baica. We propose that in implementing such repairs of roads and streets, a Member of the Assembly from that area be present, and of course the Administrator of the village. 4. We propose that before designing the asphalting of any road, the possibility of sewerage upgrades be examined in advance, so as to not open the roads again in the future to implement such collection systems. At the same time, our proposal is to complete any waste water collection

9. The Municipality of Drenas officially counts 39 villages and 5 urban neighborhoods.

10. Accessible in a Report presented at the session of the Municipal Assembly, dated 23.09.2014. (Only accessible by official request to the Municipality of Drenas).

project that is initiated, and not be interrupted, as we have seen in several villages. Thus, sewerage systems should be completed in full, and not suspended mid-works, and be completed with road projects. 5. No village or quarter of the City, or any other area of our Municipality should be left without at least one project. We have seen cases, in two villages and some quarters of the City, in which there is no project envisaged for next year. 6. We propose and advise other Members of the Municipal Assembly to exercise their responsibilities regarding the listing of projects for the areas they come from, and in coordination with the Village Administrators, to submit their own list priorities, i.e. to obtain information and coordinate with the Administrators before the project document is finalized by the Executive.

The Report of the Informal Caucus, which was read aloud in this session of the Municipal Assembly, and obviously stored in the archives of the Municipality in writing, also contained the following remarks: **1.** The budget submitted by the Executive is most definitely not balanced in terms of fair share budget distribution in the villages of our Municipality, and as such, it is only a continuation of such unbalanced budget distribution. **2.** In many villages of our Municipality, this document of priorities is not in line with the lists filed by the Village Administrators. **3.** There was no informative communication with the Village Administrators for the final document, but the last meeting called by the Executive was in June, and there, they were presented only with the Medium Term Budget Framework 2015-2017, and for a difference from this document, the document we have today contains many changes. Most Administrators feel deceived. On the other hand, there were efforts to shift the blame onto the Assembly, upon its eventual approval of this document. You are trying to leave us hanging again, as Assembly Members. Today, we as Members of the Municipal Assembly of Drenas are in a very bad position before the citizens of our Municipality, because any eventual changes made to the benefit of one village automatically means it would go to the detriment of another village, since we do not have additional funds available".[11]

- **Project Monitoring Commission for the territory of the Municipality of Drenas - 2015**

Such reporting by the Informal Caucus in the Municipal Assembly Session, where it presented its findings, together with the recommendations and remarks, jointly concluded with the Administrators of villages and urban neighborhoods of the Municipality of Drenas, was the reason that this new kind of communication between the Municipal Assembly, as the highest municipal body, and the inhabitants of this municipality, through the Village Councils (Administrators), thereby resulting into the formalization of a Committee, consisting of Municipal Assembly members, who together with Administrators of all locations Municipality of Drenas, would monitor capital projects implemented in the field, all based on the fact that exactly this issue was one of the challenges raised by Administrators over the years. However, in order to get to the point where such a Committee could be debated and voted on in a Municipal Assembly meeting, it was necessary to notify all Administrators in writing, and get them to sign that they are in favor of establishing a Committee, with members of the Municipal Assembly, to jointly monitor projects in their

[11] Accessible in a Report presented at the session of the Municipal Assembly, dated 23.09.2014. (Only accessible by official request to the Municipality of Drenas).

implementation in the field in 2015. This did happen, 31 of the 44 Administrators who were found in their homes over the weekend signed the proposal, initiated by members of the Municipal Assembly, to establish such a Committee. The full text contained this tripartite agreement: Mayor-Municipal Assembly-Administrators, and as such, it was sent to all Administrators for reading and then signing:
"Honorable Mayor of Drenas, Honorable Chairman of the Municipal Assembly, Honorable Colleagues, Members of the Municipal Assembly,
Based on the facts collected last year in the field by the Informal Caucus, consisting of Members of the Municipal Assembly, beyond partisan lines, a group that collected information directly from the Administrators and representatives of the Quarters, with its visits to Villages, Settlements and Urban Neighborhoods, but also in some phone calls with them, regarding the capital investment projects already completed and those awaiting implementation in relevant areas, and a group which at the end of its fact-finding mission, developed its written report, thereby finding that the Administrators or Chairmen of Local Councils (as defined in the Regulation on the organization and cooperation of the Municipality with Villages, Settlements and Urban Quarters in the territory of the Municipality of Drenas, Regulation no. 12, 16-17684, dated 17.12.2012), were not satisfied with the communication and cooperation with the Municipality, especially in the listing of priority projects, and further with the poor quality of many projects implemented in the field, insufficient information sharing about the projects, and being ignored by municipal officials, especially the responsible municipal officers from supervisory Commissions in relevant locations. This is the reason why we the undersigned Members of the Municipal Assembly, exercise our legal rights to establish Consultative Committees within the Municipal Assembly for various subjects (Administrative Instruction 2008/10, on the "Organization and Functioning of Consultative Committees in Municipalities", issued by the Ministry of Local Government Administration in 2008), and based on the Regulation on the Organization and Cooperation of the Municipality with Villages, Settlements and Urban Quarters in the territory of the Municipality of Drenas, Regulation no. 12, 16-17684, dated 17.12.2012, on the Competencies and Responsibilities of the Councils of Villages, Settlements and Urban Neighborhoods, as well as the duties of the Chairman of the Local Council (Administrator), we propose to establish a Consultative Committee for the coordination of direct communication of our Municipality, respectively of the two Bodies, the Executive and the Municipal Assembly with Administrators of Villages, Settlements and Urban Quarters. We propose to establish this Consultative Committee on the basis of Article 3.2 of the Administrative Instruction 2008/10, on "Organization and Functioning of Consultative Committees in Municipalities" issued by the Ministry of Local Government Administration in 2008, with the following duties and responsibilities, until the end of the term of the current legislature.
Responsibilities of the Mayor, respectively relevant Directorates towards this Consultative Committee: The Office of the Mayor, respectively the relevant Directorates are rquired to prepare a copy of the schedule of activities of projects at least seven (7) days before the commencement of project works in a Village, Settlement or Urban Quarter in our Municipality, and to notify the Administrator (Chairperson of the Local Council) to hand over such schedule. Should there be no access to the networks, a member of the project monitoring committee shall physically deliver this

document to the house of such stakeholders. Simultaneously, a copy of the project schedule of activities should be handed to the Member/Members of the Municipal Assembly who have been elected to monitor the communications for that location.

Responsibilities of the Consultative Committee, i.e. the Members of the Municipal Assembly elected to the Committee: The Consultative Committee member / members elected for the respective location are required to maintain close contacts with the Administrators of Villages, Settlements and Urban Quarters regarding the full implementation of communication between them and our Municipality, regarding the progress of handing over documentation (schedule of activities) for the implementation of the project in that location. Simultaneously, the Consultative Committee Member/Members elected for the respective location shall be required to receive copies of such a document from the Executive. The Chairman or Deputy Chairman of this Committee shall report on quarterly basis to the Municipal Assembly on the progress and implementation of this cooperation and direct communication between the Municipality and Administrators of Villages, Settlements and/or Urban Quarters.

Responsibilities of Administrators (Chairperson of the Local Council) of Villages, Settlements or Urban Quarters: Upon being handed over the documentation, the Administrators (Chairpersons of Local Councils) of Villages, Settlements or Urban Quarters shall notify the representatives of the neighborhoods on the project to be implemented at least seven (7) days before commencement of the works on that site/location. It is important that such notification is made also drawing from the document received from the Municipality, to inform as accurately as possible about that project. The Administrators (Chairpersons of Local Councils) of Villages, Settlements or Urban Quarters shall also be entitled to require additional information, either from the relevant Directorates or from the Project Supervisory Commissions, on any technical uncertainties related to projects to be implemented in that location. Upon completion of the project in the area of responsibility of the Administrator (Chairperson of the Local Council) of Village, Settlement or Urban Quarter, such Administrator shall notify the Member/Members of the Consultative Committee elected to that location on the works completed, for the member/members to keep records on compliance of such parties (Municipal Executive branch, and the Administrator (Chairperson of the Local Council) of the Village, Settlement or Urban Quarter) with this Agreement.

After these coordinated actions, the Session of the Municipal Assembly held on 27.02.2015 was presented an idea for establishing this Commission (initially thought as a Committee) and after a constructive debate, by a majority of votes, the establishment of the Commission was approved. It would be officially called the "Commission for the supervision of projects in the territory of the Municipality of Drenas", consisting of 5 members of the Municipal Assembly from different parties. Further, the Commission officially commenced its work by holding meetings with Administrators of villages and urban quarters to officially inform them about the joint work during 2015 for monitoring field projects. It was an excellent start, welcomed by the Administrators, who had felt rather left aside in their cooperation with the municipality. Then, we had to wait for several months until field works began. It was exactly the month of June in which the members of the commission started moving (in prior coordination with the Administrators) through different

locations. In the five settlements visited during the completion of the infrastructure works, we concluded that the item of the agreement which required the Executive to hand over materials (bills of quantities) to the Administrators was not complied with. The Commission itself had to obtain such documents before conducting the visits. The Commission decided to take pictures of the site works, and keep records of each visit. In addition, various posts were made on each visit on social networks. The determination of the Commission to be present in every corner of the municipality, in which Administrators suspected below-standard works were being carried out, but also the pressure of the Commission members exerted by publications and photos from the site works, "disciplined" not only municipal officials engaged by the relevant Municipal Directorate with a mandate to oversee project implementation, but also "disciplined" economic operators. Trust in the work of this Commission was growing, and with it the demands not only of the Administrators of different locations, but also of the citizens themselves, and the numerous notices and complaints received by this Commission were referred to municipal officials (of relevant Municipal Directorates), and many of these complaints and concerns were resolved very quickly, with no need for the Commission to go to the sites on daily basis. Documentation of each complaint and concern filed, with facts, photographs and relevant documents (project bills of quantities) ensured a much higher quality of works from the second half of 2015, compared with previous years.

Conclusion and recommendations of the Commission for the monitoring of projects in the territory of the Municipality of Drenas

At the end of the year, the Commission for project monitoring in the territory of the Municipality of Drenas submitted, in its Annual Report, all its field activities, including all photographs, facts and recommendations, and on 14.12.2015, it presented the document before the members of the Municipal Assembly in Drenas. This Report, together with the session minutes, remains stored in the archives of the Municipality of Drenas.

"Summary

Based on all efforts of the Commission for Monitoring Projects in order to fulfill the agreement which established this Commission, it may be concluded that the main stipulation of this agreement, namely the requirement for our Municipal Executive, namely the relevant Directorates (in our case, in the vast majority of cases, the Directorate of Urbanism), to provide copies of the schedule of activities (bills of quantities of projects) that the contract awardees would carry out in that location seven days before the implementation of each project in different locations (villages or urban quarters), was not honored. Therefore, our Commission had visited field works only after the requests and concerns raised by Administrators and other representatives of villages and urban quarters, especially when works in the field were conducted in poor quality. Although compared to previous years, the situation on the ground is much better in terms of implementing capital projects, yet again, our findings, which we have enjoined in every item to ensure full transparency, must be taken into account by the Municipal Executive, while those people responsible (from our Municipality) for having allowed project implementation in poor quality of works, should be held accountable. The Project Monitoring Commission had done

all its work on a voluntary basis, i.e. With no remuneration whatsoever, and apart from the last two visits, all visits were carried out on our own private vehicles and our own expenses. Most of the Administrators we met in the field were not satisfied with the communication between them and our Municipality, especially when implementing capital projects.

Recommendations - Project Monitoring Committee

1. Timely inform the Administrators and the representatives of the villages and urban quarters of our Municipality, before commencing implementation of works in projects located in the respective areas, to allow for consistent monitoring during project implementation. **2.** Our Municipal Executive must view Administrators and representatives of villages and urban quarters as partners, and cooperate closely with all of them, especially during the implementation of capital projects in the respective areas. **3.** Based on the findings, we consider that the Mayor should set up a Commission on the Executive Branch, to identify those who have had a role in the poor performance of works in various locations. In this regard, municipal officials who 17 have abused their official positions must be sanctioned in accordance with their employment contracts with our Municipality, and applicable legislation in the Republic of Kosovo. All private companies showing poor performance in their project works must be required to repair and rectify all possible damages caused, and in case of failure, initiate lawsuits against each company separately".[12]

Conclusions and recommendations

This study highlights once again that there is ample room for action of those elected as representatives at the local level, in terms of getting citizens closer to decision-making and collaborative monitoring of matters, especially in implementing capital investment projects in the field, which directly affect the citizens' livelihood. This example in the municipality of Drenas, in years 2014 and 2015, shows that with dedication and some sacrifice, those voted as representatives at the local level can not only honorably fulfill their mandate of representation, but by approximating citizens as close as possible to decision-making, they may contribute directly to the quality of governance, and consequently in the quality of their livelihoods, while an ultimate impact would be noted in the very strengthening and consolidation of democracy in Kosovo.

Therefore, it is recommended that until legal amendments are made (most required in the Law on Local Self-Government), all Municipal Assemblies at the country level establish such monitoring bodies (Commissions), with members of Municipal Assemblies, for each Municipal Directorate. This would directly affect the quality of governance, while citizens would be increasingly involved in decision-making at the local level. It is further recommended to urgently commence the necessary amendments to the Law on Local Self-Government, by introducing specific articles providing on the establishment of mandatory Committees, consisting of members of the Municipal Assembly, for each Municipal Directorate. With the establishment of such legally required commissions, the locally elected representatives would be

12. Accessible in a Report presented at the session of the Municipal Assembly, dated 23.09.2014. (Only accessible by official request to the Municipality of Drenas).

given an additional opportunity to officially communicate with citizens directly upon the citizens requests; it would create additional opportunities to increase the influence of Municipal Assembly members in local government, coordinating actions with the Municipal Executive for the common good of the citizens of the respective municipality; it would allow for greater involvement of citizens in advocating matters, and it would undoubtedly improve the oversight of the work of the Executive.

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Albanian public television, the model that has destroyed its function as a public media

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Abstract

On the 30th anniversary of its conversion from 'the voice' of the one-party system state to the only public broadcaster in Albania, the Albanian public radio and television does not match any of the theoretical models of public broadcasters in EU countries. Although it is currently controlled by the government, it is abandoned even by it and does not play any of the functions it was established for, whether published or implied ones. After taking it under control, the government offers minimal financial support and leaves it alone in its mission. We should search the motive of this abandonment in the lack of recognition or contempt that political and state representatives have for the public broadcaster despite the fact that administrative and professional structures of the public operator have a policy of "open doors" up to an inferior relationship with the government. This might be for two reasons. Firstly, because the political and state representatives 'are seduced' by commercial operators. Secondly, because social networks are new forms of communication for politicians, by means of which, they can communicate directly to the public.

Considering the percentage of the beneficiaries of the television offer, the public operator does not seem to be useful to the audience.[1] What the public operator mostly does is "protocol journalism", probably due to self-censorship. For journalists and media professionals, working for the public operator marks a convenience station in their professional path more than a high goal in their career. The above-mentioned phenomena follow the alternating roles pattern, which means, one is sometimes a cause and sometimes a consequence. The following article aims to prove the hypothesis of the lack of function of the public operator in Albania, addressing it in all three of the above-mentioned dimensions. It also aims to discover, identify and argue the indirect goals of the public operator operation.

The article focuses on the current model of the public television in Albania through the lens of theory and practice. We want to highlight the main features of the public service media model in Albania and to what extent the Albanian public service media adapts to the existing typologies, such as; polarized pluralist traditions or competitive authoritarian ones. We also want to come to a conclusion if we have a model of media serving to the government, parliament, cooperative (civil) model or a model of professional media service. This study is based on a qualitative combination of the methodological research, literature reviews, document analysis and expert comments.

Keywords: Albanian public television, the model, function, public media.

Introduction

For three years the ruling majority, Socialist Party insisted in electing at the top of the public broadcaster their preferred candidate from the two left-wing candidates.

[1] In this paper as "Beneficiary of the TVSH (National State Albanian TV) offer" will be considered the audience that has claimed to watch TVSH broadcasts daily, or two to three times a week. All the others, i.e., those who responded that they watch the TVSH broadcasting very rarely and sporadically, i.e., two to three times a month or never, were considered as "non-beneficiaries of the TVSH offer". The Department of Journalism and Communication at the University of Tirana, which monitored the quality of the television offer and the reputation of TVSH, over a period of time (January – March 2016) used these concepts.

In order to make possible the election of the General Director of TVSH (National Albanian TV) by simple majority of the 11 members of the Steering Council of the Albanian Public Radio and Television, it was necessary to amend the law on audiovisual media.

The candidate chosen for the position of the General Director of the public operator was the former editor-in-chief of the official newspaper of the socialist party "Zëri i popullit" (Voice of the People), who had come back in country after emigrating for many years in the US. Although there were held several voting rounds,[2] he failed to get 2/3 of the 11 votes of the Steering Council of Albanian Radio and Television. The election of the RTSH (Albanian Public Radio and Television) director and the change of the law on this issue, has been part of the political discussions mediated by EU representatives.[3]

The law on audiovisual media was adopted during the last months that the Socialist party was still in opposition. The election of the RTSH director following the formula of 2/3 of the votes of the RTSH Steering Council, had been requested by the socialist party, to guarantee the consensus and thus independence in managing RTSH.

But, in 2016, three years after taking power (2013), having failed several times to elect the preferred candidate for the position of the RTSH Director General, in order to allow the election of the RTSH director by simple majority of the Steering Council (the 2/3 voting had already failed in three rounds), the Socialist Party quickly amended the law.

The President, Bujar Nishani, exercised his right not to approve this legal change and sent the law back to the Assembly. Mr. Nishani said that amending the law that elects the director of the public operator, without the consensus of the position and the opposition, would be the last blow against the independence of the public broadcaster[4]. But, however, the socialist majority disregarded the President's decree and the law came into force.

The "violence of parliamentary cartoons" of the majority, brought things to another step, to the common practice of ruling parties seeking to change the leadership of the public broadcaster (public media service) and Audiovisual Media Authority. Controlling the public broadcaster have been considered by the ruling parties, a right that comes naturally with the right to form the government. In 30 years of pluralism in Albania, the Albanian Public Television has mainly been a "government

2. The EBU (European Broadcasting Union) official website in its news about the election of the general director of RTSH, emphasizes his past and his connection with the ruling socialist party. This is the first paragraph of the EBU news, Radio Televizioni Shqiptar (RTSH) has appointed Thoma Gellçi as its new Director General. Gellçi previously worked as the Editor-in-Chief of Zeri i Popullit (the official newspaper of the Socialist Party) and 24 Ore (a news agency and electronic newspaper he set up to provide information on Albania, Kosovo and Macedonia to the Albanian diaspora). Gellçi also worked as Director of the Press Office for Prime Minister Fatos Nano, in 2000. Taken at https://www.ebu.ch/news/2016/05/ebu-news-entry

3. Amendments agreed between rapporteur Fleckenstein and other MPs in the EP Foreign Affairs Commission, 22 March 2016, pp. 4-5.

4. That was one of the reasons that President Nishani mentioned why he didn't approve the legal changes adopted by the Albanian Parliament. According to the constitution of Albania, the President only once can return to the Parliament for review the laws approved previously by the Assembly. If the Assembly does not accept the suggestions of the President, the law enters into force automatically. http://president.al/presidenti-nishani-dekreton-kthimin-per-rishqyrtim-ne-kuvend-te-ligjit-nr-222016/, 6 February 2021.

service media".

The legal amendment of 2016 marked the last act of politicization of the entire command chain of the public media in Albania; Audiovisual Media Authority and Albanian Public Television. It also marked the moment when the only public broadcaster in Albania abandoned the form-oriented administration method and was administered according to the corporatist model. Although the applied model is closer to that of parliamentary representation, due to the political situation in Albania, it does not match any of the four governance models of the public broadcasters and regulatory systems developed by public broadcaster scholars Hallin dhe Mancini[5]. During the first decade of its operation, it has been closer to the corporatist model, according to which, the candidates for the Steering Council of the Radio and Television came from various non-political structures. The Assembly had the right to choose between the two candidates according to a formula we will see below. Whereas, during the last decade, the model has shifted towards that of parliamentary representation.

The government, indifferent towards the public broadcaster it controls

During the first decade of pluralism there was achieved the formal change of the Albanian public television, from a propaganda apparatus in function of the Communist Party to a state broadcaster depending on the Parliament of Albania. On November 19, 1991, there was approved the law number 7524, which declared RTSH "a nationwide central information and cultural institution, guided by national ideals"[6]. As per this law, the Steering Council is elected by the Assembly and it directs the activity of RTSH. It should consist of prominent experts from various fields of life in the country. The General Director of RTSH, his deputy, the director of Internal Radio, the director of External Radio and the director of Television[7], were also mong the 17 members of the Steering Council, so there were also there was a

5. Hallin, D., & Mancini, P. (2004). In their book Concepts and Models. In *Comparing Media Systems: Three Models of Media and Politics,* Cambridge: Cambridge University Press. pp. 19-20) they talk about four models; Government model - in this approach the state broadcaster is controlled by the government or by the political majority. France under DeGaulle, in 1964, formally placed the broadcaster under the control of the Ministry of Information, while in practice, the government controlled it by appointing a dependent board, *Office de Radiodiffusion – Television Francaise (ORTF)*, from 1964-1980 European countries followed this model at the beginning of television broadcasting, but later on, other alternatives were devised in order to avoid the public service broadcaster being controlled by the state or political majority.

Professionalization model - an example of this model is the British Broadcasting Corporation (BBC). This model is typical for Scandinavian countries and the public broadcaster in the USA. Parliamentary or proportional representation model - control over the public broadcaster is shared between political parties and proportional representation, known as "*lottizzacione*" in Italy or as "*proporz*" in German-speaking countries. Although seemingly two different models, the parliamentary and the governmental models exercise indirectly from the board with proportional representation controlled by the political majority, as in Spain. Just like the "civic" or "corporatist" model, this model has some similarities with the parliamentary one, as control of the public service broadcaster is distributed between political and social groups, but unlike the proportional representation model, it goes beyond political parties to relevant social groups - such as; trade unions, business associations, religious organizations, ethnic associations. The Dutch system of "pillars", where any union or group of different belief roots or ideological subgroup, is represented on the public broadcaster.

6. Law no.7524, dated 19.11.1991" On the status of the Albanian Radio and Television", published in the Official Gazette no.9, Page 406.

7. Ibid, article 8 and 9.

merge between the executive structure (directors) and the monitoring structure (the Council).
Until 1998, this formula was in force for seven consecutive years. On September 30, 1998, a year after the Socialist Party came to power, the Parliament adopted the Law no. 8410, which was a new law on public and private radio and television in the Republic of Albania. As per this law, the governing bodies of the public broadcaster (TVSH) were, the Steering Council, the General Director and the Board of Administration. Thus, the Steering Council played the role of the legislator (i.e., where the governing authorities came from), the General Director had an executive role, while the Board of Administration had an advisory role on the economic and managerial aspect. The law aimes to avoid political influence on the governing structure of the public broadcaster.
According to Article 88[8], of this law, the Steering Council consisted of 15 members, of which 6 were elected out of 12 candidates proposed by political forces, as per their representation in the People's Assembly. While the other nine members (two candidates for each post) were proposed by non-political structures, such as: The Universities of Tirana; Academy of Science; The Association of Writers and Artists; NGO Steering Forums; journalists associations; trade union representatives; youth NGO representatives; women's NGO representatives; representatives of national minorities. The Assembly simply chooses one of the two candidates proposed by the above-mentioned structures. So, most of the Council was out of direct political influence. Then, the Steering Council, by 2/3 of votes, chooses one of the two candidates for the position of the General Director of TVSH[9]. This formula used to keep the General Director of TVSH away from politics.
However, on February 20, 2003, with law no. 9016[10] politics "grabbed" the majority of members of the Steering Council. According to this amendment, from 6 members in the previous law, political structures would appoint ten board members. It was an election year. There were elections for the local government bodies.
This setback in terms of public broadcaster independence, has been critically evidenced by the Organization for Security and Co-operation in Europe (Media Freedom Representative). In August 2004, the OSCE would write: The composition and the appointment method of the Steering Council are defined by Law. A situation in which most members of the Council are politically appointed can not serve RTSH or its independence. The law should be amended in such a way that the power to elect the Council member candidates is with the media related civil society and with the non-governmental and professional organizations, in order the Assembly appoints individuals who truly represent the interests of the society in general and not just the interests of politicians".[11]

8. Law No. 8410, dated 30.9.1998, "On public and private radio and television in the Republic of Albania". Official Gazette no. 24, dated 1 November 1998, page 937.
9. Article 99, ibid.
10. Law no. 9016, "On some amendments to law no. 8410, dated 30.09.1998" On public and private radio and television in the Republic of Albania ", amended by law no. 8655, dated 31.07.2000 and law no. 8794, dated 10.5.2001 promulgated by decree no. 3740, dated 19.3.2003 of the President of the Republic of Albania, Alfred Moisiu, published in the Official Gazette no..18, Page 511.
11. Karol Jakuboëicz, PhD. Director, Department of Strategy and Analysis of the National Broadcasting Council of Poland, Vice-President of the Mass Media Steering Committee, Council of Europe. Organization for Security and Co-operation in Europe, Representative on Freedom of

Three years later, in 2006, less than a year after the Democratic Party came to power, another blow was given to the political independence of the public operator and the audio-visual media authority. Initially 'the barrier' that members of the Steering Council could not have been members of political parties was removed by the Parliament. On the same day, the article on the composition and election of the RTSH Steering Council was completely changed. The number of members of the Board of Directors is reduced from 15 to 7. If until now the proposing entities should send to the Parliamentary Commission for Education and Media the names of two candidates for one position, now they send 4, out of which 2 would be voted to be sent to the parliamentary session where MPs would vote one of them.

A few months later, the parliament intervened again in the election formula of TVSH Steering Council, by increasing the number of its members, from 7 to 11. It also changed the formula of the ratio of the representatives of the proposing bodies, which means, if until 2007, the members of the Steering Council were elected out of the candidates of each proposer, now the candidates of one proposer could all be disqualified, while there could be chosen two from the candidates of another proposing entity. Always in compliance with the exclusion formula, excluding one from the majority and the other from the parliamentary opposition.[12]

In 2013, a completely new law on audiovisual media was adopted in Albania. With the persistence of the currently ruling Socialist Party, then the opposition party, the TVSH Steering Council is elected entirely politically.

Here is the election formula sanctioned in Article 94, of Law 97/2013.[13]

- based on the above-mentioned proposals, the candidates are subject to exclusion one by one. The exclusion procedure is implemented as per the following order: one from the representatives of the parliamentary majority and one from the representatives of the opposition. In any case, the commission considers keeping the balance, five candidates supported by the majority, five supported by the opposition. The Steering Council member candidates of The National Radio Television (SCNRTV - *KDRTSH)* are sent to the plenary session for approval".

The Steering Council elects the General Director of TVSH and, in order not to elect a political person, it was necessary it was approved by two-thirds of its member votes, in compliance with the procedure set out in the statute. Since 2016, this formula is rejected and the election of the director of RTSH is done by simple voting, which means the director belongs to the governing majority.

Having taken control of the public broadcaster, the behaviour of the political and governing majority is inclined to indifference. This indifference is evident in several areas. It is obvious in terms of financial support, institutional support, but also regarding the consideration and evaluation as a means of communication with the audience.

In financial terms, the digitalization process of the Albanian Public Broadcaster has been abandoned by the government by delaying for more than 5 years. Currently it is in its final phase. As OSCE notes in 2017, "Albania is the only exception in the region, where the government was satisfied with the loan guarantee, but not providing any

the Media, August 2004. Taken at https://www.osce.org, on February 6, 2021.

12. Law no. 9677, On the public and private radio and television in the Republic of Albania, approved on 13.01.2007, Official Gazette no..2, p.54.

13. Law 97/2013 On the Audiovisual media in the Republic of Albania, taken from the official website of the Audiovisual Media Authority www.ama.gov.al, on February 6, 2021.

other source of support, for such a major national project (the process of digitalization of television broadcasts, *author's note*)[14]. In 2017 RTSH has started paying the loan to *Deutche Bank*, in the amount of 2.87 million Euro per year (principal and interest), which will have to be paid until 2027. Discriminatory handling of the public operator is in contrast to the government's generous treatment of private operators. At the end of March 2017, before the general elections, the Assembly approved a new law on "frequency release of digital dividend" which granted to three categories of private broadcasters a minimum of 5 million Euro, up to 10 percent of digital dividend income. These private broadcasters included national broadcasters "with experience in digital broadcasting" (such as Digitalb) that would be compensated (40 percent of the total subsidy) for the modernization of DVB-T2 technology; and investments made by "historic private broadcasters", such as *TV Klan* or *Top Channel*, for switching from analogue to digital (another 40 percent of the total subsidy)[15].

Institutionally, in 2016, three years after coming to power, the socialist majority managed to approve the Board of Directors of the public Radio and Television. While, at the beginning of 2020, in the annual report of 2019, submitted by RTSH to the Assembly, it was written. "The term of 9 members out of 11 of this Council has ended, (two members have resigned) while the term of the other two (the chairman and one member) ends at the end of April 2020"[16].

At the time this article was being written, the Assembly announced that it had started hearings with 11 candidates who had applied for the three vacant seats (opposition representatives)[17].

The defactorization of the public broadcaster seems to have come as a result of; the control over it, which increases self-censorship and does not allow professional journalism standards to be the career engine; the funding formula; the fact that it is abandoned and; support to the public broadcaster's commercial rivals. The Prime Minister of Albania, Edi Rama only during 2020 has been 4 times in the most watched political show in the national private television "Klan", while in the political show "Përballë" (face-to-face) in the public TV channel, he has been twice.

The audience is forced to pay for a product they do not use

The income of the Albanian public broadcaster has always been generated from three sources:

- Appliance service fee
- Financing from the state budget
- Institution self income (advertisements or services for third parties)

In fact, the income from the first two sources is income from the public broadcaster customers. The first is a direct payment, while the second is indirect, through the state budget.

14. Darian Pavli, RTSH in the digital age, The uncertain situation of the Albanian radio-television, Study commissioned by the OSCE Presence in Albania, Tirana, 2017, p.12.
15. Ibid, p.13.
16. Annual report on the progress of the Albanian public radio and television, http://www.parlament.al, February 6, 2021.
17. On February 3, 2021 a press release was published on the official website of the assembly www.parlamenti.al, titled: "The Commission for Education and Public Media together with Mrs. Evis Kushi, Minister of Education, Sports and Youth, held hearings with the KDRTSH member candidates ", February 6, 2021.

For collecting the tax for the use of the appliance, the Public Television uses as a tax agent the public company, the Energy Distribution Operator (OSHE), which has included this tax on the electricity bill. But Radio and Television is dissatisfied with the service. "Its billing value is not transparent and not compliant to the legal instructions. The percentage (10%) currently held by OSHEE is not decreased to 2%, as per the continuous requests by RTSH", it is written in the Annual Report submitted by the Albanian Public Radio and Television at the beginning of 2020, at the Albanian Parliament[18].

Since 2011, the tax on the use of the appliance in Albania is about 8.6 Euro per year, which compared to the countries of the region it is the lowest.

Household appliance tax (EBU DATA 2017)

Montenegro	No appliance fee
Kosovo	There is such a tax, but they do not collect it
Albania	8.6 Euro
Serbia	14.6 Euro
Macedonia	37 Euro
Bosnia and Herzegovina	46 Euro
Croatia	127 Euro
Sllovenia	153 Euro

In addition to these taxes, customers have another indirect payment, to watch RTSH programmes. A significant part of those that get the Albanian radio and television outputs, receive this service through cable broadcasters[19]. The latter are operators that simply repeat the TV signal by including it in packages for a certain amount of money, from 6 to 10 Euro per month. The authorities of the audiovisual media and public television are aware of this phenomenona.

"It is true that the Albanian Radio and Television has the lowest service fee in Europe, but, compared to the income of taxpayers, this monthly fee fails to be at their service, since figures show a decrease of the audience for Radio Tirana and poor audience for the public Radio and Television channel", said the MP Fatjona Dhimitri, during the session of the Commission on Education and Public Media, discussing about the performance of the public broadcaster at 2019[20]. The MP's perception does not seem very different from the claims of the public broadcaster itself. "From the online surveys conducted by RTSH itself, we have seen the growing interest of the public for RTSH programmes. From an audience of 1% -2% a year and a half ago, by the end of 2017 we have an average of 5% - 6 %", says the General Director of RTSH, Thoma Gëllçi, responds in his letter to the representative of *Reporters Without Borders*, in Albania[21].

18. Raport vjetor mbi ecurinë e radio televizionit shqiptar, http://www.parlament.al, parë në 6 shkurt 2021

19. On the official website of AMA (Audio-visual Media Authority), it is reported that in the 12 regions of Albania (practically all over Albania) there are 70 licensed cable operators that sell various packages. The Audiovisual Media Authority has not published data on the number of subscribers, but all the cable operators have in their packages the Albanian public television.

20. Minutes of meeting of the Committee on Education and Mass Media meeting with the following agenda: Hearing session on the review of the report on the RTSH activity for 2019, on 24.06.2020, taken at https://www.parlament.al/Files/Procesverbale/20200724142626Komisioni%20i%20medies%2024.06.2020.pdf, 8 February 2021.

21. The letter with reference number 156, dated 18.01.2018 signed by the General Director of RTSH, Thoma Gëllçi, addressed to Nafisa Hasanova, project manager of MOM Albania (Reporters Without Borders). The letter was taken from the official website of Reporters Without Borders http://albania.

According to the sample of the survey conducted by the Department of Journalism and Communication, the RTSH public opinion reputation rating is 6.45 points out of 10[22]. In fact, this assessment by the audience does not differ much from the assessment that the employees themselves make for the institution they work for and whose image they serve. The evaluation of employees on the reputation of the agency they work for goes up to 6.5, in an evaluation scale of 10[23].

A little bit different is the assessment of specialized viewers, engaged by the organizers of the study to monitor RTSH programmes. "For the specialized viewers, considering the TV programs monitored by them, the average rate of perceived quality of what RTSH offers is 4.6, in an evaluation scale 1 to 10", the study reads[24]. This is a negative assessment.

This monitoring, professional and scientific study takes on special values, since in Albania there is still no certified, reliable institution or structure acceptable by the those interested in this process, that measure objective audience.

Two or three initiatives undertaken in this field have been criticized and refused to be considered by those operating in the field of media. The attack of media agents against these initiatives has reduced their credibility both in the public opinion and among marketing agents.

Despite this, there are direct and indirect indicators that converge to the conclusion that the audience of the Albanian public radio and television is a low one. In some studies, there have been made even the structural and demographic analysis of this audience, and have been identified some of the reasons why the public operator is not followed *en masse*. This concern cannot be hidden behind the argument that, for the television the audience is not the absolute and only indicator of good quality. A good quality program does not always guarantee a maximum audience.

Talking about Albanian public radio and television, the content analysis can be done in two aspects, the quantitative and qualitative one. For the latter there are criteria that show the tendencies, despite subjectivity.

In article 2 of the statute of the Albanian public television, approved in 2016, at the statement of purpose, is stated: RTSH "dedicated to the highest atandards of national public service broadcasting, provides qualitative audio and audiovisual services in order to inform, educate and entertain the public, by serving the nation, all groups of society, including national minorities"[25]. This statement of purpose has always been the same since 1990.

But the content produced by this operator does not seem to have met that goal. "The program does not meet European standards in terms of quality, quantity or technology and consequently weakens the competitive capabilities of RTSH at national level", is stated by the Albanian public radio and television itself in a document on the development strategy for 2008-2010. The document was prepared with the support of the European Broadcasting Union (EBU)[26]. Later on, in this document, it is written:

mom-rsf.org/uploads/tx_lfrogmom/documents/124-1206_import.pdf, on 11 February 2021.

22. Monitoring the quality of the TV offer and TVSH reputation (January – March 2016). Confidential, unpublished document. The author of this article has been part of this research project.

23. Ibid.

24. Ibid.

25. The Statute of the Albanian public radio and television was approved by the Assembly, on December 22, 2016 with decision no. 98/2016. Taken at the official website of the Albanian Public Radio and Television, February 5, 2021.

26. Development strategy 2008-2010. Albanian public radio and television 6 August 2007. For

the Albanian public radio and television;

- RTSH does not offer an in-depth program with weekly news on foreign policy issues.
- RTSH has no external correspondents. Now that Albania is approaching Europe, it is extremely important for RTSH as a public broadcaster to inform and educate citizens about the daily life of the European reality.
- For more than four years now, RTSH has not produced any soap opera, comedy or drama reflecting the contemporary Albanian life. RTSH has lost the opportunity to help forming a national identity and creating a common denominator for the entire population, a function that is important for a public broadcaster.
- As a public broadcaster, RTSH should offer the best programs for children, both preschool and school ones, which we cannot say it is happening at the moment.

This document, extremely crucial for the activity of the only public operator, calls for the improvement of its image, by changing the quantity, quality and content of its programs. It seems that even a decade later, the situation has not changed.

In the annual report of 2019, submitted by the public broadcaster to the Albanian Parliament, it is written; "So far, the production and broadcasting programs dedicated to the country's European integration processes, have been included in informative editions and also in extended interviews and special programs. Albania is an EU candidate country and, based on the conditions met, "The European Commission has prepared the recommendation for opening membership negotiations". As the public opinion does not have in-depth information on the process as a whole, but especially on some specific parts of special interest, the Albanian Radio and Television has developed a successful experience by broadcasting at Radio Tirana the show "Albanians and Europe", it is written in the annual report that RTSH has submitted to the Assembly[27].

On the request of the public broadcaster, the Department of Journalism and Communication at the Journalism Department of he Univrsity of Tirana has monitored the quality of the television offer and the level of RTSH reputation. 39 % of respondents at national level said "I am not interested at all". They think RTSH content does not represent their interests[28].

When analysing the news edition, the Department concludes: "Political news is often hidden within other sections. In the news labelled as "economy", "social", "culture", "chronicle", etc., there are often news coming from the government, municipalities and, in the images accompanying the text, appears the prime minister, ministers, or mayors, as for e.g. inaugurations in agriculture or elsewhere, greetings of the Prime Minister at cultural events, reactions of mayors, mainly belonging to the ruling party, to various social issues, crackdown on crime by police forces, or the chronicle focusing on the minister and his speech in the activity"[29].

Then in the expertise it is pointed out that, in most cases, chronicles are presentations of events, conferences, inaugurations or other activities of different entities based

internal use of the institution. P. 6.

27. Annual report on the progress of the Albanian public radio and television, http://www.parlament.al, February 6, 2021.

28. Monitoring the quality of the TV offer and TVSH reputation (January – March 2016). Confidential, unpublished document. The author of this article has been part of this research project.

29. Monitoring the quality of the TV offer and TVSH reputation (January – March 2016). Confidential unpublished document. The author of this article has been part of this research project.

on which the news is built". And in the end: "There is not any independent 'review' or the journalist 'observation'". Those that prepared the report say that from the monitoring it results that local news are very rare. Too much audio, nothing written on the screen, not enough film images, more in the form of general images than focused on the most substantial points that illuminate the content of the news.
The study of the Department of Journalism examines the category of government-related news and those that present government projects or expectations in a certain field or process. These kinds of news are not related to any specific or current event, but they are rather chronicles that try to give space to institutions. They are state news or presentation news which tend to serve to promotional purposes of the state institutions they originate from. In this reporting style "there can be noted the orientation of the journalist's questions towards a well-defined editorial line, which promotes the government and the ruling party"[30].
Fear (self-censorship) from the government makes public television deliver what is called protocol journalism. While the fear of being considered politically unbalanced makes this broadcaster not look for the "bad news, which is good news". "We are not free to do journalism, because by doing political investigation, the journalist can easily fall into political bias. A journalist must increase professionalism and fight laziness in order not to get ready news from the offices of political or government spokespersons. I think that over time this will be achieved to some extend, but not completely", said Thoma Gëllçi, the General Director of the Albanian Public Television, on June 24, 2020 to the MPs in the Assembly[31].

Public broadcaster as a comfortable place for professionals

In various reports from organizations that monitor media, but also from state institutions, such as, the Supreme State Audit, have identified numerous problems regarding the management of human resources in this public institution. There is overload (inflation) of the administration (RTSH states that at the end of 2019, there were 982 employees), arbitrariness in internal hierarchical communication, wrong salary policy, exclusion of professionals from the decision-making process, etc.
"The internal communication system is the weakest point of the functioning of the institution which has many dimensional consequences", stated the Supreme State Audit in 2014, in a report on the performance of the public broadcaster[32].
Even four years later, the situation does not seem to have changed, because the problem of excluding staff from the decision-making process of the institution is acknowledged by RTSH employees to the experts of the Department of Journalism and Communication, four years after the Supreme State Audit. "During the survey, it resulted that the staff does not feel involved in the strategic choices for the structuring of the institution, for building up programming strategies, for the conception of as qualitative as possible television programs, for budget policies, etc. This is an

30. Ibid.
31. Minutes of meeting of the Committee on Education and Mass Media meeting with the following agenda: Hearing session on the review of the report on the RTSH activity for 2019, on 24.06.2020, taken at https://www.parlament.al/Files/Procesverbale/20200724142626Komisioni%20i%20medies%2024.06.2020.pdf, 8 February 2021.
32. The Report "Performance audit, Performance of the Albanian public radio and television. The digitalization project is taken on the official website of the Supreme State Audit, on February 11, 2021.

indicator of this institution's weak internal communication which makes it necessary to draft policies and practices to include staff in the decision-making process", reads in the report prepared by the Department of Journalism and Communication[33].
From the survey conducted by the Department of Journalism and Communication of the University of Tirana, it results that only 6.6% of the respondents of the public broadcaster staff claim to be highly involved in the institutional decision-making process. While 36 percent of respondents answer that they do not feel at all or feel very little involved in that process. 36% of respondents say they are sufficiently involved in it. The most dissatisfied ones are the respondents coming from the group of reporters, 71% of whom say that they feel "very little" or "not at all involved" in the institutional decision-making[34].

Conclusions and suggestions

Since one of the main vectors of television is information, the news edition should be transformed, from news coming from the public relations offices to news prepared by reporters. In this context, there should be aimed to establish the culture of live broadcasting, including new and modern forms of journalism, such as mobile-journalism, while also promoting the involvement of the public. It is necessary to invest in infrastructure in order to enable a real-time (live) connection between the field reporter and the studio.
The culture of repeating news from one edition to another should be avoided as much as possible and there should be considered the optopn of including "Breaking News" in news editions.
The pace of news coverage should be considered carefully and the hidden politicization of information in favour of the ruling party should be avoided as it makes the public broadcaster a media government service. In return, the public broadcaster faces the indifference of the government, whose aim is to be in the commercial televisions. All of the above and, the use of social media by politicians, make the service of the public broadcaster unnecessary.
There should be established documented practices in order to involve staff in the consultation and decision-making process, to keep them informed, as well as to involve them actively in the management of the institution.

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Parliamentary Election 2021 in Albania: COVID-19 a potential threat for the participation of minor parties, new parties and independent candidates

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Abstract

The Global Pandemic caused by COVID-19 gave a new dimension to the organization of electoral processes around the world by placing political actors in a previously unexplored terrain and political parties as one of the main actors of the electoral process had to change the way of organizing electoral meetings and had to build new strategies to reach their electorate etc. In these 30 years of post-communism in Albania where the political arena has been dominated mainly by the two major political parties, the Socialist Party and the Democratic Party, due to a number of internal factors such as the electoral system, the typology of the party system, political culture etc.., the journey of new and minor parties to become relevant parties has been quite difficult. With the exception of the governments formed by the 2009 and 2013 parliamentary elections, where the Socialist Movement for Integration Party conditioned the formation of a parliamentary majority and the formation of governing coalitions, the participation of small parties in government has often been because of a constitutional requirement for the adoption and amendment of laws which require a qualified majority, 2/3 of the votes in parliament as a result of pre-election coalitions playing a largely symbolic role. But will COVID-19 pandemic be a potential threat for the participation of minor parties, new parties and independent candidates in the April 25, 2021 parliamentary elections in Albania? Through the single case study methodology will be analyzed in the context of COVID-19, a series of aspects of electoral process of the actor's subject of this paper such as: registration for participation in elections, the collection of firms, the way of organizing the election campaign, media coverage, electoral threshold etc. This research paper is an attempt not only to identify the difficulties faced by the minor parties, the new parties and the independent candidates in the April 25 parliamentary elections due to COVID-19 pandemic, but at the same time through articulating these challenges to find the appropriate instruments to overcome them.

Keywords: Parliamentary Election in Albania; Minor Parties Challenges; Election and COVID-19; Electoral Process; Electoral Threshold.

Introduction

In Albania on 25 April 2021 will be held the next parliamentary elections, and so far 46 political parties and 8 independent candidates have been registered as political entities in Central Election Commission (from here on CEC) to participate in the elections.[1]This election unlike previous elections will be held in a completely unprecedented reality due to the pandemic. COVID-outbreak affected mostly all areas of public and private life all over the world, this outbreak has a significant impact on our democracies and elections are not an exception.[2]Political parties

[1.] *Data generated from CEC- Register of Political Parties for the Assembly Elections 25 April 2021(updated on 22.02.202). Retrieved from:* http://kqz.gov.al/wp-content/uploads/2021/02/210222-DJ-REGJISTRI-partive-politike-2021.pdf*and Register of Initiating Committee (updated on 22.02.202). Retrieved from:* http://kqz.gov.al/wp-content/uploads/2021/02/210222-DJ-REGJISTRI-komitetet-nismetare-2021.pdf.

[2.] *Council of Europe: Election during Covid-19. Retrieved from:* https://www.coe.int/en/web/electoral-

have significantly changed a number of their activities, almost they fundamentally redimensioned the organization of the electoral campaign and the relationship with the electorate. But if the major political parties around the world which have a consolidated electorate, well-organized structures and greater financial resources had encountered difficulties, somewhere larger somewhere smaller, what happens to minor parties, independent candidates and new parties? Will COVID-19 be a potential threat to their participation in the April 25, 2021 parliamentary elections? To answer to the research question, under a qualitative approach, as establish practice for this type of research, are analyzed the legal framework that regulates the electoral process in Albania, instructions of the Central Election Commission as the authority responsible for election management and administration, law of political parties, guidelines of national and international health authorities etc. All the above methodological instruments are best suited to the purpose of this paper in identify some of the difficulties encountered by the political subjects, object of this paper, in three different stages of the electoral process, starting from the registration phase as an electoral subject for election, to continue further with the election campaign and during the day of the election and counting of votes. Of course all the cited elements have been analyzed from the COVID-19 optics.

The relevance of this research paper consists in the actuality of the topics, since only 60 days separate us from the parliamentary elections, and the importance inheres not only in identifying the difficulties of minor parties, new parties and independent candidates during the elections of 25 April 2021 in Albania dictated by COVID-19, but also through the articulation of these challenges can be identified appropriate instruments to prevent and overcome these threats. Of course, a significant part of the challenges are faced by all political parties, both major and minor, new and consolidated, but in this paper, as can be deduced from the above, are analyzed only the difficulty of minor parties, new parties and independent candidate.

Before specifically analyzing each of the three phases of the electoral process, in the follow will be reflected some conceptual pillars on the party system, the concept of minor parties, the electoral system in Albania etc. The government system influences the development of parties and party systems; a parliamentary system offers more opportunity for influence to political parties, because the government comes directly from the parliament, which is dominated by political parties.[3] Taking into consideration that Albania is a Parliamentary Republic, the political parties are important, as the government is created directly by the parliament. If with new parties and independent candidates are understood political entities that are registered for the first time in the respective elections, the concept of minor parties is a little more complicated. Minors Parties are a political party whose electoral strength is so weak that it has little chance of gaining control of a government.[4]

The whole group of political parties in a country forms the political parties system, which reflects the structure of relations between individual parties.[5]An important

assistance/covid-19-response.

[3.] *Hofmeister.W& Grabo.K. (2020). Political Parties: Functions and organization in democratic society. Konrad Adenauer Foundation and Institute of Political study in Pristina : Second Edition. Pg. 18.*

[4.] *American Heritage® Dictionary of the English Language, Fifth Edition*. (2011). Retrieved February 24 2021 from https://www.thefreedictionary.com/minor+party.

[5.] Hofmeister.W& Grabo.K. (2020). Political Parties: Functions and organization in democratic society. Konrad Adenauer Foundation and Institute of Political study in Pristina : Second Edition. Pg. 15.

role in determining the typology of a party system plays the electoral legislation, which facilitate or not the creation of new political parties, their representation in parliament or government etc. So in new democracies there seems to be a reciprocal relationship between the party system and the electoral system (the party system - produces the electoral system - the electoral system produces the party system).[6]The party system in Albania is in the transition phase from the experimental model to a consolidated and stable model.[7]There are already a number of studies on the typology of the party system in Albania which almost unanimously agree that *the party system is dominated by two main parties making the party system classified "as a strong two-party character",*[8]but is necessary to mention some other researcher which argue that the party system in Albania is *"two and a half parties",*[9]due to the important role played by Socialist Movement for Integration Party (form here on SMI) in conditioning the formation of the governments and parliamentary majority after the 2009 and 2013 parliamentary elections. It is worth noting that the object of this study is not to define the typology of party system, but based on it to identified which are the difficulties faced by minor parties, independent candidates and new political parties in Albania. According to Rae, all electoral systems, not only those of the minimum majority and majoritarian but also the proportional ones, tend to over-represent the major parties and under-represent the minor parties[10]. Due to the discriminatory political and electoral system towards new political inflows, even the new parties created in recent years, face the challenge of identity and survival.[11]The performance of minor parties in countries applying majority or proportional systems depends on the following conditions; a) geographical distribution of party electoral support (whether it is concentrated in certain electoral zone or in national level), b) number of voters in electoral zone, c) nature of the main socio-political divisions in the country d) boundaries and number of voters for electoral zone (in proportional systems) and e) electoral threshold approved (in proportional systems).[12]In Albania is applied the regional proportional system with closed lists. During 2020 were adopted several changes in the Electoral Code, and one of those was the change of the electoral threshold from the regional threshold by 3% to the national threshold by1%, a change *which has apparently made it difficult for minor parties to withdraw a mandate (if a minor party participate in election, it has the greatest chances in Tirana, where, based on the results of the last elections, it needs to get 12,500 votes for one deputies, but in addition, it will have to get in nationally more than 16,130 votes, more than 1% of the valid votes cast in the 2017 elections).*[13]

6. Çeka.B (2013). Relationship between elector systems, political system and Electoral Behavior in Albania. (Doctoral Dissertation). Pg. 290.
7. Hofmeister.W& Grabo.K. (2011). Political Parties: Functions and organization in democratic society. Singapore. Albanian Chapter by Krasniqi.A. Pg. 95.
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9. Xhaferraj. A. (2018). Party System in Albania: Structure and Organization of Political Parties 1991-2013. UET Press. Tirana. Pg.71.
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11. Hofmeister.W& Grabo.K(2011). Political Parties: Functions and organization in democratic society. Singapore. Albanian Chapter by Krasniqi.A. pg. 89.
12. Çeka.B (2013). Relationship between elector systems, political system and Electoral Behavior in Albania. (Doctoral Dissertation). Pg.84.
13. Gjergj.E. (8 October 2020,) "Lowering the Threshold to 1%, makes the competition for Minor

This paper is organized in two sections, which correspond to two different phases of the electoral cycle: Pre-election Period and Election Period. In each of the section are analyzed different segments respectively the *registration of political entities, electoral campaign*, and in second section *voting operation on Election Day*.

I. Pre- Election Period

Electoral cycle is a planning and programming tool developed by UNDP, international IDEA and European Commission based on the common idea that election are not a one day event but a complex long term process.[14]It illustrates the different phases during an election process and during the period between two elections.[15] Electoral Cycle it is couponed by three different period: Pre-election period, election period and post-election period, organized in 8 segments: Legal Framework, Planning & Implementation, Training and Education, Voter Registration, Electoral Campaign, Voting Operations and Election Day, Verification of Results, Post- Election. In the follow are presented to segments of the pre-election period.

I.a Parties & Candidate Registration

The criteria and procedures for the registration of political entities are well defined in the Electoral Code of the Republic of Albania. The participation of political parties in the elections goes through two consecutive phases which starts with the application request to the CEC for the registration as electoral subject, maximum 70 days before the election day, and continues with the submission of the multi-name list of candidates for each electoral zone, not later than 50 days before the elections. The road from the registration of subjects to the ballot paper is long and brings changes[16]. Not every electoral subject registered is further reflected on the ballot paper *because parties must nominate candidates in all electoral zone, + 2 additional candidates for each electoral zone and + 3 when there is gender representation (so around 165-174 candidates).*[17] The lists of candidates for the Assembly submitted by political parties, which do not have seats in the Assembly, shall be supported by no fewer than 5,000 voters nationwide and in case of an electoral coalition, the lists in their entirety must be supported by no fewer than 7,000 voters nationwide (this rule does not apply to coalitions where the participating parties together hold a number of seats in the Assembly not smaller than the number of parties participating in the coalition).[18] Meanwhile, independent candidate are proposed by an initiating committee (registered on CEC no later than 70 days before the election date) no later than 50 days before the election date only if it has gathered support for the candidate from no less than 1 per cent of the voters registered in the list of that electoral zone, but in

Parties more difficult". Report. Al. Retrieved from:https://www.reporter.al/ulja-e-pragut-ne-1-veshtireson-garen-per-partite-e-vogla/.

14. International IDEA. Electoral Cycle. Retrieved from:https://www.idea.int/data-tools/tools/online-electoral-cycle

15. Council of Europe. (2016). Reporting on Election: Council of Europe handbook for civil society organizations. Council of Europe Publishing. Pg.16 Retrieved from: https://rm.coe.int/1680597984

16. Polical Study Institute .(16 February , 2021). "Party&Indipedent Candidate 2021: Comparison with 2017 and 2013". Retrieved From: http://isp.com.al/index.php/2021/02/16/parti-kandidate-te-pavarur-2021-krahasimi-me-2017-dhe-2013/

17. Ibid;

18. The Electoral Code Of The Republic Of Albania .Article 68.

any case no more than 3,000 voters[19].
But in the pandemic time, gathering signatures from non-parliamentary parties, independents candidates is a real challenge. Referring to the standard form for collecting signatures of voters who support the candidate/list of political party, approved by the CEC with Order No. 01, dated 23.12.2020, each voter must personally declare his/her generals: name, surname, address, date of birth, signature, contact number and deposit a copy of the valid identification document which is also signed by the voters. All of the above activities require a direct interaction between individuals, but in time when social distance is on focus of every health recommendation, gathering the signature can endanger the health of citizens and become a source for the spread of COVID-19. If previously electoral subject set up specific stands, conducted door-to-door campaigns, or organized electoral meetings to collect signatures, now they will have to find new methods. Countries that have held election in COVID-19 pandemic, to overcome this challenge have applied a range of instruments such as digital signatures recognition, extending the deadline for collecting signatures, using personal pens, and even reducing the number of signatures.

I.b Electoral Campaign

Like the major parties, the minor parties, the new parties and the independent candidates due to legal restrictions and health protocols in Albania, can't organize large public activities so essential, so far, for the traditional electoral campaign. Referring to legal determinations in Albania, gatherings with more than 10 people indoors or outdoors, conferences, party gatherings, holiday ceremonies, wedding ceremonies and non-family gatherings of wedding ceremonies and funeral ceremonies by family members are forbidden.[20]In the absence of these public meetings many political parties have resorted to instruments such as door to door campaign under strict health measures or engaging the lowest organizational structures of the political party, such as the Socialist Organization in the case of the Socialist Party or the Sections in the case of the Democratic Party. But if the major and consolidated political parties find it easier to engage these structures and their members, on the other hand the minor parties, the new parties and the independent candidates find it much more difficult to engage or even create these structures in COVID-19 time.
The growing importance of media campaigns during the COVID-19 elections, especially the use of broadcast media,[21]makes the media playing field even more substantial than usualis[22]. In Albania through relevant legal and sub-legal acts, is regulated the time of transmission of messages with political content on television and radio during the electoral campaign period. According to the Electoral Code of the Republic of Albania, Article 78 *during the election campaign, every electoral subject*

[19.] Aviable at: http://kqz.gov.al/rregullat-per-regjistrimin-e-subjekteve/ (22.02.2021)
[20.] Ministry Of Health. Order no.633 dated 17.11.2020.
[21.] The term *'broadcast media'* covers a wide range of different communication methods that include television, radio, podcasts, blogs, advertising, websites, online streaming and digital journalism (retrieved from http://www.humber.ca/making accessiblemedia/ modules/01/02.html)
[22.] The Commonwealth (2020). Managing Elections in the Context of COVID-19: Perspectives from the Commonwealth. *Commonwealth Elections and COVID-19 Briefing Paper, Issues 1. Pg.15 Retrieved from:*https://thecommonwealth.org/sites/default/files/inline/Elections%20and%20C19%20Perspectives%20from%20CW%20FN.pdf

has the right to make electoral propaganda in every lawful manner, as well as the relations of electoral subjects with radio and television operators for the broadcasting of campaign activities, messages or election advertisements of the subject are subject to rules, conditions and restrictions set out in this law. During the electoral campaign, the Public Radio and Television provides to registered political parties and to the CEC free airtime for campaigning, which is allocated according to the following rules:[23]

- *for parliamentary parties* that received more than 20 per cent of the seats in the last elections to the Assembly, the CEC allocates equal airtime of no less than 30 minutes on the Public Television and the same airtime on the Public Radio; for the rest of the parliamentary parties, this airtime is no less than 15 minutes. If airtime is increased for one party or one respective coalition, the time allotted to another party or coalition shall be proportionally increased;
- each *party that does not hold a seating in the Assembly*, but runs in elections is allocated 10 minutes of airtime on the Public Television and 10 minutes of airtime on the Public Radio;

Electoral subjects have the right to broadcast their messages on both public and private television/ radio, and even the latter are also subject to the regulation of this law, but unlike public radio and television they do not set airtime available to political parties, candidates or coalitions participating in elections. Private radios and televisions cover the electoral campaign only during normal and special news editions, they shall not allocate airtime to political subjects for their electoral campaign and the electoral campaign information prepared and transmitted during the news editions based on the materials made available by the electoral subjects should be clearly identifiable in compliance with the CEC instructions.[24]

At a time when the election campaign dictated by the pandemic is increasingly shifting to television, radio, online, as can be deducted from the above legal determination, minor parties, new parties and independent candidates have less time available to transmit their electoral messages. Sure, if elections were not held in this period, the principle of allocating television time in proportion to the support of the electorate would seem right, but is this principle so fair in conditions where field activities are limited? The answer to this question could be the subject of another study that would require a more detailed and exhaustive analysis, what can be concluded is that the relevant structures for the administration and management of elections should take all appropriate measuresto create the possibility for the electorate to be informed of all the political offers of electoral subject included minor parties, independent candidates and new parties. Moreover, with the transition from the regional threshold to the national threshold, political entities will have to perform well not only at the regional level to be included in the process of allocation of seats in the assembly (for more refer to the Introduction).

If the above were argued the limitations regarding broadcasting time dictated by the law, another important elements that is necessary and important to consider is the financial capacity of new political parties, minor parties and independent candidates to cope with the campaign through different channel of transmission such as online, television, radio, press, etc. While the internet can offer relatively inexpensive opportunities for political parties and candidates to get their message

[23.] The Electoral Code Of The Republic Of Albania, Article 80.
[24.] The Electoral Code Of The Republic Of Albania, Article 84.

out, parties are likely to have varying levels of technical capacity to mount online campaigns, and more sophisticated online operations are also expensive.[25] If public radios and televisions make available for electoral subjects free time, or free political advertisements according to the airtime described in detail above, private radios and televisions have fixed tariffs which are also made public through the CEC.

It is worth mentioning that referring to Article 84 of the Electoral Code,*for elections to the Assembly, private national and satellite radios and televisions that accept paid advertisements in accordance with this article are obliged to make available to the electoral subjects, free of charge, half of the total airtime for advertisement provided for in point 5 of this article*[26]and for non-parliamentary parties and candidates proposed by the voters private radios and televisions make available extra airtime for the advertisements, *in addition to the airtime applied according to point 5 of this article, this airtime shall not exceed 10 minutes for the entire electoral campaign*[27]. At a time when *the biggest investment of political PR offices is focused on television, because the press is in crisis and has less and less audience, and online portals are not targeted so much for the reason that political parties already have channels online to communicate directly with the public* [28]is enough only the free airtime available on public and private radio and television for the new political parties, independent candidates, minor parties?

The sources for financing the campaign of electoral subjects are the following[29]: a) advanced funds given by the State Budget for political parties registered as electoral subjects; b) income generated by the electoral subject itself, in accordance with the legislation in force; c) gifts in monetary value, in kind or services rendered, according to article 92/1 of this Code; ç) loans taken by the political parties or their candidate in accordance with the law. The value of a loan shall not exceed the amount of money defined in point 2 of article 92/1 of this Code.The criterion for political parties to benefit from public funds, according to the Law on Political Parties (LPP), is proportional to the number of deputies and the number of votes won nationwide in the last parliamentary elections, more specifically: 70% of the fund is divided between the political parties in proportion to the number of deputies in the parliament, 20% equally divided between the parliamentary parties and the political parties that have received over 10 thousand votes in the last parliamentary elections, as well as 10%, according to the percentage won between the political parties that participated in the last elections in the parliament and won 1% of the national vote. Independent candidates do not benefit from public funding[30].

While, regarding the revenue generated from membership fees, revenue of the entity itself, gifts (which of course have criteria to be consider legal, specified in respective law) for new and minor political parties or candidates they are small. Of

[25.] The Commonwealth (2020). Managing Elections in the Context of COVID-19: Perspectives from the Commonwealth. *Commonwealth Elections and COVID-19 Briefing Paper, Issues 1. Pg.15* .

[26.] Article 84, Point 5: "The total airtime for political advertisements during the entire election campaign on each private radio and television station may not exceed 90 minutes for each party registered in elections" (Electoral Code of Albania)

[27.] The Electoral Code Of The Republic Of Albania, Article 84.

[28.] Zguri.Rr. (2017). The Relationship Between Media and Politics in Albania. Friedrich-Ebert-Stiftung. Tiranë, ALBANIA. Pg 40.

[29.] The Electoral Code Of The Republic Of Albania, Article 86.

[30.] OSCE Office for Human Rights and Democratic Institutions. (2 June 2017). *Intermediate Reports:9-15 May, 2017. Pg.17. Retrieved from: https://www.osce.org/files/f/documents/7/3/321216.pd*

course, expenditures on broadcasting, political advertising on radio and television, are just some of the cost itemsof the electoral campaign which require funding from electoral subject. Political parties dictated by restrictions due to COVID-19 will need to organize more meetings to reach the same number of electorate they could reach before pandemic, this increase in the number of activities further increases the financial costs of the electoral campaign.
From the above it can be easily deduced that the limited financial capacity and the legal restrictions on television broadcasting time will make difficult for new parties, major parties and independent candidate to transmit the electoral message over the voters.

II. Election Period

In this part of the study will be analyzed one of the segments of election period in Electoral Cycle: *the voting operations and electoralday*, where are reviewed not only the dictated restriction of the law for the members in electoral commissions in the polling center and the ballot counting centers, but also the restrictions that will overlap because of Covid-19. According to the Electoral Code in Albania, the Commissions of ElectoralAdministration Zone (CEAZ) are composed from two members proposed from the main party of the parliamentary majority, two members proposed from the main party of parliamentary opposite, one member from the second party of parliamentary majority and one member proposed from the second party of parliamentary opposite.[31] Also, Voting Center Commissions (VCC s) are composed the same as CEAZ by 7 members with the same composition.The minor and newpolitical parties and independent candidates do not have representatives in these commissions but meanwhile any electoral subjecthas the right to appoint one observers both in the VCC and in the Ballot Counting Centers.
Taking measures to protect the health of voters and poll workers has been on the focus of health authorities and respective institution during the election process. One of the main measures to keep the elections safe in the context of COVID-19, from the country that had held election, has been a maximum reduction in the number of persons in the polling stations and ballot counting centers, to avoid accompaniment during the voting process, etc.
In Albania, even though we are less than 60 days far from the election's day, no health protocol has been foreseen and approved by the relevant structures during the voting day and consequently it remains unspecified how many observers will be in the Polling Unit and Ballot Counting Centers. If this number will be limited then who will "protect" the votes of these political entities? The lack of observers may further increase distrust of this stage of the electoral process, considering that the ballot counting process itself has often been contested in Albania by electoral subject and especially by new parties, minor parties and independent candidates.

Conclusions

In Albania: in a party system widely described by researchers of the field as two-party system, where referring to the concept of the relevance of political parties of Sartori,

31. The Electoral Code Of The Republic Of Albania, Article 29.

with the exception of the SM party in the 2009 and 2013 elections, traditionally for about 30 years post-communist, only two political party meet the criteria of relevance, the Minor Parties, new parties and independents candidate in addition to the challenges dictated by the above element, in the 2021 elections, due to COVID-19 pandemic, will face even more difficult challenges.

Defined in the Electoral Code of Albania, non-parliamentary parties, including the new parties and a considerable number of minor parties, as well as independent candidates, shall submit, together with the multi-name list of candidates, voter support signatures, process which in pandemic times is a real challenge. If are not used alternative instruments for the collection of signature, many political parties risk tonot collecting the necessary signatures for the submissions ofthe list of candidates and consequently not participating in the elections.

Also the limited financial capacity and the legal restrictions on television broadcasting time will make it very it difficult for new parties, minor parties and independent candidate to transmit the electoral message over the voters through different channel of communications.The Lack of consolidated organizational structures on the field and banning the organization of electoral activity with more than 10 individuals is one of the other challenges of electoral subjects on reaching their electorate.

After the chronological analysis of different elements of the three segments of the Electoral Cycle: Parties & Candidate Registration, Electoral Campaign, Voting Operations and Election Day,can be concluded thatinaddition to the traditional difficulties dictated by the political system, legal framework, electoral, the pandemic of coronavirus disease 2019 (COVID-19)will be a relatively important factor in the performance and participation of new political parties, minor parties and independent candidates in the April 25 parliamentary elections.

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Principle of "res judicata" in civil law

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Abstract

One of the main reasons why the law (legal system) has been created and established in a society, is to guarantee stability and security between the subjects of law in the civil circulation. The security in civil circulation is an important element, and without it the human society can be endangered at any time, thus hindering the development of these relations between the subjects of law as well as the human society itself.
Guaranteeing the legal security, in civil circulation it is made by recognizing and applying the principle of the adjudicated matter. This is one of the oldest principles of civil law, known in Roman law as "res judicata".
Guaranteeing this security is necessary not only between the subjects of law in general, but primarily between the parties who have participated in a civil trial. For the parties who have participated in a trial, being resolved by the court with a decision, the matter of conflict between them, the stability and legal secutity are guaranteed through the effects that the final decision or "res judicata" has.
This scientific work consists of two main issues. In the first issue will be addressed the cases when the judgment becomes final in accordance with civil procedural law. In this issue will be analyzed the main problems related to the final form of the civil decision. In the second subject will be analyzed the elements of the principles of res judicata. These elements will be addressed in this scientific work not separately from each other, but in interdependence and in connection to each other, in order to address this principles as fully as possible.
The principle of legal security in civil law will be treated in this scientific work seeing it a constitutional principle which has been expressed by the Constitutional Court of Albania, in some of its decisions, as well as part of a fair trial provided by Article 6 of the European Convention on Human Rights, and as a practice of the Strasbourg Court. At the end of this scientific work will be given the conclusions reached and the bibliography on which it is based.

Keywords: legal security, res judicata, subject of law, fair trial, the State of law.

1. Cases when the civil decision becomes final

Determining the fact when a court decision becomes final is a important issue, because based on this fact arise the effects of the principle of "decided matter'' or "res judicata", as one of the most important principles of the judicial civil process. Based on this fact, the law explicitly defines the cases when the court decision becomes final.[1]

[1.] Article 451 of the Code of Civil Procedure stipulates: "The decision of the court becomes final when:
a. no appeal may be lodged against him;
b. no appeal has been lodged against him within the time limits set
c. the submitted complaint was not accepted;
ç. the decision of the court has been upheld, changed or the trial in the second instance has been

As it results from the provision made by the law, we conclude that a court decision becomes final, if we are before one of these cases:

i. When a decision has been taken by the court of first instance on a certain fact or issue and the law expressly provides that no appeal is allowed against this decision. This case of final decision of the court is an exception to the general rule, according to which the parties have the right to appeal against the decision of the court of first instance, in a higher court. This is due to the fact that the right to appeal against a court decision that decides on a civil dispute that exists between the parties, is in addition to a procedural right and a constitutional right, as one of the fundamental human rights and freedoms. However, as explained above the Constitution itself and the law provide that exceptions may be made by law for cases when the legislator deems to be due to the minor importance of the issue, or due to the special qualities of subject, no appeal is required.

ii. When a decision has been taken by the court of first instance to resolve the concrete case and the parties have not appealed against this decision. If after the decision taken by the court of first instance, the parties or other participants in the process do not appeal against this decision within the legal deadline, then it is considered that the decision has become final and is a adjudicated matter between those parties. In these case, the decision is considered to have become final from the day the legal deadline has passed, for the parties to file an appeal in the court of appeal. For example, if the court decision was taken on 10.02.2020, where all parties have been present at the decision, and none of the parties appealed against this decision within the legal deadline, which in this case is 15 days starting from the day after the announcement of the decision, this decision will become final on 26.02.2020, and after this date is already a matter for the parties of that trial.

iii. When a decision has been taken by the Court of first instance to resolve the concrete case and one or both parties have appealed against this decision in the Court of Appeal, but the party or parties that have appealed, have dismissed the complaint. The dismissed of the appeal made by the party can be done in two moments and consequently the determination of the moment when the decision becomes final is different, depending on the moment or time when the party that has filed the appeal, have dismissedthe complaint. The first moment when the party that has made the appeal can dismissed it, is before the court of first instance, specifically before the secretariat of this court [2]. In this case, the appellant may dismiss the appeal made only within the legal deadline for appeal, after this deadline he can not dismiss the complaint before the secretariat of the court of first instance, but only before the Court of Appeal. For example, if the decision of the court of first instance was given on 10.02.2007 and the respondent filed an appeal against this decision on 16.02.2007, he has the right to dismiss the appeal made before the court of the first instance, as long as the legal deadline of the appeal is until 26.02.2007, while after this date she cannot dismiss the appeal before the secretariat of the Court of first instance, but only before the Court of Appeal. The manner in which the complaining party, may dismiss the appeal before the court of first instance, it is always in writing, so the party must always submit a written act by which it expressly declares that she

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terminated".

[2] See also: Kola, Tafaj, F; Vokshi; "Civil Procedure", Part II, Edition II, printed by the Publishing House "Albas", Tirana 2018, page 79.

dismiss the appeal made. In such a case, the decision of the court is considered to become final after the legal deadline of the appeal and from this moment the decision of the court constitutes the decided matter for the parties.
The second moment when the party who has filed the appeal can dissmis the appeal, the legal deadline for the appeal has passed and in this case the party can dissmis the appeal only before the Court of Appeal. The party may dismiss the appeal made before the Court of Appeal before the beginning of the trial of the case, after the beginning of the main trial until the close of the judicial investigation of the case by the appellate court. If the party withdraws the appeal made by her in the appeal before the beginning of the trial by this court, the dismiss of the appeal must be done in any case with a writtenact in which it results, expressly the will of the party to withdraw the appeal. When the party withdraws the appeal in the Court of Appeal after the trial of the case has started in the court session, the dismiss can be done in writing or orally defining the fact explicitly in the minutes of the court session.
When the complaining party dicede to dismiss the appeal, the single judge of the court that has given the decision is obliged to issue a decision by which he decides, in accordance with the Code of Civil Procedure, to reject the appeal.[3]. Whereas when the dissmis of the appeal is made before the secretariat of the court of first instance, the decision is considered to become final after the expiration of the legal deadline of the appeal, when the dissmis of the appeal is made before the court of appeal, the decision is considered final the day the Court of Appeal has taken the decision not to accept the appeal.
iv. When the parties have appealed against the decision of the court of first instance, but the appeal filed by them has not been accepted by the court. In these cases we are before the rejection of the appeal by the court, these cases are explicitly defined in Article 450 of this Code. When the court decides not to accept the appeal filed by the parties because there is one of the legal reasons that prevent the review of the appeal by the Court of Appeal, then the decision of the court is considered to have become final from the day this court decision for rejecting the appeal was given. From this moment on, this court decision is a matter for the inter-court parties and the parties are obliged to carry out the orders of that decision.
v. When the parties have appealed against the decision of the court of first instance and the case on the basis of the appeal filed by the parties has been adjudicated by the court of appeal, which at the end of the trial, decided to uphold the decision of the court of first instance. In such a case, the decision is considered to become final starting from the day the decision of the court of appeal was taken, which upheld the decision of the court of first instance. Starting from the day this decision of the court of appeal is given, the case adjudicated by that decision constitutes a adjudicated matter for the litigants and they are obliged to implement the decision given by this court.
vi. When the parties have appealed against the decision of the court of first instance, and the case based on the appeal made by the parties has been adjudicated by the Court of Appeal, which at the end of the trial has decided to change the decision

[3] Letter "d" of Article 450 of the Code of Civil Procedure provides:
1. The single judge of the court that has given the decision, in the deliberation room, immediately after the submission of the appeal, decides the rejection of the appeal when:
...d) the appeal has been dismiss".

of the court of first instance completely or in part. Even in this case, the decision has become final since the day that this decision was taken, by the court of appeal, but we must take into account the fact that when the decision of the court of first instance was completely changed by the court of appeal, the decision has become final according to the legal solution given by the court of appeal and not the court of first instance. This is due to the fact that while the decision of the court of first instance has been completely changed by the court of appeal, as well as given the fact that the court of appeal is a higher court than the court of first instance, which has the right to change the decisions of the court of first instance. When the Court of Appeals has partially changed the decision of the court of first instance, as a decision it has legal force and constitutes a adjudicated matter, at the same time the decision of the court of first instance for the part that has been left in force by the court of appeal, and the decision of the court of appeal for the part that has changed the decision of the court of first instance.

vii. When the parties have appealed against the decision of the Court of First Instance, and the case based on the appeal made by the parties has been adjudicated by the Court of Appeal, which at the end of the trial has decided to adjourn the trial of the case. Even in such a case, the decision is considered to become final starting from the day the decision of the Court of Appeals was taken, and the parties to this decision are obliged to implement this decision of the Court of Appeals. We must keep in mind that despite the fact that the Court of Appeals may have decided to adjourn the trial of the case, as in the case in question or even when the Court of Appeals has decided not to accept the appeal, or when the trial is adjourned due to the dismissal of the appeal during the main trial, this decision of the Court of Appeals is final, and has the effects of res judicata for litigants.

2. Elements of the "decided matter'' (Res judicata)

Determining whether or not we are in a concrete case before the "decided matter" is often difficult and in these conditions it is necessary to clarify what are the elements that determine the "decided matter". The elements that constitute the "decided matter" or "res judicata" are expressly provided for in the civil procedural law as follows:

a. the identity of the parties;
b. object identity and
c. the identity of the legal cause.

The definition of these elements is of theoretical and practical importance, because based on their correct and fair definition, it is concluded whether or not we are before the "decided matter" . For this reason, each of these elements will be determined separately by us, clarifying in order to be before the decided matter, all three of these elements must exist simultaneously.

a. The identity of the parties. This is the first important element of the adjudicated matter and means that the final decision has legal force only between the same parties in the trial, and does not bring any effect to third parties who were not parties to the trial. Although, in theory this element of the decided matter is easy to understand, in practice there are difficulties in defining the concept, when the parties in a trial will be considered the same, and here we are before the identity of the parties, and

when they are different, excluding in this case the decided matter. For the correct definition of the concept of identical parties or identity of parties, we must consider not only the parties in the physical or material sense, but mostly the parties in the legal sense. In cases where we are dealing with the parties in the material or physical sense, defining the concept of the same parties or the identity of the parties is simple and there is no difficulty in understanding this element of the decided matter.
Difficulties in understanding the concept of identity of the parties exist in those cases when we are in front of the legal identity of the parties. Legal identity of the parties means that:
First: The parties are the same, which means that in the second trial we are before the same parties, who were also in the first trial, and was concluded with a final court decision and,
Second: The parties must have the same legal quality that they had in the first trial, which was concluded with a final court decision, so they must be as in the first trial was concluded with a final court decision, as well as in the second trial with the same legal quality acting in both cases in their name and not on behalf of third parties.
The concept of representation of the parties in the trial, *according to which not only those who are personally present at the trial*, but also those who are legally represented at trial by their representatives, although they do not personally participate in it. Thus the universal heirs of the testator are considered a single party with their testator, for the fact that they are represented at trial by the testator. Consequently, the universal heirs can not file any lawsuits which have been previously filed by their testator and for which the court has ruled with a final decision on their acceptance or rejection.
In addition to universal heirs or universal succession, as a single party are also considered persons who have benefited a special right from another person which is also known as partial succession and these persons are considered as the same party in the legal sense with the person who has been denied or granted these special rights. But, in order for the persons who have acquired a special right or thing from the successor or the transferee of these rights, to be considered a single party with the successor or the person who has transferred these rights, this success of the rights must occurred after the lawsuit was filed in relation to these rights. This is due to the fact that in this case the principle operates according to which a person acquires the right in the state it was in at the time of acquisition.
The same can be said in cases when the lawsuit filed by a person is dismissed by the court with a final decision and it turns out that a certain person transfers the right subject to trial after filing a lawsuit. In this case, the party who has acquired the right object of the trial has the right to reverse the decided matter against the person who has filed the lawsuit, if it is filed against him, by the same plaintiff, the previously filed lawsuit which has been dismissed by a final decision. Minors as well as persons who have been deprived of the capacity to act by a final decision, are considered a single party with their parents or legal representatives, consequently these persons can not file lawsuits which had previously been filed by their legal representative, and the court has rendered a final decision on these lawsuits[4].
b. Object identity. The identity of the object means that the new lawsuit has the same object as the lawsuit previously adjudicated by a final decision. By the identity of the object we must understand the concrete material thing or the concrete right that has

[4] Lamani, Alqiviadh, *"Civil Procedure"*, Tirana: 1961, page 247.

been examined by a final decision and not the concrete case, because it constitutes the legal cause of the lawsuit which is also the third element of the decided matter.
We must keep in mind that we are in front of the same object even in cases when the object required in the first lawsuit has undergone changes, has been reduced, increased or changed destination. We are also in front of the identity of the object even in cases when the second lawsuit requires only a part of the object or only its components are required, in the conditions when in the first lawsuit is demanded the whole object, and the court with a final decision has decided to dismiss the lawsuit. For example, plaintiff A in the first lawsuit sought the obligation of defendant B to return a plot of land of 2500 m2 and this lawsuit was concluded by the court with a final decision deciding to dismiss the lawsuit of plaintiff A. In the second lawsuit, plaintiff A requests the obligation of the defendant to return a plot of land of 500 m2, which turns out to be an integral part of the plot of land of 2500 m2, for which the court has concluded with a final decision , in the first lawsuit filed by plaintiff A, deciding to dismiss the lawsuit as unfounded in evidence and law. In this case the second lawsuit filed by person A can not be filed due to the fact that this lawsuit has as its object a part of the item that was the object of the first lawsuit resolved by a final decision and in this case it is considered that we are before of the same object. The above case when the second lawsuit can not be filed because what is required with its object is an integral part of the object of the first lawsuit, this is known in Roman law with the term "in toto et pars continetur", which means that in the conditions when the whole object of the lawsuit has been tried once, a part of it cannot be tried again, or in other words, the solution given for the whole object of the lawsuit is valid for a part of this object as well, as long as this part of the object has value for the whole object.
We are also in front of the identity of the object, even in the cases when the plaintiff in the second lawsuit requests the fruits of an item for which in the first lawsuit it was decided to dismiss it with a final decision. Thus, for example, person A has filed a lawsuit against person B with the object to return the warehouse of 200 m2 and where the court with a final decision has decided to dismiss the lawsuit of person A. Person A, can not file a second lawsuit and demand the obligation of person B to return the fruits he has extracted from the warehouse starting from the moment of taking possession of the object, because in this case we are before the object identity. This is due to the fact that the fruits of an object constitute a single object with the object that produces them, and therefore the decision that has decided to dismiss the lawsuit for the return of the object itself, means that it has also rejected the search for the fruits of this object and in these conditions this constitutes a prohibition on the search for these fruits.
c. Identity of the cause. We have the identity of the legal cause of the lawsuit in those cases when the second lawsuit is based on the same legal fact that brought to the right to the first lawsuit, so the legal cause of the second lawsuit is the same as the legal cause of the previously lawsuit , which has been resolved by the court with a final decision To determine whether we are facing the same cause or identity of cause between the first lawsuit adjudicated by a final decision and the second lawsuit brought, the correct understanding of the cause of action must be taken into account, as one of the essential elements of the lawsuit.The cause of the lawsuit consists of two parts; The right, which is the cause of the lawsuit, and the fact which is contrary

to the law situation. In accordance with this the plaintiff in every trial, is obliged to prove the right that gives him cause to file a lawsuit as well as the state of fact which is contrary to the right of the plaintiff[5].

Determining the identity of the cause of the lawsuit, as well as determining the identity of the parties, in practice it is often difficult.

This is due to the fact that some lawyers, but also judges do not understand correctly and the concept of the cause of action, which in the language of lawyers is also known as the legal basis of the lawsuit, as well as the fact that this concept is composed of two parts;

The right and the state of fact, which is contrary to the right, which give the plaintiff the legal reason to file a lawsuit.

Regarding the determination of the identity of the cause of action, as this determination in case law often encounters difficulties, in the legal literature by some authors a distinction is made between the immediate cause of action and the distant cause of action. According to these authors, we are in front of the identity of the cause of the lawsuit in cases when the cause of the second lawsuit is not only the same as the cause of the first lawsuit, but also in cases when it is close to the cause of the first lawsuit. For example, if person A files a lawsuit in court, based on Article 94, point "ç" of the Civil Code, by which he requests the declaration of invalidity of a legal action of sale of a residential house, claiming that this legal action is with deficiencies because it was committed in conditions of threat, threat in this case according to the authors is considered as a near cause, while fraud or error is considered as a distant cause. According to these authors, if the court with a final decision decides to dismiss the lawsuit of person A with a final decision, he can not file this lawsuit again, based on the claim that the legal action was committed in terms of threat, but can file this lawsuit again claiming that the legal action was committed in terms of error or fraud.[6].

The theory of the legal cause of the lawsuit, I personally think is controversial and leaves room for different interpretations and uncertainties in determining the identity of the legal cause of the lawsuit. In these conditions for determining the identity of the cause I think it is more useful the principle applied in Roman law according to which: "tantum judicatum quantum disputatum" which means that the principle of the decided matter in relation to the legal cause of the lawsuit applies only to what has been discussed and what has been decided at trial. Thus, if we take the example given above of person A who seeks with his lawsuit the declaration of invalidity of the contract of sale of the residential house, because this contract was concluded in terms of intimidation, the lawsuit based on point "ç" of Article 94 of the Civil Code, if during the main trial by the parties and the court was investigated only in relation to this fact of relative invalidity and the investigation was not extended to the fact of fraud and / or error, person A has the right to file this lawsuit again based on point "ç" of article 94 of the Civil Code, despite the fact that the court has previously decided with a final decision to dismiss his lawsuit, but on condition, to seek in the new lawsuit the declaration of invalidity of this contract, not because of threat, but

5. See also: Kola, Tafaj, F; Vokshi; "Civil Procedure", Part II, Edition II, printed by the Publishing House "Albas", Tirana 2018, page 94.

6. Lamani, Alqiviadh, "Civil Procedure", Tirana: 1961, Page 251.

in connection with deception or error.[7]
The principle "tantum judicatum quantum disputatum", or the decided matter only applies to what has been decided by the court, is an important principle that applies in all civil cases and that serves the court to determine in each case whether or not we are before the identity of the legal cause of action. This principle is not only known in the theory of civil procedural law, but is also explicitly provided in the procedural law, specifically in the second paragraph of Article 451 / a of the Code of Civil Procedure, in which it is compulsorily defined that the adjudicated thing has force only for what has been decided between the parties. In these circumstances, the court must be careful in ascertaining the decided matter in any concrete case, to take into account this important principle and to apply it correctly, reaching a correct conclusion, whether or not we are before the decided matter.
The principle "res judicata" applies only to court decisions, by their nature become final, in the essential or substantive sense, and court decisions which do not become final, but take definite form only in the formal sense. As court decisions that become final in the substantive sense are all those decisions that, after they have become final, the issues which can not be reviewed again for any reason and cause, except for the cases of review provided by Article 494 of this Code, or for any other legal reason expressly provided by law. Such decisions are the most of court decisions, that the court makes at the end of the settlement of the case.
Judicial decisions that do not take a final form in the substantive sense, but only in the formal sense, are an exception to the general rule and are considered all those decisions, this issues can not be resolved immediately, but may change as circumstances change. Usually these decisions deal with family, and personal non-property relations of persons, but also with property relations in rare cases. It is important that in order for a decision to be considered not final in the substantive sense, the legal provision itself must explicitly or implicitly stipulate such a thing. In relation to these decisions, the legislator usually expresses himself with the terms: "with the change of circumstances or conditions, the parties have the right to request a change of the court decision", which means that such decisions do not become final in the substantive sense, but only in the formal sense.
The principle of the decided matter, in addition of being a principle of civil process, should also be seen as part of the principle of fair trial provided by the Constitution of Albania. The Constitution in its provisions stipulates that the freedom of property, as well as the rights recognized in the Constitution and in the law, can not be violated by anyone, including state bodies, after a fair legal process[8].
This principle is also provided by the Constitutional Court of Albania, as part of the principle of legal certainty in some of its decisions. Thus this Court in relation to this principle, in ***decision no. 2, dated 18.1.2017***, among others, states that:
"...51. Legal regulations relating to the rights of citizens must have sufficient consistency to ensure their continuity. In principle, the legitimate interests and expectations of citizens can not be denied by changes in legislation. The state should aim to change a previously

7. Letter "ç" of article 94 of the Civil Code of the Republic of Albania, provides:
"The legal action is declared invalid:
ç) when it was committed under the influence of error, deception, threat or need ".
8. Article 42 point 1 of the Constitution of Albania provides:
"1."Freedom, property and the rights recognized in the Constitution and the law cannot be violated without a fair legal process.".

regulated situation, only if the change brings positive consequences (see decision no. 43, dated 26.06.2015 of the Constitutional Court). The Court has also stated that in order to properly understand and apply the principle of legal certainty, it is required that the law in a society provide security, clarity and continuity,so that individuals can perform their actions correctly and in accordance with the law, and, the law itself should not remain rigid and should define a concept. ...[9]".

In its decision, the Constitutional Court, with its decision no. 1, dated 16.1.2017, among others, states that:

"... 24. The principle of legal certainty necessarily requires a clear formulation of legal norms, as an incorrect regulation of the legal norm, enables the implementer to give different meanings, and consequently, this is inconsistent with the purpose, stability, reliability and effectiveness of the legal norm itself. It is a requirement of the principle of legal certainty, the fact that a law as a whole, or its specific provisions in their content, must be clear, defined and understandable. It is therefore the duty of the courts or other state body and authorities, charged by law, to naturally fill certain shortcomings of a law through its interpretation and implementation in practice. ...[10]".

The principle "res juridicata" as part of the principle of legal certainty has been addressed in several decisions of the Strasbourg Court, in the framework of a fair legal process, where this Court has stated that non-implementation of this principle constitutes a violation of the legal rights of the parties in the process, in violation of Article 6 point 1 of the European Convention on Human Rights. This Court, with its decision, dated 9.1.2013, in the case Volkov v. Ukraine, for this fact, among others, states that:

"...137. The Court has held that limitation periods serve several important purposes, namely to ensure legal certainty and finality, protect potential defendants from stale claims which might be difficult to counter and prevent any injustice which might arise if courts were required to decide upon events which took place in the distant past on the basis of evidence which might have become unreliable and incomplete because of the passage of time. Limitation periods are a common feature of the domestic legal systems of the Contracting States as regards criminal, disciplinary and other offences[11]".

The same reasoning and the same arguments "mutatis mutandis" were given by the European Court of Human Rights in its decision of 22.10.1996, in the case of Stubbings and others v. The United Kingdom, in which was stated, inter alia, the principle of res judicata is an important part of the fair legal process in general and the principle of legal certainty in particular[12].

Conclusions

From the definition of the principle "res judicata" in this paper we can draw some conclusions, where one of the most important conclusions is the principle provided by the civil procedural law with the aim of guaranteeing legal certainty in civil circulation. If this principle were not applied, the parties would remain unrestricted

9. See also: Decision no. 2, dated 18.1.2017 of the Constitutional Court of Albania.

10. See also: Decision no. 1, dated 17.1.2017 of the Constitutional Court of Albania.

11. See also: Decision of the European Court of Human Rights, dated 9.1.2013, in the case Volkov v. Ukraine.

12. See also: Decision of European Court of Human Rights, dated 2.10.1996, in the case of Stubbings and Others v. The United Kingdom.

in time, in litigation with each other, hindering the normal development of legal relations between them, as well as society as a whole.
The main effect of the application of the above principle is related to the fact that a case that has been resolved by the court with a final decision, can not be submitted for resolution between the same parties, for the same object and legal cause of the lawsuit. This means that the court decision that has finally settled a civil dispute has the effect of law for the parties and they are obliged to implement this decision.
The principle of the decided matter is related to the final form of the civil decision, which according to the civil procedural law occurs in these cases; i. when no appeal can be lodged against the court decision; ii. when no appeal has been lodged against the decision within the time limit provided by law; iii. when the appeal lodged has been dismiss; iv. when the submitted complaint is not accepted; v. when the Court of Appeals upholds or changes the decision of the court of first instance.
One of the elements of the principle of the decided matter is the identity of the parties. This element does not only mean the physical identity of the parties, but primarily means their legal identity. This means that as universal party will be considered also the universal heirs of the party, the beneficiaries of a certain right by inheritance or legatees, as well as any person that the party has transferred a right to another person.
The second element of the principle of the adecided matter is the object identity of the lawsuit. The object of the lawsuit represents the right or thing or material object that the plaintiff seeks with the lawsuit filed. If the court has decided once with a final decision, on an object of the lawsuit, it can not decided again about this object, as otherwise it would violate this principle, as one of the elements of the principle of legal certainty.
The final element of the decided matter is the identity of the cause of lawsuit. The cause of the lawsuit consists of two elements; the right to sue is based on his lawsuit, which is also known as the legal basis of the lawsuit, and the state of fact against this right to be proved by the plaintiff at trial. Based on this principle, when the court decides with a final decision on a lawsuit, this lawsuit can not be filed again by the plaintiff based for the same legal cause.
The principle "res judicata" in addition to the principle of civil process, is also part of the principle of legal certainty, and its non-implementation constitutes a violation of the fair legal process provided by the Constitution of Albania and Article 6, point 1 of the European Convention on Human Rights. This fact has been confirmed by several decisions of the Constitutional Court of Albania and the Court of Strasbourg, have repeatedly stated that non-implementation of this principle violates the principle of legal certainty, as well as the right of the parties to a fair legal process.

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- Decision of the European Court of Human Rights, of 2.10.1996, in the case of Stubbings and Others v. the United Kingdom.

Lëvizja Vetëvendosje (LVV) as a new political party in Kosovo, its establishment and its groups representation

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Abstract

This article analyses LVV as a new political party in Kosovo and its establishment. The theoretical framework will be based on the dominant social cleavages in Kosovo, concretely ethnic as the most dominant, centre-periphery, village-city and resources distribution. Based on this cleavages will be analysed the approach of LVV party. The main thesis is that LVV was established as a political party because of the ideological, political and social vacuum produced by the traditional parties. LVV is a party which aimed to include the masses in politics and a bottom-up representation of citizens. LVV brought together different groups of voters who shared the feeling of dissatisfaction with international political institutions and the authorities. On the other hand, the LVV aimed to represent the groups dissatisfied and disappointed by the main government and opposition parties. LVV, also aimed to represent groups that were contrary to decentralisation and for a foreign politic that would be in favour of national unification with Albania, against the negotiations with Serbia and for EU-integration. Students, veterans of the war, working class, migrants and national minorities were the social groups represented by LVV party. And groups of society were represented with a social-democratic economic development agenda. The methodology for this article is based on the qualitative approach and secondary data's, mainly taken from data resources from the Vetevendosje Movement.

Keywords: Political Party, Social cleavages, Social groups, Representation.

Methodology

The methodology of this article is based on the qualitative approach. The theoretical approach is based on the social cleavages theory and the formation of political parties. The resources used for this article are based on secondary data's, mainly from LVV. Content analysis is the method used in this article.

The research problem is the establishment of LVV as a political party. The research question which singles out the aspect of the problem on which the research will focus is: What are the political, social, ideological factors that prompted the creation of LVV in Kosovo? The answer to the research question in the form of a hypothesis is that: The emergence of LVV as a political party is in direct proportion to the rate of ideological, political, social gaps created in Kosovo. Since the hypothesis does not constitute a genuine prediction but a finding judgment, it is impossible to test it directly empirically.Its testing will be done indirectly through the implication deduced from the hypothesis, which will have the form of conditional judgment. If the creation of gaps for political, ideological and social problems in Kosovo encourages the emergence of new parties that will fill these gaps, then it is expected to ascertain the existence of social groups that feel unrepresented by traditional parties. The indicator for this implication: Secondary data from various sources but the mostly part based on LVV's data (surveys, studies, public statements, articles,

books, etc.) on unrepresented social groups, to which VV claims to respond.

Introduction

Although 2010 is considered as the establishment year of LVV as a political party it hasa long activity as a social movement since 1997. The origin of the political party LVV lies in numerous activities and actions of KAN (Action Network for Kosovo), which aimed to create an active citizen in Kosovo, dedicated to the promotion of universal values in the field of human rights and freedoms, equality and social justice. (History of the Self-Determination Movement, p.1). On 10th of June 2004, with whistles of pipes, music and red cards, in protest of Resolution 1244 and on the occasion of its 5th anniversary, over 1,000 protesters around the UNMIK building declared themselves Citizens and activists.This protest represents the conceptual origin of what is known today as the LVV!.(History of the Self-Determination Movement, p.1).On 12th of June 2005, the slogans "NO NEGOTIATION - VETËVENDOSJE!" were written on the walls around UNMIK headquarters, marking the definitive advancement of KAN in the LVV.(History of the Self-Determination Movement, p.1). For the period from 2005-2010 LVV has organised a lot of activities all over the country against decentralisation, against negotiations with Serbia, a protest outside the Security Council of UN for the self-determination of Kosovo. (History of the Self-Determination Movement, p1-3).LVV has taken initiatives not only against UNMIK, but also against the EU Rule of Law Mission (EULEX) after the 2008 declaration of independence (Yabanci, 2016, p. 24).

LVVparticipated for the first time, in the national elections of 2010 in Kosovo, which marks the moment of turn of the LVV to a political party. Regarding the participation in the elections, in the leaflet of LVV is stated that '*We have decided to participate in the elections after the democratic debate that we have held within the movement during these five months.This does not mean that we will be transformed into a political party.No way. We will remain a political movement and maintain the same objectives, and participating in these elections is just one more way towards our goals*.'(Vetëvendosje Leaflet, no. 204, 2010 a, June 25).On 12th of June 2010, it was announced that in addition to the outside institutions strategy, we will also engage within the institutions, we will attach the ways within the institutions to our extra-institutional strategy.(Kurti, 2020, standard newspaper, p. 1).The list of names of VV candidates who ran in the elections was made in alphabetical order, a method that was not practiced by other political parties. (Beha, 2017, p. 103). LVV entered the 2010 general elections as a civic list in a coalition with two parties, whose program was national unification with Albania.From these elections VV emerged the third political party in the country with 15,899 votes, or 17.93% of their total votes in 2010.(Burim Ejupi, Shkamb Qavdarbasha, 2011, p. 22).

The theoretical framework based on the social cleavages

In this framework it is important to explore the context and dominant cleavages in Kosovo and the approach of LVV to them in order to understand the groups that were created and represented by this party. The most dominant cleavage in Kosovo was based on ethnicity. Other cleavages were based on resources distribution, the centre-suburb and the village-city division.

The Serb ethnic group, through institutional arrangements for participation in government as well as in parliament through reserved seats, with the increase in

the number of Serb-majority municipalities (from 5 to 9) and the extraterritoriality of the Orthodox churches controls 17% of the territory by establishing a clear divisionbetween the northern part of Kosovo and the rest of Kosovo, culturally, economically and politically.As for the other minorities (Turks, Roma, Egyptians, Ashkali, Bosniaks, Gorani), although they are represented in institutions, they do not represent a division in terms of territory and economy.They are generally scattered throughout Kosovo, without a distinct habitat, and are more involved in the economic and cultural life of the country.(Mustafa, 2019, page 6). The clearest division between the Kosovar and Serb populations is particularly in the town of Mitrovica, the town divided by the Ibër River, which has been a hotspot of inter-ethnic tensions and has become synonymous with the unresolved cleavage in northern Kosovo. Ethnic divisions and clashes between the Serb and Kosovar populations in Kosovo have also been expressed in violent clashes between Serb and Kosovar citizens, as in 2004 when the biggest riots broke out after the war.During these days in Kosovo (March 2004) 33 protests broke out with about 51,000 participants.(Beha, 2017, pp. 99-100) Eleven Albanians and eight Serbs died during the conflict of 2004 (Delafrouz, p. 8). On the ethnic cleavage LVV's approach was that self-determination is a universal right and that Kosovo should enjoy this right to decide its own political destiny. For LVV, in general approach UNMIK was an anti-democratic regime that conditioned the resolution of Kosovo's status through negotiations and compromises. LVV presented its position against the negotiations in its 14 points, including Kosovo's unequal position in the negotiations, the dissolution of parallel structures, the lack of compensation of Serbia to Kosovo for murders, rapes, convictions and destruction of property in Kosovo, and the right of the Albanian etc. The main mission and approach of this party is expressed from the first article of the LVV Statute in which is stated that it aims at a Kosovo where sovereignty stems from the will of the people who enjoy the right to internal and external self-determination, so that the people are free and unhindered in the organization of social, political and economic life, as neededand his interests.(Article 1, Statute of VV).

Regarding the cleavages on resourcesdistribution, the centre-suburb and the village-city cleavage it can be concluded that urban population and the centre of cities was most favoured, the privatization process was accelerated.

The LDK dominated the parliamentary majority in the years (2001-2007) during the UNMIK administration.This period favored the position of the urban population through various means such as the growth of private property (properties which were inherited from the socialist period), the leasing of numerous properties to employees of international peacekeeping missions and offices concentrated in urban areas, more easy employment in international missions and access to funds as a result of high education skills.The LDK government also contributed mainly to the employment of former socialist workers, which was the basis of the voters in the new bureaucracy.(Mustafa, 2019, page 8).

A few weeks before independence (end of 2007) the government balance shifted to the 1st party bloc (referring to the article of Mustafa it includes PDK, AAK and Nisma) which held it for 12 years. One of the challenges that Kosovo has faced over the last decade is the privatization process. During 2009 a total of 114 socially owned enterprises (SOE-s) were announced for privatization, thus increasing to 569 the total number of SOEs tendered for privatization by the end of 2009. (Kosovo Ministry

of European Integration, 2010, taken from: https://www.mei-ks.net/sq/kosova/ekonomia-e-kosoves). The 1-rst Bloc power resulted in an accelerated privatisation of former social enterprises (which had employed more urban workers) and a major direction shift of resources - more intensive and encompassing than during the best years of socialism - distributed towards the more rural areas through agricultural subsidies and infrastructural investments (roads, school buildings, access to water etc.) (Mustafa, 2019, p. 9).

While the main economic indicators in 2010 obtained by the Ministry of European Integration of Kosovo were: • GDP: € 4.2 billion (2010 vl) • GDP economic growth rate: 4.0% (2010 vl) • GDP - division into sectors: agriculture 20%, industry 20%, services 60% • Unemployment rate around 40.% • Inflation rate: 3.5% (2010) • Trade exchanges: • Exports: € 295.0 million (2010) • Imports: € 2,157 million (2010) (Ministry of European Integration, Economy of Kosovo, taken from https://www.mei-ks.net/sq/kosova/ekonomia-e-kosoves).

The first census held in 2011 already indicated an increase in the number of rural employees compared to the end of UNMIK's administration (2007), and the share of state financed cash social transfers grew (Mustafa, 2019, p. 9). Also, the increase in income sources for the rural population seems to have helped migration towards the country's cities in the first 8 years of independence.(Mustafa, 2019, page 9).State resources became more important to the rural population and rather than a coincidence this reflected a deeper social conflict (Mustafa, 2019, page 10).

According to LVV, there was a cleavage between the public and the private, between the central and local government, as well as a village-town division.For LVV movement approach this cleavagescontinued and found their expression in the municipality. According to LVV, the Municipality is presented to us as a permanent confrontation between the public and the private, as a clash between central and local government, as a suppression of civic will by the local authoritarian government.Today the Municipality is alienated as territory, as space, as power and as administration. The municipality has been linked to the private interest and politics of the corrupt administration.They have turned public space against us as privatized; they mediate the public interest through private benefits.The government has acquired the private character that has established its trade relations with the citizens.This turns us all from citizens to clients, from service recipients to government servants (Municipality Statement, page 1).

According to LVV, the Municipality is a separate administrative unit.But it is being given dimensions of political specificity.The relationship between the central government and the municipal government is being distorted.Therefore, the relationship between the municipalities themselves is being destroyed.Privatized and corrupt politics has provoked a meaningless competition between the central government and the Municipality, as well as the competition of Municipalities among themselves.This competition in form is not a sport, which aims to increase the ability and spirit of the other, which promotes cooperation, solidarity between members, but it is a fight to the destruction of the other (Municipality Statement, page 1).

Also for LVV, in the optics of power that today leads the Municipality, the peasant is a second-class citizen. The village-town division is the result of different levels of development. The village also lacks the most basic public services. The town-village division creates structural physical barriers to the access of social

infrastructure and public services. The village today is not separated from the city as it develops agricultural and livestock economy, but precisely because they are not priorities of the current government. The village-town division in Kosovo is not a division that reflects working activities from different areas of the economy (agriculture versus industry). The city-village division in Kosovo is a division between an administrative and commercial center, despite the lack of production and development that produces unemployment. This lack of development has produced suburbanizedneighbourhoods even within the cities themselves. Unequal development means different livelihood opportunities, consequently different housing opportunities. Efforts to urbanize the village are closely linked to efforts for equality among citizens (Municipality Statement, page 1).
Following this approach, as below follows will be analysed what LVV in Kosovo specifically intended to represent as a political party in relation to groups in society.

New representation of groups not politically represented by traditional parties

LVV as a party aimed to include the masses in politics and a bottom-up representation of citizens. Article 1 of the LVV statute stipulates that it is a political movement that aims to factorize the people in political decision-making through its organization and mobilization. (Article 1, Statute of the Vetëvendosje Movement). While a member of LVV cannot be an individual with participation in activities and protection of fascist, Nazi and other ideologies that arouse racist feelings (Article 17 point c of the Statute of the Vetëvendosje Movement). LVV is committed to a political philosophy that treats individuals and people as the highest goal in itself and to overcoming today's philosophy that sees them only as a means of ensuring peace and security in the region and beyond. (Short political program of Vetëvendosje Movement, article 13, p. 9).In the LVV party, the program is voted directly by the members and the latter have the right to contribute to the drafting of LVV policies and attitudes (Beha, 2017, p. 266) which means that the LVV political program is aclear expression of membership representation as it is produced and approved by the bottom-up level. Even the way the party organization is defined is such that it has a distribution and spread throughout Kosovo with the aim of getting as close as possible to the citizens. In this context, LVV brought together different groups of voters who shared the feeling of dissatisfaction with international political institutions and the authorities that allowed them, due to the fact that international institutions were unelected and perceived as institutions from top to bottom level without civic participation. The LVV party aimed to represent groups of citizens who were against the international presence, having as their motto the right to self-determination. LVV was established as a result of opposition to the Ahtisaari International Plan, which was perceived and considered by some groups as an international protectorate that affected the political, legal and military sovereignty of the Republic of Kosovo (Zani, 2015, p: 311). According to the LVV, the current Constitution denies Kosovo internal self-determination through foreign ruling missions that have executive power and immunity from law, while external self-determination through Article 1.3 which denies the right to join another state (Rule of Law, p. 12). Since its inception as a Movement in 2004, this movement has been characterized by a series of demonstrations that highlighted their opposition not only to the exercise of international power through

the Ahtisaari Plan, but they also accused national political actors of agreeing to the agreement (Zani, 2010, p. 311). Following the declaration of Kosovo's independence and the deployment of the rule of law mission and oversight of the implementation of the Ahtisaari Plan in Kosovo, LVV did not change its course of action and criticism even towards these missions, considering them as UNMIK surrogates, which hinder Kosovo's full independence. (Beha 2017, p. 101-102).In an article, its leader, Mr. Kurti expressed that we need external self-determination in relation to Serbia and internal self-determination in relation to UNMIK (AlbinKurti, newspaper no.1, p. 3).

LVV aimed to represent the groups dissatisfied and disappointed by the main government and opposition parties. Ever since it was created as a movement, it has been articulated that the political 'greatness' of the parties in Kosovo and their leaders is really the result of their dizzying enrichment at the expense of the local population, overwhelmed by the difficult social and political situation as it is expressed in an article of Krasniqi that their wealth creates a veil (the black windows of their luxury cars) that makes it impossible for them to see the dire socio-economic situation and misery around them (GëzimKrasniqi, 2005, p. 3). According LVV, the Government of Kosovo has become a spectator before the ethnic, institutional and territorial division of Kosovo (Leaflet 129, 2009, page 1). In one of the articles of AgonHamza activist of LVV can be noted the approach of this subject against the position of the government and the opposition parties which implement right-wing policies. According to him, the Thaçi government exists as a negation of the left, because it is essentially right-wing; Meanwhile, Haradinaj's populism invites us to an even more right-wing government, which means the government of the extreme right. The other name for far-right governments is fascist government. Whereas, in the socio-political conditions in which Kosovo is located, any party / government which is not left-wing is not far from being a fascist (Hamza, 2010, page 1). LVV, also criticized the large coalitions or as they were called "A Government of Giants" - the coalition of PDK and LDK, who according to LVV had failed with processes of major decision-makers such as the ratification of the Border Agreement with Montenegro, the topic of dialogue with Serbia, etc.

LVV as a political party has consistently articulated its position against the decentralization of Kosovo and has aimed to represent politically groups of citizens against decentralization. Since 2005, LVV has opposed the administrative directive for the implementation of decentralization, an ordinance which was signed after consultation with the then government of Kosovo. According to the Leader of VV, Albin Kurti, we, the activists of Vetëvendosje !, have started to go to the villages and settlements that will be directly affected by the decentralization process. We talk to the people there and help them organize against decentralization and the new administrative structures that its implementation will bring. (AlbinKurti, 2005, p. 1). According to LVV the decentralization is a harmful project which comes from 'above' (Glauk Konjufcka, 2005, p.2) and decentralization should be based on the needs and interests of citizens, not on ethnic principles. (Short political program of LVV, article 39, p. 19). VV has also organized petitions against decentralization like the petition of the inhabitants of Cernica against decentralization and according to LVV we will do the same in other similar cases in Kosovo in the coming months. (Brochure with Serbia's Plans for Kosovo, 2006, p. 15).

Regarding foreign policy issues, LVV is clearly distinguished for the originality of the theses and aims to represent groups that are in favour of national unification with Albania, against negotiations with Serbia and for the EU integration. The Constitution of Kosovo will express the will and the authentic plan of the Albanian people for national unity (Rule of Law under LVV, p. 12). Also, LVV strongly sustain that Kosovo has the right to be a state and equal to other states. The right of the Republic of Kosovo for external self-determination derives from this definition. This means that the state of Kosovo must have the right to join the Republic of Albania (LVV Governance Alternative, p. 6) Regarding the attitude towards Serbia can be stated that the negotiations with Serbia without conditions for it and for Kosovo's internal affairs will be interrupted (Rule of law according to LVV, p. 14). Regarding Kosovo's EU integration, different from other parties, LVV supports EU integration provided that all international supervision is removed from the country and Kosovo follows the same path provided for the rest of the candidate countries. EU integration is 'balanced' through close relations with the Albanian diaspora and ethnic Albanians living in neighboring countries. In an article of the LVV activist AgonHamza is expressed that we must fight for the creation of the state of Kosovo. This should be our basic and only goal. Whereas, if we manage to create the state, EU integration must be left to the will of the people of Kosovo (Hamza, 2010, page 1).

Social Groups represented from LVV

LVV intended to represent politically and institutionally the social groups that have been cooperative and supportive since its inception as a movement, such as the students group. The students were supported by the LVV when it had not yet participated in the elections by joining student protests or organizing university protests with them. Author Delafrouz in an interview with one of the activists studying at the University writes that they told me how he along with some other students organized a blockade on his faculty. It was a successful protest and all the students knew that he was engaged in LVV. After some time, another faculty wanted to make a protest. They contacted him for advice and assistance in organizing their protest. They had even asked him to get involved in their protest (Activist 9) (Delafrouz, p. 9).

LVV should be credited with being the first party to mobilize a new mass of the population without being associated with extraordinary events such as the war.(Beha 2017, pp. 211-212).The new activists in contrast to the old activists are characterized as not having started the political journey until they joined LVV.A large number of young activists referred to the 'Boycott of Serbian Products' campaign held in the summer of 2006 when asked what made them join the movement.This campaign was generally perceived as a very successful campaign among activists (various activists) (Delafrouz, p. 14).

The working class is another social group represented by LVV.This social group is a group with which there has been close and continuous cooperation since the time of the movement.In Delafrouz's article, one of the leaders further explained how a protesting union had called LVV to ask them to help organize their protests (leader 1) Albin Kurti told me how the demonstrations were organized with different organizations and that a representative from the union gave a speech at the last

demonstration of LVV (AlbinKurti) (Delafrouz, p. 9).
Emigrants are another very important group represented by VV as stated in the program of VV, which must be supported where they are and also in Kosovo, with the aim of advancing their position and the position of Kosovo. In the program is stated that the citizens of Kosovo should enjoy the right to dual citizenship, the right to vote, as well as all the rights of repatriation, regardless of differences. All emigrants from Kosovo should enjoy significant tax, banking and administrative facilities if they decide to invest capital in public or private enterprises in Kosovo. To coordinate the repatriation of the diaspora and its investments in Kosovo, we propose the establishment of a diaspora ministry, funded by the sovereign Kosovo budget. The importance of the state of Kosovo for the diaspora does not end there. We are committed to the state of Kosovo through its representations to help and coordinate the organization of the Albanian diaspora in the countries where they live, so that even there they can be organized to have political weight, and multiply opportunities for advancing their interest. The organized diaspora is more likely to improve its social and political position, and then, assisted by Kosovo, help Kosovo. (Short political program of the self-determination movement, articles 48 and 49, p. 24). We are committed to creating conditions for all our compatriots to put the academic and professional training achieved abroad at the service of the state and society in Kosovo. We will commit to additional education for the children of migrants (LVV Short Political Program, Article 88, p. 40).
War veterans are another group represented by LVV. The older generation mostly joined the movement since the establishment, since 2005. For the older generation, joining the LVV was seen as a natural continuation of the war that began during the Serbian occupation (activist 5) (Delafrouz, p.14).LVV, meanwhile, has also represented former Kosovo Liberation Army soldiers who were expelled from the Kosovo Security Forces. A LVV article states that after the establishment of the Kosovo Security Force (this week in 2009), three senior commanders of the Kosovo Protection Corps resigned in protest of the lack of transparency in the selection process and outside interference.Former soldiers of the Kosovo Protection Corps have also protested and LVV has supported their protests and continued to demand that Kosovo have the right to a real army like other states. It has become clear that, as we had anticipated, it was the political criteria that preceded the recruitment of Kosovo Security Force officers, the same as in the case of the recruitment of Kosovo Police Service officers. Gradually, the honest members of the Kosovo Liberation Army, who had been employed by the Kosovo Police Service, left. In the same way, the most professional and patriotic soldiers were left out of the Kosovo Security Forces (Leaflet no. 131, 2009, page 1).
LVV aimed to represent national minorities as well but is contrary the special zones. This political subject states that we are committed to affirming the national culture of Albanians as the majority of the population of Kosovo. At the same time, we are aware that national minorities live in Kosovo, and we are committed to the maximum cultural autonomy of these minorities.(Short Political Program of LVV, Article 97, p. 44). LVV is also against the creation of areas with special status for Orthodox churches and monasteries which are being unjustly and maliciously called Serbian. Through the creation of Special Zones, Serbia is aiming to usurp our history and culture. So, they donated to Serbia the cultural and historical values of Kosovo

and have already accepted the placement of supposedly hundred-hectare protection zones around 39 Orthodox churches and monasteries that will be Serbianized, thus creating a new Serbian myth for Kosovo (Brochure with Serbia's Plans for Kosovo, 2006, page 16).

A social-democratic agenda for the economic development of the social groups

An analysis of the ideological profile of the parties in the party system of Kosovo, specifically for PDK, LDK, AAK, AKR, LDD, shows that these parties are oriented towards the right or the center right.(Key political parties in Kosovo, BIRN, 2010).
Meanwhile LVV is committed to supporting the threatened strata with public social assistance systems, financed by a progressive tax system. The exclusion of a part of society is the exclusion of a part of opportunity (Short political program of LVV, article 78, p. 36). From VV movement is stated that we are also committed to strengthening and participating in the political processes of organizations and social categories such as trade unions, women's associations, students, teachers, doctors, retirees, former KLA fighters, intellectuals, associations of people with disabilities , the unemployed, youth organizations, etc. (Short political program of Vetëvendosje Movement, article 16, p. 10).
Also, in its program LVV is committed to create the necessary space for equal engagement of women in the social, political and economic life of the country. The program also stipulates that we are committed to the state to regulate by law, as well as to finance mechanisms that encourage equality between the sexes and different social strata (LVV Short Political Program, Article 79, pp. 36, 37).
LVV also aimed to represent pensioners where it is written that we are committed to provide Kosovo pensioners with a monthly pension that meets their needs and enables them a dignified life. Kosovo Liberty Arm (KLA) war veterans, KLA invalids, family members of war-torn martyrs, political prisoners, and persons with disabilities, will have special legal treatment as well as other facilities in their coping with everyday life (Short Political Program, Article 82 and Article 83, p. 38).
VV represents every deported Albanian who should have the right to return to his property in the north. The Serbian government will no longer be allowed to buy Albanian property in the north. To all Albanians who have been forced to sell their properties, the Kosovo government will buy them (Rule of law according to LVV p. 15). According to the self-determination member, Konjufcka there is no problem of ethnic conflict but a problem of social conflict. Systemic failure is thrown at the people, putting the social problem in the guise of ethnic conflict. In order for the people to experience this 'failure' as self-blame ... and for the system to be justified (Glauk Konjufcka, 2005, p. 3).
Farmers are another group who are represented by VV. The program envisages that we are committed to creating the necessary economic space and the necessary financial and technical opportunity for the farmers of Kosovo to cultivate the land and for them to benefit from it. We will also take measures to increase farms, promoting cooperation between farmers, in order to increase efficiency and yields from Kosovo's agricultural land. We will functionalize professional agricultural institutes which will provide expertise for planting, processing and cultivating the best and most efficient agricultural land. We will also make existing irrigation systems

operational and invest in the construction of new systems to expand irrigated land areas. LVV categorically opposes the conversion of high quality agricultural land into construction sites. We are committed to the state guaranteeing the placement of agricultural products (Short political program, Articles 68 and 69, p. 32). Also part of the domestic production aid is the campaign to boycott Serbian products. In May 2006, LVV launched the campaign to boycott Serbian goods, in September 2009 is launched the 'Buy Albanian' campaign, and in September 2011 the 'Love Yours' campaign.

Conclusions

As a conclusion it can be stated that LVV is a political party that participated in 2010 elections for the first time, but it had a history as a movement. LVV approach for the dominant cleavages in Kosovo are stated in their concept for the municipality. LVV approach toward the ethnic cleavage is for self-determination of the people of Kosovo, and for the other three cleavages regarding the distribution of resources, suburb-town and public-private LVV was for the improvement of the situation in village and that of the peasant, and also against the corruptive privatisation. Following this general approach of LVV for municipality it can be said the VV represented the groups that were unrepresented by the traditional parties. This representation from the LVV was done based on the social democratic agenda, in a political spectrum were other parties were of right or centre right ideology.

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Reflections on criminal procedural systems

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Abstract

Since the Middle Ages, it was determined as inquisitorial the procedural system which attributed to the judge the power to be mainly engaged in prosecuting criminal offenses and collecting evidence.
In the same historical period, it was considered as adversarial the kind of procedural system in which the judiciary did not exercise any power mainly because the initiators were the parties. The commencement of the proceedings, the development and the search for evidence were attributed to the parties, i.e. the accuser (the person affected by the offense or his family members). The judge had the power to decide in accordance with parties' requirements, while opposite to the initiative and requests of the accuser, stood the rights of the accused, which he could exercise personally or by means of a counselor.
Today, the definitions of adversarial and inquisitorial refer to those types of criminal proceedings that belong to defined characteristics. Given the features elaborated by the researchers, there is no uniformity in the exact definition of the determining characteristics of one system or another. However, we must admit that both systems have common features. It is widely acknowledged that inquisitorial system is based on the secrecy of investigation and proceedings and also on the written form of procedural acts. On the other hand, the adversarial system is based on the principle of contradiction, equality of arms and adversarial proceedings. It is thought by the majority of researchers that exactly the elements of written form and adversarial proceedings constitute the essential differences between the two procedural systems.
Despite these characteristics it has been observed that in different historical periods there have been models that comprised similar features of both the adversarial and inquisitorial systems.
Most of criminal procedural systems nowadays are mixed ones. The affiliation in one or the other model depends on the crucial dominant features of one system compared to the other. All this reasoning confirms that the procedural systems are actually procedural models, which stand mainly in abstract and are based on some real features referring to a certain legal order. Precisely the difference between these two criminal systems and their elements, as well as the long-standing debate on the model of the Albanian procedural system, constitutes the purpose of this paper. At the same time, we will analyze the real advantages of a system in comparison to the other in different historical periods, taking into account the period of communism, especially with the entry into force of the Code of Criminal Procedure in 1979, whose characteristics belong to the inquisitorial model.

Keywords: criminal procedural system, inquisitorial, adversarial, mixed, Albanian model.

Introduction

Doctrine refers to the inquisitorial criminal procedural system as a system that attributes to a judge the power to initiate prosecution primarily, to conduct investigations and to gather evidence. In addition to the inquisitorial system, it was developed another type of criminal procedural system in which the judge did not exercise any power to prosecute or gather evidence, because this right belonged to the parties.

This system was called the accusatory procedural system. The judge in this system was assigned only the power to make decisions based on the requests of the parties. The right to initiate criminal proceedings corresponded to analogous possibilities which could be exercised in person by the accused or through a counselor. Today, those types of processes that have certain characteristics are considered as accusatory and inquisitorial systems.
The efficiency of these procedural systems is an abstract concept, as in certain countries there have been models that had the same features with either one of the systems or the other. Most of the systems are mixed and therefore the affiliation to one of the systems depends on which characteristics are considered the most essential by the researcher who determines the qualification in the accusatory or inquisitorial procedural system. All this reasoning leads us to the confirmation that both systems are nothing but procedural models; their concept is abstract and in concrete they have only a few real features encountered in a certain order. These two models are constructed by placing opposite each other specific features, such as investigative secrecy in the inquisitorial system opposed to the adversarial principle that identifies the accusatory system.
Most researchers confirm that the characteristics of procedural models or systems should be identified not according to the aforementioned features, but the difference is identified in the written form of acts in the inquisitorial model and the requirements verbally formulated in the accusatory model. More specifically, the model of the inquisitorial process attributes to the judge the right to decide only on the basis of acts and evidence that have a written form. On the other hand in the accusatory system prevails the right of the judge to make a decision on the basis of the evidence verbally requested in the court session before him. Experience shows, however, that neither verbal requirements nor written acts, as features of the respective systems, are sufficient to decide on the superiority of one model over another.

The inquisitorial system and the authoritarian model

The difference between the accusatory and inquisitorial systems is the essential opposition between the authoritarian model and the dialectical model. A number of other characteristics depend on this approach. The inquisitorial system is based on the authoritarian model according to which the truth is better clarified by giving more power to the prosecution. This system belongs to the Romano-Germanic family. [1]
What stands out in the inquisitorial procedural model is the fact that the judge does not necessarily have to be independent, on the contrary, it is thought that the more he has to do with political power (king, dictator, party or ruling majority) the better he can perform his task and the fairer the decision will be. [2]
The main features of the inquisitorial system derive from the principle of collection of all procedural competencies:
a. Initiation of criminal prosecution mainly
The initiation of criminal prosecution is attributed to the judge; it is not necessary for his intervention to be sought by one of the subjects, the prosecution or the defendant.

1. H. Islami, A. Hoxha, I. Panda "Komentari i Procedurës Penale®, 2003, p. 21.
2. P. Tonini "Manuale di procedura penale", 2013, p. 6.

The judge should start the prosecution mainly even if there is no accusing party. In this concept, an anonymous report is enough to set the inquisitorial judge in motion.

b. Search for evidence

In the inquisitorial model seeking and obtaining evidence is not a right that belongs to the parties but to the judge, because he has more powers and the attribution to decide on right and wrong, truth and falsehood. Equality of the parties in the inquisitorial system is not a necessity. The judge is able to seek evidence with absolute jurisdiction, arrest the defendant, the witness and carry out investigative actions he deems necessary, and moreover there is no barrier to his authority.

c. Investigative secret

The inquisitor is an individual or a body that conducts investigations and seeks the truth without confronting the parties; conducts investigations and collects evidence in secret.

d. Written form

The data collected by the inquisitor are recorded in the report. The materials needed to make a decision consist of written acts and reports.

e. There are no limits to the administration of evidence

What matters is reaching the conclusion and clarifying the truth and not the way it is processed. In these circumstances, any means of seeking or administering evidence is valid, including affirmative and self-incriminating statements made during torture. If the inquisitor suspects that the witness is not telling the truth, he too may be subjected to torture. [3]

f. Presumption of commission of the offense

It is enough to gather some clues, even an anonymous report, for the defendant to be considered guilty and forced to be acquitted through alibis or evidence. In this way the defendant must prove his innocence and not the other way around.

g. Preventive imprisonment

As the defendant is found guilty, in the absence of evidence of innocence he may be subject to pre-trial detention. The inquisitorial model makes extensive use of this type of instrument, called preventive imprisonment, because it precedes the sentence, which materializes after the decision. Waiting for the verdict, the defendant remains locked up in prison without disclosing either the charge or the evidence gathered on his guiltiness.

The accusatory system and the principle of judicial debate

The accusatory system was built to oppose that inquisitorial model. Unlike the latter which is based on the principle of authority, the accusatory system is based on the principle of adversarial proceedings. The accusatory system has its origins in the concept that human nature is limited and no person can decide on the right and the truth; it can only be proved through procedural functions that belong to the parties and have opposite interests. The judge, who must be independent and impartial, has the right to decide on the evidence produced by either the prosecution or the defense. Once this principle has been accepted, it is necessary that in the criminal process, the rights and powers that have been recognized to an entity be affirmed in

[3] G. Saccone "Il processo penale tra esigenze di difesa sociale e garanzie della persona: l'esperienza italiana"; can be found at www.diritto.it.

a balanced way to the opposing entity. [4]
The accusatory system belongs to the common law family and extends mainly to countries where Great Britain has had colonial influence, such as Australia, New Zealand, etc. This model focuses on the division of procedural functions, especially those competencies that belong to the executive branch, which for the sake of truth goes towards the abuse of competencies.
The essential features of the accusatory system derive from the division of procedural functions:

a. Initiative of the parties

The judge cannot proceed mainly, as with the verification of such a fact it would be considered partial. The initiative to initiate criminal proceedings belongs to the parties. It is from the presence of an accusing party that this system is named.

b. Way of gathering evidence

The right to seek, administer and evaluate evidence cannot be attributed to a single subject (judge or accuser), but must be balanced as a right of both parties so that neither is abused. This system defines in the most rigorous way the concept of evidence and the way of taking it; the accuser has the obligation to present evidence and convince the judge of the guilt of the defendant. The defense, on the other hand, should have the right to seek evidence, the interpretation of which may convince the judge that the defendant is innocent, or the development and nature of the facts differ from those argued by the charge. The judge is limited to deciding on the admissibility or not of the required evidence and evaluating it based on the requests of the parties.

c. The principle of adversarial proceedings

The division of procedural functions is carried out on the basis of the principle of adversarial proceedings. This principle ensures that before making a decision, the judge enables interested parties to present evidence or contribute to its formation through questions to witnesses or pleaders. Adversarial proceedings fulfill two main functions, protect the rights of each party and build a technique on the verification of facts. The more real the court debate, the more likely it is that the truth will be revealed. Each of the parties should be given the opportunity to question and doubt the existence of the fact alleged by the opposing party. In this way the statement of a person called as a witness by one party cannot be used as evidence without giving the other party the opportunity to be questioned or examined.

d. Limits of admission of evidence

In the accusatory system special importance is given to the manner or method of how the evidence will be formed. [5] Only by respecting this way the evidence can be considered admissible and useful in order to prove the existence of the fact. For example, evidence obtained through techniques that affect an individual's psychological and moral freedom may be considered inadmissible. A statement issued through violence or intimidation is considered unusable. In this case the judge has the right to check the validity and usability of the evidence requested by the parties. [6]

e. Presumption of innocence

Whoever accuses a person must convince the court through evidence that the latter is guilty. Until the judge has not made a decision on his guilt, through a due process

4. G. Conso, V.Grevi "Compendio di procedura penale", viti 2016, p. LXVI.
5. G. Sgueo "Le indagini preliminari nell'evoluzione del procedimento penale: dal sistema inquisitorio al sistema accusatorio"; can be found at www.diritto.it.
6. P. Tonini "Manuale di procedura penale", 2013, p.10.

of law and guaranteeing his right to defense, the defendant is presumed innocent. He cannot be acquitted but, on the contrary, it is up to the prosecutor to prove the criminal offense and the involvement of the defendant, and the court can sentence the latter only if the prosecution proves beyond any reasonable doubt.
The object of the trial and evidence in the accusatory system is not the innocence of the defendant, but his involvement in the criminal offense. If the charge fails to convince the judge of the defendant's guilt beyond any reasonable doubt, he must plead not guilty. There is no point in withdrawing the charge as the defendant is presumed innocent from the beginning.

f. Personal insurance limits

At the moment when the defendant is presumed innocent until a guilty verdict is handed down, he cannot be treated as the perpetrator of the criminal offense and consequently the sanction, the sentence cannot be pre-determined even provisionally. What can be applied is simply a precautionary measure only if there is evidence showing the necessity of taking it. More specifically, the prosecution must explain and argue that there is a real risk that the defendant will spoil the evidence, hide from the prosecution or commit a more serious offense. The evidence, up to this stage of the proceedings, which may affect the provisional deprivation of liberty of the defendant, must be in proportion to the alleged criminal offense.
In the accusatory system the insurance of the individual, thus the imprisonment, is considered as an *extrema ratio.* [7]
The criminal legal order should also provide for other, lighter, more appropriate measures which may be applied in other less dangerous cases.
If the risk of spoiling the evidence or escaping of the defendant can be avoided through property guarantees, the court has the obligation to accept the latter taking into account the economic situation.
Imprisonment should be applied only in those cases when all other measures are not able to avoid the risk of spoiling the evidence, the risk of escape or the commission of other criminal offenses.

Efficiency of procedural systems

It can be widely discussed which procedural system is more efficient, which means the degree of achievement of objectives, which in itself is identified in the model that best protects society from crime.
The inquisitorial system focuses on "state terror" through which the state makes it easier to fight organized crime, armed gangs, etc. [8] The problem lies in the fact that this type of model does not prevent the risk of punishing the innocent, but above all it allows the political power, i.e. the government, the king, the dictator to use the criminal process as an instrument to restrict the rights and freedoms of citizens.
On the other hand, if the objectives of the procedural system are to ensure and guarantee the fundamental and political rights and freedoms of the individual, the accusatory system is more appropriate, but it is thought that this fact negatively affects the creation of strong state institutions.

7. Latin term, used in jurisprudence in the sense of the final solution or otherwise the solution needed for a given problem when all other options have been exhausted without success.
8. P. Tonini "Manuale di procedura penale", 2013, p.12.

Among the disadvantages of the accusatory system we can mention the procedure of exclusion and rejection of evidence which would directly affect the freedoms and rights of the citizen and would prevent the verification of the fact as a criminal offense.

Mixed systems

It should be noted that all criminal procedural models encountered throughout history have a mixed character and include elements of both the accusatory system and the inquisitorial system. However, many law studies think that a genuine mixed model is the French procedural system with the entry into force of the Code of Criminal Procedure of 1808, which rigorously protects society from crime and just as rigorously guarantees fundamental rights and freedoms of the individual. The Italian procedural model is also considered as such.[9] Mixed systems are mostly dominated by inquisitorial elements such as secrecy, written form and elements from the accusatory system such as judicial debate, adversarial proceedings and constitutional guarantees.

We must emphasize the fact that the Albanian procedural model also belongs to the mixed system. [10] Prior to the amendments of the Code of Criminal Procedure of 2017, the Albanian model was considered a mixed model with predominant inquisitorial features. After the approval of the amendments, with the introduction of new procedural concepts and new links in the process such as the preliminary hearing, which guarantees a control over the acts of the prosecution and on their validity before the case goes to trial, or the way of administering and evaluating the evidence as well as guaranteeing the rights of the defendant, made the Albanian model a mixed model but with predominant features of the accusatory system.

However, these changes, although very positive, do not affect all the norms of the Code of Criminal Procedure. Here we can mention Article 375 of the Code, [11] which constitutes a genuine article of the inquisitorial model, recognizing the court's discretion to decide on the legal qualification of the criminal offense beyond the allegations of the prosecution and the defense. Article 376 of the Code of Criminal Procedure also has inquisitorial features, [12] which imposes on the court the obligation to communicate to the defendant the different qualification of the legal fact more serious than that alleged by the prosecutor and to give him time to prepare the defense. The inquisitorial features of this article lie in the fact that despite the obligation of the court to make known the possibility of changing the legal qualification of the offense, this article does not explicitly define within which sphere of figures of criminal offenses, this change can be made, realistically denying the defendant the right to a defense as effective as possible. In this interpretation, both of the above articles have inquisitorial features, as they give the court the right to decide beyond the claims and legal requests of the parties.

9. P. Tonini "Manuale di procedura penale", 2013, p. 27.
10. H. Islami, A. Hoxha, I. Panda "Komentari i Procedurës Penale:, 2003, p. 23.
11. Article 375 of the Code of Criminal Procedure "Change of legal qualification of the offense".
12. Article 376 of the Code of Criminal Procedure "Rights of the parties".

Conclusions and recommendations

In conclusion we can say that the inquisitorial model of criminal proceedings is characterized by two features. The first concerns the principle of authority, according to which the truth is best clarified when the power of the judge is without limits. The judge at the same time has powers that extend both to the charge and to the defense of the defendant. So at the center of the trial stands the monocratic judge.
Proceedings start mainly (without the request of any party), as well as the search for evidence. The investigation is all conducted in secret and focuses on the written form of the acts, causing the judge to decide on the basis of statements fixed in the reports. There is no limit on the admissibility and administration of evidence. The defendant is presumed guilty and the proceedings are focused on the personal security measure of imprisonment.
The accusatory model of criminal proceedings is centered on the judicial debate, according to which the truth is better clarified when the parties are given the opportunity and space to confront arguments and claims in a contradictory manner. The process is characterized by the division of functions according to the subjects (prosecution, defense and court) and the debate on the formation of evidence, which is reflected in the questions that the parties ask each other, the witnesses and the defendant.
Proceedings begin only at the request and initiative of the parties, excluding the court as a subject. In this system, the trial takes place with a jury, which decides on the guilt or innocence of the defendant, while the judge has limited powers only in determining the type and extent of the sentence. Also, the process does not focus on the written form of the acts but on the verbal requests of the parties.
The defendant in this system is presumed innocent and the administration of evidence is limited. Personal security measures are considered extreme measures.
In conclusion we cannot say with certainty which system is more efficient than the other. At the center of both systems are elements that at different stages of the process give precedence to one system over another. However, it must be acknowledged that the accusatory model of proceedings works best only in those countries where democracy is consolidated, where the independence of institutions is guaranteed according to the principle of "check and balance" as well as freedoms and human rights.
The existence of a procedural system depends on the historical, socio-cultural, political context as well as on tradition.

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The impact of political instability on Economic growth (Case of Albania)

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Abstract

The aim of this study is to define the impact of political instability on economicgrowth. Considering the multidimensionality of a factor like political instability, thestudy employs only four variables to measure it. The variables used to measurepolitical instability are civil liberties, political rights, number of women inparliament and the government changes during years. Regarding the economicgrowth this study employs the variable of real GDP growth rate as the best factorindicating economic growth. The data are obtained from national and internationalsources like "INSTAT", "Bank of Albania" and "The Global Economy", and takesinto consideration the period from 1990-2015. According to the literature it wasexpected to have a significant negative impact of political instability on economicgrowth. Through the results obtained from the econometric model the expectationholds. What is interesting is the insignificance of all explanatory variables beside thevariable of civil liberty, which is found to be highly significant. The analysis revealshat an increase in civil liberties would have a positive impact on GDP growth rate.
The study also concluded that the importance of civil liberties as a transmission channel of political instability can be justified with the weakness of the judicialsystem and the classification of Albania as a partly-free country.

Keywords: Political instability, Economic Growth, Civil Liberties, Political Rights, Woman in Parliament, Government changes.

Introduction

Over the last 26 years the country of Albania has had a significant political instability. Since the fall of communist system in year 1991 up to now days, Albania has experienced 12 cabinet changes/government changes. The period from year 1990 up to year 1998 can be considered as the period with the highest level of instability, lowest level of economic growth and the lowest level of human rights. The fall of communism as it was expected has been associated with violent demonstrations, civil protest, and many injured people. The first pluralist elections took place on March 1991, and the communist party remained into power while the first party created during pluralist system, the "Democratic party" became the opposition. The result was surprising but it was justified with the fear and lack of knowledge rooted in the minds of Albanians from the rough dictatorship. The opposition of that time fought to bring the communist party down by using any democratic tool. Finally in March 1992 Albania experienced early elections, which brought the opposition into power with an extraordinary support from the people, and left the communists powerless in opposition.
The period after 1992 elections witnessed the real starting of democracy in Albania. Many economic indicators improved, human rights were sanctioned by law, but still the level of illiteracy and the poverty rates were high. During 1993 in Albania started to incorporate

some financial institutions which were latter known as the "Pyramidal Firms". These firms started to operate mainly like depository institutions and were becoming very competitive to banks because of the high interests paid on deposits. From year to year these firms enjoyed a great popularity, not only because of high interest rates paid on deposits, but also because of the government support. The majority of population found them very attractive and in hope to get a quick profit and to escape from poverty, they sold their houses, their properties and deposited everything they had in these firms. The first signs of default for these firms started in the end of year 1996 and in the first months of 1997 they defaulted. The overall cost was estimated to be around 1.2 billion of dollars and the majority of Albanian people lost almost everything. This situation served as the main incentive for demonstrations and violent protest, which later turned into a proper civil war. The period of conflict was associated with many tremendous economic costs, many dead people, many injured and the existing infrastructure of the country was destroyed. Every economic indicator, democratic indicator, etc, had been pushed to the most negative levels and the country was facing a real chaos.

The year of 1997 made the government to renounce and the socialist party came into power. Because of the great instability there have been very frequent cabinet changes during the period 1997-2001. After year 2001 the country could be considered more politically stable. From 2001 the government changes have been once in 4 years, the development has been fast and the economy has been improved, but it is surprising to find that the level of human rights and other indicators of political instability have not been improved much from that time.

2. The objective of the study

The general objective of this study is to assess the impact of political instability on economic growth. This will be done by employing the variables of civil liberties, political rights, government change and the number of woman in parliament to explain the level of political instability. Latter on these variables are going to be regressed together with the variable of GDP growth rate in order to explain the impact of political instability on economic growth. However the specific objectives of this study are:

1. To review political instability and economic growth for the case of Albania. This will be done by explaining the development stage of Albania during the period under study but this study also will make use of graphs and charts to explain this relation.
2. To examine the relationship by constructing an econometric model.
3. To assess the main dimension of political instability affecting economic growth.

Literature Review

Several studies have been done in order to assess the impact of political instability on economic growth. Each of them brings new measures of political instability and these studies have produced different outcomes. It is clear that the creation of an index for this factor is very complicated since it is affected by many variables and most of the variables are found to be highly significant. Finding an appropriate

model is a big challenge.

Early in 1992, investigated the relationship between political instability and GDP per capita growth rate by taking a sample of 113 countries for a period of 32 years[1]. This study had a strong base on the belief that political instability in other words is the propensity of a government collapse, and as a consequence the collapse would result in a slower economic growth. It is not important if the change of governments would be constitutional or unconstitutional because the result would be the same, since every government brings their own political programs, which in every case is considered as an experiment with the economy, and like every new program is associated with a high level of risk. Since the change of governments or regimes cannot be measured directly this study has employed different political and economic variables from the past and has classified them into three categories which are; indicators of political unrest such as cabinet adjustments; "structural" institutional variables which account for differences across countries such as the GDP per capita and being a democracy or not; economic performance in the recent past, in particular the recent growth level[2]. In the conclusion this study has found that the government change frequency negatively affects GDP per capita growth rate and it is highly significant, but not enough evidence have been found regarding the impact of democracy level which remains unclear. Regarding the economic performance in the past and in the present has been found to be significant and has an impact on the dependent variable.

In addition following the same reasoning like the previous study but going deeper into other factors[3] continued to use the change of governments as an important factor explaining political instability and the change in economic performance. Moreover this study includes another model which tries to explain the change in economic performance through the change in government expenditures. In his reasoning Carmignani paid a strong attention to economic cycle, by indicating its strong influence on the government collapse. Beside economic cycle another factor in this study, the ideology of the governing cabinet seems to be a very influencing factor on the government collapse. The polarization within the party brings instability and as a result increases the chances of default. The result is also clear on the economic growth where a frequent cabinet change is associated with negative economic growth. This study has founded also found that the longer the cabinet stays into power the higher will be the chances of collapse in the near future. Also has been concluded that heterogeneity of ideologies within the cabinet have an impact on government spending decision.

Furthermore, unlike the previous authors indicates the level of democracy as an important factor for determining political instability and considers only this factor on his model. This paper like in the previous cases expected that political instability slows the economic growth. Since in this study are included different regions of the world, the author has assessed each of the regions characteristics and has made a few hypothesis regarding the needed level of political instability in a country

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in order to maximize its economic growth. Another feature to be mention is that the model assumes an optimal data set in a perfect world, even though there are some limitations on the model. This paper has concluded that as it was expected the political instability measured by the level of democracy in a country has a strong impact on slowing economic growth. Moreover it has been proven that the needed level of political instability in order to maximize economic performance varies across countries because it depends on each of the countries characteristics. The author mentions that political instability is a multidimensional concept and there is a lack of theoretical background about it. In addition, unlike the above authors he suggests that the future research papers should focus more on regional characteristics rather than in government changes in order to get better results regarding the true impact of political instability on economic growth.

Whilst the above authors have been more focused on factors such as government changes, democracy level etc[4], has studied the specific case of Israel, a country who has suffered from conflicts, war, instability etc. More precisely this study is focused on the impact of political instability on the investments level by taking into consideration different time periods which include periods of conflicts and periods of peace. The main aim is to assess the impact on a different way from the other studies and even though the main topic it is not directly related to economic growth, it can provide a clear view of the impact on economic performance through the casual relationship between investments level and economic growth. Through the results obtained by the macroeconomic model the author has concluded that the investment level has definitely changed in a positive direction after the conflicts in the country. It has been found that the total impact is shared between different factors beside those mentioned in the model, but one important aspects that the author indicates is that any kind of violence depresses investments and economic growth. The only solution toward a positive growth rate of investments and a good economic performance is found to be peace, which removes any of the incentives for possible political conflicts.

Empirical findings

This research holds the investigation of the effect of civil liberties, political rights, government change and number of women in the parliament in the GDP. The two former variables are expressed according to their scoring rate from 1.0 to 7.0, while the third variable is a dummy variable expressed by numbers 1 and 0[5]. The numbers of the women in parliament is expressed as a percentage of total number of parliament's members. Regarding the dependent variable which is GDP, it is expressed as a growth rate.

Before proceeding with the construction of the model we check the correlation between the variable by using a correlation matrix. This will help us to assess one by one correlation of the independent variables with the dependent one, and will also help us to identify if there is any multi-collinearity problem.

Albanian GDP during our 26 annually observations has experienced many ups and downs. Like the graph indicates the period from 1990-1993 has been one of the

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worst periods of Albanian economy with a negative growth rate, especially in 1992 where the negative growth rate was found to be -29.9%[6]. This pessimistic situation resulted from the political transition during that period where Albania moved from a communist system to a democratic system. The great instability created in 1991 as a result of student protests to bring the regime down, created big uncertainties for the country and its economic growth stopped. This period witnessed great changes after the fall of regime, but also increased the level of political instability as a result of frequent government changes during a short period of time. The situation looked optimistic for the coming years up to 1996 where the growth rate was estimated to be positive at an average of 9.5% per year[7]. Unfortunately a significant decline of growth rate in 1997 transformed all the optimistic expectations into pessimistic ones, and the Albanian economy was facing serious difficulties. During 1993-1997 in Albania, have operated some financial firms which were structured like proper bank, and were acting generally as depository institutions. These firms became very popular at that time and gained a comparative advantage toward proper banks, because they were paying very high interest rates for the deposits. Stimulated by the popularity and the support that the government gave to these firms at that time, the people of Albania deposited millions of dollars with the hope of getting some profit to get out of the poverty. The big promotion of these firms made everyone blind in front of a pyramidal scheme which started to give its default signs in the beginning of 1997. Just three months later during March these firms defaulted and Albania experienced one of the biggest scandals which left its population poorer than it was. Moreover the situation worsened with the violent protests of the population and caused the exploitation of a civil war, which resulted into a real tragedy with many people dead, injured and the country lost its stability[8]. This period of conflict created the biggest instability during the democracy years of Albania and left the country hopeless, lawless, and poorer than before. From the dark period of 1997 the Albanian economy experienced a significant growth up to 2001. Also in the consecutive years the situation was good with a positive growth rate and a good trend. In addition, another thing noticed by looking to the data provided from World Bank is that economic growth is increasing at a smaller rate year by year especially in the last five years where GDP growth rate in 2013 and 2014 is only 1.1% and 2.17% respectively[9]. We can say that this situation is caused by economic crises of 2008 which had impacts generally in USA and later in Europe.

Conclusions

The study found enough evidence to prove the existence of a relationship between political instability and economic growth. This relation has been quantified by regressing the dependent variable of economic growth, measured by GDP growth rate, with the independent variables of civil liberty, political rights, government

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change and the number of women in parliament. The evidences collected by analyzing the historical facts and the transition phase that the country of Albania has passed through, emphasize the importance and the impact of these events on the variables of the study. The historical data reveal the volatility of GDP growth rate, the low level of civil liberties and political rights. Moreover they witness the lack of stability because of frequent government change and civil conflicts during specific periods, and also reflect the inequality arising from gender.

The main focus of the research has been the construction of a model to prove the expected negative relationship between political instability and economic growth. Considering the multidimensional nature of a factor like political instability, this paper employed the variables of civil liberty, political rights, government change and the number of women in parliament to determine its impact. The literature collected from previous studies provides enough information for expecting a negative impact of political instability on economic growth. This study has employed from the literature the variable of government changes, while the other variables which are considered to be important indicators of political instability, have served to create a new measure and have helped to assess the impact in different dimensions. According to the literature it was expected to have a significant negative impact of government changes on economic growth, but this could not be proven for the case of Albania since the variable was highly insignificant. This outcome could be considered surprising since the historical facts suggest that Albania has had a significant instability during government changes. As some studies suggest the impact of the variables differs from country to country, because it depends on its characteristics and the weight that this factor may have in the case of Albania might be too small to consider.

The variables of civil liberty, political rights and number of women in parliament, were expected to contribute positively to economic growth. As the model suggests our expectations turned out to be wrong for the variables of political rights and number of women in parliament, since they were highly insignificant. Considering the problem of multi-collinearity between political rights and civil liberties, and also the problem of stationary for the latter variable, the model has been constructed by taking the first difference of civil liberty. Even after this adjustment the situation did not change and only the variable of civil liberty was found to be significant. While analyzing the dimensions of civil liberty the study noted that the main reason why the instability may go through this factor is the corruption level and the weakness of the Albanian judicial system. Regarding the number of women in parliament expressed as a percentage of total parliament members, we can say that the reason for its insignificance may lie on the fact that it has been increased significantly not because of emancipation, but mainly because it has been defined by law that at least 20%[10] of the parliament members should be women. The fact that this number is an artificial product rather than a natural product may be a reason for the result obtained.

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Treatment of prisoners and detainees. calculation of the time of sentence

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Abstract

Respect for the rights and freedoms of persons serving sentences in institutions of execution of criminal decisions, are part of the fundamental human rights and freedoms, provided in the Constitution of the Republic of Albania, as well as in international conventions and acts.
This means respecting basic human rights, dignified treatment of persons deprived of their liberty, creating appropriate infrastructural conditions for persons serving criminal sentences in their respective institutions, and transforming criminal sentences into an opportunity for rehabilitation and reintegration. in social life.
One of the rights related to the treatment of prisoners and detainees is the way of calculating the time of the completed sentence and the remaining sentence to be served.
Thispaperaims to address the rights and treatment of prisoners and detainees, the execution of final criminal decisions, as well as to analyze some issues that have arisen during the implementation of legal provisions for calculating the time of sentence.
The methodology used in this paper is the legal analysis of the treatment of convicts and detainees, focusing on the right to calculate the length of sentence, analyzing in more detail the practical cases of court decisions in this regard.

Keywords: Sentenced to imprisonment, detainees, treatment, sentence calculation.

Introduction

Respect for the rights and freedoms of persons serving sentences in institutions of execution of criminal decisions, are part of the fundamental human rights and freedoms, provided in the Constitution of the Republic of Albania, as well as in international conventions and acts.
This means respecting basic human rights, dignified treatment of persons deprived of their liberty, creating appropriate infrastructural conditions for persons serving criminal sentences in their respective institutions, and transforming criminal sentences into an opportunity for rehabilitation and reintegration. in social life.
One of the rights related to the treatment of prisoners and detainees is the way of calculating the time of the completed sentence and the remaining sentence to be served.
The prosecutor, before issuing the execution order of the final criminal decision, calculates the sentence paid after the commission of the criminal offense and the remaining one to be performed.
The extent and manner of calculation of these sentences are defined in the provisions of the Criminal Code, as well as Law no. 7942, dated 31.05.1995 “On the entry into force of law no. 7895, dated 27.01.1995 "On the Criminal Code of the Republic of Albania".
During the implementation of these provisions in practice, various discussions were encountered, for which the respective solution was given by court decisions.

1. Treatment of prisoners

Prisoners are treated with dignity and respecting the fundamental rights in the implementation of the legislation in force, as well as international acts binding on the Republic of Albania. They are treated equally, without bias and without discrimination for any reason provided by the legislation in force for protection against discrimination[1].

In cases where prisoners have experienced physical, psychological or sexual violence, before or during their stay in the institution, they are immediately offered protection, support and legal advice. This is done in order to rehabilitate them and guarantee the fundamental rights protected by national and international acts.

The treatment of prisoners is done by providing appropriate facilities that meet health and hygiene requirements and in accordance with respect for human dignity. The prisoner is offered treatment for the purpose of rehabilitation for his reintegration into family, social and economic life. This goal is achieved through the drafting and implementation of an individual treatment plan and through programs and re-education activities in the institution, by institutions of execution of criminal decisions, in cooperation with the Probation Service, structures responsible for social services in local self-government units and non-profit organizations[2].

In the institutions where the imprisonment sentence is executed for women and girls, there are specialized services in the service of pregnant women and those with breastfeeding children. The medical staff visits the sick prisoner every day who makes a written or verbal request to the health staff or security personnel in the regime and periodically checks all other prisoners, according to a schedule drawn up by the directorate of the institution. Medical staff identifies and notifies immediately of diseases that require specialized treatment. In emergencies, when the life of the prisoner is endangered, he is transferred for treatment to the prison hospital center or to the regionalhospital institutions depending on it. The protection of the rights of prisoners is overseen by the National Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment, established in accordance with the ombudsman legislation. In order to achieve this goal, the National Mechanism, in the implementation of its competencies, regularly monitors the treatment of individuals who have been deprived of their liberty in places of detention, detention and penitentiary institutions, in order to strengthen, when necessary, the protection of individuals from torture, cruel, inhuman or degrading treatment or punishment, as well as make recommendations to the relevant authorities, in order to improve the treatment and conditions of individuals deprived of their liberty and to prevent torture and ill-treatment or punishment savage, inhuman or degrading.[3]

2. Execution of criminal decisions

Execution of decisions is the final stage of criminal proceedings. It is a logical continuation of the previous stages and aims to concretely realize the dispositions of court decisions. Even at this stage, the subjects of criminal proceedings have their

1. Article 5, Law no. 81, dated 25.06.2020 "On the rights and treatment of prisoners and detainees".
2. Article 12, Law no. 81, dated 25.06.2020 "On the rights and treatment of prisoners and detainees".
3. Article 81, Law no. 81, dated 25.06.2020 "On the rights and treatment of prisoners and detainees".

place and role. The prosecutor has the duty and responsibility for the execution of criminal decisions, while the court reviews and resolves the requests of the parties for problems that arise during the execution.
The execution of the criminal decision restricts only those rights, to the extent and time determined by the criminal decision, respecting all other rights recognized and protected by the legislation in force and international human rights standards.
The criminal decision is executed voluntarily by the convict in the manner, time and place determined by the competent body according to this law. Only in case of refusal of its voluntary implementation, the compulsory execution of the criminal decision takes place[4].
Pursuant to Article 462 of the Code of Criminal Procedure, the criminal decision of the court is executed immediately after it has become final.
The criminal decision becomes final when the decision of the court of first instance is not appealed by the parties within the legal deadline, when it is unappealable or when the appeal is not accepted for the foreseen reasons; when the decision of the appellate court finally resolves the case; or in cases of decisions of the High Court on issues of extradition and transfer of convicted persons[5].
The prosecutor at the court of first instance that issued the decision takes measures for the execution of final decisions. Before issuing the execution order, he calculates the sentence paid after the commission of the criminal offense and the remaining one to be performed.
The extent and manner of calculation of these sentences are defined in the provisions of the Criminal Code, as well as Law no. 7942, dated 31.05.1995 "On the entry into force of law no. 7895, dated 27.01.1995 "On the Criminal Code of the Republic of Albania".

3. Calculation of sentence time and some practical cases

Detention time is calculated[6] on the basis of imprisonment or a fine, as well as on the obligation to perform a work in the public interest, as follows:
- One day of detention is equal to one and a half days of imprisonment;
- One day of detention is equal to 5 thousand ALL fine;
- One day of detention is equal to eighteen working hours in the public interest.

In Article 7 of Law no. 7942, dated 31.05.1995 "On the entry into force of law no. 7895, dated 27.01.1995 "On the Criminal Code of the Republic of Albania", it is determined that, for persons who are serving a prison sentence, detention on remand will be calculated according to the criteria set out in Article 57 of the Criminal Code. Detention means the days spent in detention and arrest in prison. When the arrest is terminated, the detention period is considered from the day of detention until the court decision becomes final. One day of house arrest counts as one day in prison.
In cases when the court of first instance has given a sentence in absentia and this decision has been executed after it has become final, until the date of reinstatement of the right to appeal, the convict will be counted the time of suffering 1 to 1 day imprisonment. After the reinstatement of this right in time, he regains the quality of

4. Article 4, Law no. 79/2020 "On the execution of criminal decisions".
5. Article 462, Criminal Procedure Code of the Republic of Albania.
6. Article 57, Criminal Code, as amended.

the defendant (detainee) and this period until the date when the decision becomes final after the appeal, will be counted l days of detention with 1 day and a half imprisonment.
During the implementation of these provisions in practice, various discussions were encountered, for which the respective solution was given by court decisions.
This section will address some of these issues related to how to calculate the time of sentencing during the execution phase, also analyzing cases from court practice.
Case no. 1: "When a person convicted by a final decision is not transferred from the detention facility where he is isolated, will the period of time he has stayed in the detention facility, be counted with 1.5 days of detention, even though against himhas the sentencing decision become final? "

Practical case

For this case, a solution was given with decision no. 261, dated 12.11.2008 of the Criminal College of the High Court, which found that:
"..... The applicant BV, with the final criminal decision, was sentenced by the Court of First Instance Mat to 17 years of imprisonment for committing the criminal offense provided by Article 76 and 278/2 of the Criminal Code, decision which became final on 12.09.2001.
The applicant was arrested on 16.04.1999 and remained in detention on remand until 10.02.2003, at which time he was transferred to Prison 302 in Tirana.
The Applicant alleged that, pursuant to Article 57 of the Criminal Code, the length of his stay in the detention rooms, while a final decision had been taken against him and therefore he should have been transferred to a penitentiary institution criminal (prison), 1 day of detention should be calculated = 1.5 days of imprisonment.
As above, the Criminal College of the High Court, in the interpretation of Article 57 of the Criminal Code, considers that the decision of the Durres Court of Appeal, which rejected the request of B.V. is fair, based on law and as such is left in force.
Convicted B.V., after the decision of the Court of First Instance Mat became final, automatically changed his status, from detainee to convict. This means that the convict immediately benefits from the rights and obligations of law no. 8328, dated 16.04.1998 "On the rights and treatment of prisoners" ..... "[7].
So, from the above, we come to the conclusion that, it is not the place of serving the sentence that determines the status of the convict.
Detention, as well as serving a sentence, after the decision has become final, are legal situations defined by law and should never be treated as fact situations, where for the very fact that the detainee does not change the environment of serving the sentence, as there is final decision, to imply that he is still in custody.

Article 57 of the Criminal Code deals with all those cases when the defendant is in detention on remand, he has the legal status of a detainee, which for the purpose of the law is deprived of certain rights and the legislator, since it deprives of rights to detention, compensates them with higher imprisonment calculations, favoring the convict.

[7]. Decision no. 261, dated 12.11.2008 of the Criminal College of the High Court.

Case no. 2: "The manner of calculating the sentence from the date when the decision becomes final until the date of the trial in the High Court, when the latter has decided to overturn the decision of the Court of Appeals and return the case for retrial to that court." .

Practical case

The citizen A.L., with the decision of the Court of First Instance for Serious Crimes in Tirana, was sentenced to 10 years of imprisonment for committing the criminal offense provided by Article 283 / a / 2 of the Criminal Code.

Following the appeal, the Court of Appeals for Serious Crimes in Tirana, has decided to change this decision regarding the legal qualification of the offense, according to Article 283 / a / 2 and 22 of the Criminal Code and the sentence is 10 years imprisonment.

Following the recourse made against this decision, the High Court, with decision no. 218, dated 14.05.2008, has decided to overturn the decision of the Court of Appeals and return the acts for reconsideration to the Court of Appeals for Serious Crimes with another panel.

The Court of Appeals for Serious Crimes in Tirana, after reviewing the case, has decided to uphold the decision of the Court of First Instance for Serious Crimes in Tirana.

On this basis, the prosecution issued an order for the execution of the above final decision. In calculating the time of the sentence, the period from the date of the decision of the Court of Appeals (18.09.2006) to the date of the decision of the High Court (14.05.2008) is calculated 1 to 1 day imprisonment, as the citizen A.L. for this period he had the status of a convict, taking advantage of the rights and obligations deriving from Law no. 8328, dated 16.04. 1998 "On the rights and treatment of prisoners". With the subsequent changes and after this date, until the date when the case was reconsidered in the Court of Appeals, 1 day of detention with 1.5 days of imprisonment was calculated, as the citizen A.L., after this date, has regained the status of the defendant. This is defined in Article 34, point 3 of the Code of Criminal Procedure, which states:

"The quality of the defendant is restored when the dismissal decision is overturned or when the retrial is decided."

Against this execution order, according to Article 470 of the Code of Criminal Procedure, the convict A.L. in the Court of First Instance for Serious Crimes in Tirana, claiming that the period from the date of the decision of the trial on Appeal to the date of the decision of the trial in the High Court should be calculated with 1.5 days of imprisonment, because the decision of the Court of the Court of Appeal was quashed by the High Court.

On this basis, the Court of First Instance for Serious Crimes in Tirana, after examining the case as a whole, with decision no. 1, dated 9.02.2009 decided to reject the request of the convict A. L., considering the order of execution of the prosecutor as based on law and evidence.

Against this decision, the convict A.L., through his lawyer has appealed to the Court of Appeals for Serious Crimes in Tirana.

This court, occurring in these conditions, has suspended the examination of the case and has made a request to the Constitutional Court to declare as unconstitutional

articles 432 and 435/1 of the Criminal Code, claiming that these articles are contrary to the Constitution.
Article 432 of K. Pr. The Criminal Code defines in its title "Recourse against final decisions." Thus this article considers that the decision of the Court of Appeals is final, definitive, even though it has been appealed to the High Court, which has annulled it. and returned the case for retrial.
The Constitution stipulates that the jurisdiction of the High Court is a "definitive third instance" of adjudicating a criminal case and this definition is materialized in Article 407/3 of the Criminal Code.
This conception is also based on Article 449 of the Criminal Code, which provides that the request for review is activated at any time against decisions that have become final.
Article 435 of the Criminal Code stipulates that the recourse must be submitted within 30 days from the date the decision has become final.
The Constitutional Court, after reviewing this request, with decision no. 57, dated 1.07.2009, has decided not to pass the case for review in plenary session, arguing that the Criminal Procedure Code clearly states that the decision becomes final with the decision of the Court of Appeals and this decision is executed immediately after has taken final shape.
In conclusion, with the rejection of the review in plenary session of the request by the Constitutional Court, the Court of Appeals for Serious Crimes in Tirana, reviewed the case as a whole and with decision no. 20, dated 30.07.2009, has decided to leave in force the decision of the Court of First Instance for Serious Crimes in Tirana, regarding the calculations made in the execution order.

Case no. 3: "How will the time of detention in a requested state be calculated, on the execution of the final sentence of a convict by the requesting state".
As it is known, persons accused and convicted of committing a criminal offense receive two statuses, that of detainee and convicted. When we are in cases of detention and sentence within the territory of Albania, the calculation of the sentence is already clear, as explained above. Here the issue has aroused various discussions and decisions in daily practice for cases where a convict is arrested abroad in execution of a final criminal decision.
In this case, how will the length of stay in prison in a requested State, pending extradition to the requesting State, be calculated?
When the arrest of the person in the requested state was made on the basis of an execution of a decision to impose the security measure "Prison arrest", the problem in this case is solved, so he was a detainee in both states. The case arises when a person is arrested abroad in execution of a final sentence in the requesting State.
In law no. 10193, dated 03.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", Article 51, it is determined that when the extradited person is detained in the requested state for the criminal offense for which he was extradited, the time he has spent in detention is calculated on the measure of punishment.
This problem has often become a judicial conflict and the courts have accepted that the arrest of persons abroad, regardless of whose execution the decision was, a decision imposing a security measure or a final sentence, have considered it as a temporary arrest with the rights of a detainee and consequently this period will be

counted as a period of detention of 1 day and a half until the date of extradition to Albania.
In the current situation, with the changes that have occurred in the Code of Criminal Procedure, this issue has been resolved by Article 504, point of this Code. This provision stipulates that detention abroad, as a result of an extradition request submitted by the Albanian state, is calculated in the amount of the sentence, according to the rules set forth in Article 57 of the Criminal Code.
From the content of this provision and the overall spirit contained in the Council of Europe Convention on Extradition and its two Additional Protocols, the courts have assessed that regardless of the content of the extradition request, as in the case where extradition is sought for the execution of a decision with which has been assigned the security measure "Prison arrest" even in the case when extradition is requested in order to serve the sentence given according to a final court decision, the period pending the review of the request for extradition will be counted as a period of detention, calculated 1 day of detention equal to 1.5 days of imprisonment
Case no. 4: "Ways of calculating the time of the sentence served and the remainder of the sentence for the cases of joining the sentences".
Regarding the joinder of sentences, the Criminal Code of the Republic of Albania stipulates that, when the convict, before serving the sentence, is convicted of a criminal offense committed before the decision, the rules of Article 55 and the part of the sentence shall apply. sentence is calculated in the new sentence. In case the convict, after the issuance of the decision, but before the full serving of the sentence, commits a new criminal offense, the court combines the new sentence with the rest of the previous sentence[8].
In the sense of this provision, its first paragraph in relation to Article 55 of the Criminal Code, the sentences given according to each decision are combined, to the extent that they have been given and not the still unserved part of one or each of them.
While in the second paragraph of this article, the joining of sentences is done by joining the new sentence with the remaining part of the previous sentence, following the rules provided in article 55 of the Criminal Code.

Practical case
The Prosecution for Serious Crimes in Tirana has addressed a request to the court to join the sentences of 12 years of imprisonment of the decision dated 13.12.2010, with the sentence of 24 years of imprisonment of the decision of 01.07.2008, both of these decisions given by the Court of the First Instance for Serious Crimes Tirana for sentences in absentia against the convict KS
The Court of First Instance for Serious Crimes in Tirana, after reviewing this request, with a decision dated 12.09.2011 decided not to accept (reject) the request for joining the sentences. He took this decision on the grounds that the court decisions, until the moment of reviewing the prosecutor's request for joining the sentences, had not been executed. So really the convict K.S. he was not currently serving any sentence given to him. She assessed that as a necessary condition for joining the sentences, according to Article 56 of the Criminal Code, it is necessary to start serving the sentence of a court decision that has been executed.
This decision was appealed to the Court of Appeals for Serious Crimes in Tirana and

[8.] Article 56, Criminal Code.

this court, with decision no. 49, dated 25.10.2011 decided to overturn the decision of the Court of First Instance, arguing that the court of first instance erred in the given conclusion and that it is not a necessary condition to execute the decision first and then request its merging with another decision, as such a thing is not provided in any of the legal provisions[9].

The manner of serving the sentences, the rights and duties of the convicts are regulated based on the criteria set out in the Criminal Code, the Code of Criminal Procedure, Law no. 8328, dated 16.04.1998 "On the rights and treatment of prisoners", as amended, as well as the General Regulation of prisons, approved by decision of the Council of Ministers.

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Decision no. 261, dated 12.11.2008 of the Criminal College of the High Court.
Decision no. 49, dated 25.10.2011 of the Court of Appeals for Serious Crimes in Tirana.

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[9] Decision no. 49, dated 25.10.2011 of the Court of Appeals for Serious Crimes in Tirana.

The role of companies in the economy of Kosovo

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Abstract

Companies represent an economic composition, which is consisted of subjective and objective elements.
The notion of a company differs from the notion of an enterprise, because the latter is more known in economics.
In addition to the descriptive aspect, in paper efforts were made to provide an analytical approach on the role of companies in the economy.
Through this paper we strive to analyze the impact of companies in the economic aspect in Kosovo.
In our country, as in most countries in transition, companies face many problems. Among the problems that most companies face in our country there are especially the difficulties of positioning in the market and achieving the goals for which they are created. The economic crisis and unfair competition have an influence on creating difficulties for trade associations.
The current financial crisis is appearing in our country, no matter of the fact that the market and companies are not very developed. However, there is no lock down in the economy. Regarding the ways of communication of Kosovo economy with the economies of other countries, with specific emphasis of those from the region, it could be noted that in the region there is a numerous number of communications.
In addition to the economic arguments which are in the focus of this paper, this topic will undoubtedly be addressing legal terms, as well.

Keywords: companies, economic impact, financial crisis.

Introduction

The paper tries to give a mirror about the role of commercial companies in Kosovo's economic developments. Based on this, we have started with the way of how the commercial companies are established, then the way of how they operate as well as on the way how they contribute the economic development of the country.
Taking into the account this, in the first part of this paper, I am focused on the role of companies in the economy of Kosovo, whereas in the second part the research deals with the impact of the financial crisis in the job openings and the job losings.
During this research paper, an extensive literature has been used and reviewed that which is focused on explaining companies and their main characteristics. In addition, the secondary data have helped to understand the key issues related to the company.
Secondary data sources include: previous studies in this field, conferences and working materials, newspaper articles, online databases, etc.
In thedoctrine of the right business in the great discussion about theevolution of regulation of companies trading.
Launched by this circumstance, this paper explores theestablishment of companies,

trading in Kosovo.
This is done being based on the framework ofthe first law of war associated with companiestrade, namely through the Regulationof UNMIK Regulation no. 2000/8 on Registration of Temporary of Business.[1]

The goal and the objectives of the paper

The goal of this paper is to investigate the impact of companies in Kosovo economy, with a special focus on their role in this regard. Considering Kosovo as a new state, with many problems that it has inherited from the past, pushed us to realize that there is an urgent need for restructuring in the economy, and among other things we think that in this regard, trading companies can play a great role.
Kosovo has emerged from the war with a devastated economy, so trade c ompanies are welcome for a good economic development for the country.
The main goal of this paper is to have as much knowledge as possible about the role of companies in the economy, but also to know more about the advantages and disadvantages that they may have in this regard.
In theory, this paper has a very great importance since the more we come to know about the importance these companies have more we know for the country's economy. We also believe and hope that through this paper we will be able to give a realistic picture of the relationship of companies with the country's economy.

Methodology applied

The methodology determinesthe choice of methods and procedures that to enable achievement on the best scientific, on the correct and most efficient truth material, which is also theaim of this paper.
Through the selection of methods used in this paper we get to explore the truth about the role of commercial companies in the country's economy, which is also the main thesis of the paper. For the needs of the paper and in order to achieve projected results the methods of analysis, theoretical method and comparative method are used.

Establishment and classification of companies in Kosovo

Establishment of society stock it meansexpressing the will of twoor, more persons, who aim to collaborate between themes elves andthat are established that along a company.
The act of establishing a judicial person not only determines the field of activities and the ability to act of the judicial person, it foresees also the inner organization of the legal person as well as the property quantity[2].
Founders of the trade companies are considered those persons who with the aim of establishing trade company, signe the founding act no matter if we talk about a contract for society, the statute of the society, respectively declaration for establishing the society with the limited responsibilities of one person[3].
All persons that exercise the trade activities are obliged to register their businesses

1. http://www.unmikonline.org/regulations/2000/reg
2. Aliu Abdullah, 2013, E Drejta Civile - Pjesa e përgjithshme, Prishtinë, fq.260.
3. Jashari Adnan, 2009,Subjektet e se drejtesafariste, Tetovë, fq. 79.

before the ARBK. The goal of registration is:
1.authorities supervise the society so they do not exercise the illegal activities;
2.including them in the taxation schemes;
3.defending the legal rights or beneficiaries of these societies and their creditors.[4].
A trade society could be established in Kosovo as the individual business, general co-partnership, limited co-partnership, society with limited responsibilities or shareholders society.
Apart of basic forms of organization of trade societies in the Agency of Registering Businesses there are registered also the branches of foreign societies in Kosovo[5].
Taking into the account the legal literature related to the classification of trade companies it is important to stress out that they are classified based in certain criteria: Trade societies of capital and Personal Special and Typical
Personal trade societies are characterized with personal attributes as recognition and trust between members, unlimited and solidary responsibility for the obligations of society, administration with the society by its members, existence of at least two founders, etc.[6].
Whereas trade societies of capital are characterized with the interest of capital, members are not responsible for the obligations of society in favor of third persons, shares are easily transmitted, management is done through the society organs, etc[7].
In Kosovo as the most spread form of businesses is the individual business where there are included small businesses with a small capital and with a small number of employees. Their registration form of these businesses is simple, meaning by filling in a form and handing it to the ARBK.
Apart of individual business a trade society could be founded also as a general co-partnership society which is considered established by delivering the signed document to the ARBK form the general co-partnership or the authorized person.
Related to the financial resources which can be ensured by the trade society, the resources are divided in the external financial resources and internal financial resources. In order to ensure external financial resources corporation uses the following ways: selling obligations, emiting shares, gating credits from banks[8].
If trade society is founded and registered to exercise one activity for what a license or permission is needed according to a normative act, the registration act of this trade society will not be considered as the authorization of this society to exercise the activity.
It is responsibility of trade association itself to apply and to get permission or adequate license from the respective public authorities before starting with the respective activity.[9]

Role of trade societies in the economy of Kosovo

The role of trade societies in ecnomy is very important because they play a role while using the production factors as well as production of goods and services. Thus their

4. https://uet.edu.al/images/doktoratura/Mehdi_Pallashniku.pdf.
5. Ligji nr.02/l-123për shoqëritë tregtare.
6. Jashari Adnan, 2009, Subjektet e sëdrejtësafariste, Tetovë, fq. 74.
7. Po aty, fq 75.
8. Grup autorësh, 2002, Hyrje në ekonomi, Tiranë, fq. 94.
9. Gill Michael J.D.,2012, Income Tax Law for Start-up Businesses, Britani e Madhe fq.24.

main role is what to produce and how and what they like indeed.
Trade societies use different production factors. This includes employment of employees to produce goods and services. By using job, firms pay salaries and thus create the flow of incomes for the families which at the end of the day could be spent by families for goods produced from various firms[10].
Firms will ask to use as much as possible their capital for benefits and the working force. This will include the development of new technology and working practices in order to improve the productivity in economy. Through requests of reducing costs and in order to invest with the new capital, it contributes in the higher productivity and at the end higher living standards. Without the process of innovations and investments, economies would be with slower living standards[11].
Trade societies are the product and the part of modern societies.Their function is based on individual economic planning that in the market economy compared to the centralized economy means implementation of special plans in every society.
Economic activity of trade societies in not independent from legal institutions. Provisions that determine activities of the society are parts of a series of legal institutions needed for proper functioning of the system. Determination of decision making competences regarding planning and the activities of economic development of trade societies (administration) and positioning of parties that ensure capitals (investors as the bidders of capital, creditors as bidders of debt) is regulated by the Law on Trade Societies[12].
Due to the spectacular collapses of some big corporations in USA and in Europe, during the last years the role of trade societies has become the object of a very big debate at the international level that as the consequence creation of continual regulatory conditions, "wellbeing of corporations" has become the magic formula of this phenomenon.[13].
Like all counties in the phase of development, our country is accompanied with the big problems regarding the economic development. Related to the role of trade societies in this regard we could say that they influence in an increase of a better economic development.
In general, national economy is considered sustainable if it is able to use human resources and capacities; capital and financial for generating the continual growth and for ensuring wellbeing of all of its citizens.[14].
Role of trade societies is very important, however only if used properly and effectively then it could ensure continual economic growth.

Impact of actual financial crisis in the trade societies and the economy

Current financial crisis is appearing slowly in our country and this influence directly trade societies and their role in the national economy even though trde societies are nt well developed, but nonetheless the economy is not shot down. Regarding the ways of communication of Kosovo economy to the other countries, especially with

10. https://www.economicshelp.org/blog/glossary/the-role-of-firms-in-the-economy/.
11. Ibid.
12. https://pubhtml5.com/qzcc/lvvk/basic.
13. Shih J. Dine, M. Koutsias, M. Blecher, "Company Law in the New Europe" ("Legjislacioni për shoqëritë tregtare në Evropën e re"), (Edward Elgar, 2006.
14. https://www.riinvestinstitute.org/uploads/files/2016/October/17/shqip1476703303.pdf.

those from the region we could say that they are numerous.
I the current period which we belong to it could be said that current crisis has flowed te entire glbe creating big concerns not only for trade societies but also to the people because in a way it has touched their privte lifes, by creating uncerntainty in the incomes and in the living standard people have.
Financial crisis brought a situation where the values of financial institutions or wealth falls very quickly. Financial crisis is often connected with panic or with a situation with banks where investors sell their property or withdraw money from their saving accounts waitingthe value of these properties to continue folling down if they continue to stay in that financial institution[15].
Getting credits from banks contains and big problem, itself. Bed credit crisis created an opinion that the reconstruction of companies is better than the bankruptcy but the word reconstruction doesn't mean that we talk about the division of company in several places, selling assets or both of them.[16].
Trade societies have taken a broader role in the crisis not only as owners of financial societies through preferential shares and orders but also as insurer or lender. Whereas these engagements have led to essential expenses, their possible field is very big indeed[17].
It is important to know to get out of the crisis without damaging hardly national economy by using good strategy, especially from state institutions.
Kriza financiare

Trade society as a legal person

Legal person is called a trade society that prefers to make business as a legal person and not as physic person; it drafts a statute of the society as an individual legal person or with the other individuals; and takes the responsibilities for obligations created during exercise of activities with all business properties[18].
Trade societies are the object of legal regulation of the law "for traders and trade societies" known as LSHT, which foresees the status of trader; founding and administration of trade society, the rights and duties of founders, co-partners and shareholders, re-organization and liquidation of trade societies.[19].
A society is a legal person formed from a group of individuals to involve and to manage a business – trade or industrial enterprise. A society could be organized in various ways with the taxation responsibility depending on the law on corporations of its jurisdiction[20].
Law on trade societies defines trade society as legal persons which are founded based on the founding acts from physic/legal persons with the aim of developing te determined business activity and gaining profit.
Trade societies in legal forms as: partnership societies –co-partnership, comandite societies, societies with limited responsibilities and shareholder companies. In

15. https://www.researchgate.net/publication/277578516_Historiku_i_Krizave_Ekonomike_dhe_Financiare_dhe_Trilema_Politike_e_Ekonomise_Boterore.
16. Directorate General for Economic and Financial Affairs, Assessing economic reform programmes in the Western Balkans and Turkey, 15 Jun 2015.
17. https://search.oecd.org/daf/fin/financial-markets/41942872.pdf.
18. https://www.tatime.gov.al/c/317/318/343/person-juridik-0-deri-ne-2-milion.
19. https://sites.google.com/site/juridikal/leksione/legjislacioni-kombeetar/moduli-iii.
20. https://www.investopedia.com/terms/c/company.asp.

addition to these forms, based ont special laws it is possible to be founded other forms of societies respectively enterprisses[21].
A society, esentially is an artificial person – known also as the corporation personality in that that is a seperated entity from the individual that posses, administer and supports its operations.
Trade societies usually are organized to gain profit from the business activity, even though some could structure as not for profit. Every one has its hierarchy of enterprise and corporate structure, however with a lots of similarities[22].
As it is for trade societies in Kosovo as a legal person, in the article 1 of the Law on Trade Societies the determination of types of the trade societies is done through which the economic activities could be developed.
Economi activities in Kosovo could be developed only from registered trade societies before the Agency for Registration of Businesses, if this is not regulated differently by the law[23].
In the article 6 of this law it is stressed that the trade society could be founded and registered with whatever goal and could exercise whatever economic activity which is not forbidden by the positive legislation.
If trade society is founded and registered to exercise economic activity for what a permission is to be given with the other law, registration of this trade society in the Agency of Registration of Businesses is not considered as an authorization for exercising economic activity. Trade society is itself responsible that after registration to identify, to apply and to get permission from the public authority for starting respective economic activity.[24]

Conclusions

The aim of economy is as bigger as possible profit which depend on market, whereas market we could say freely, depends on the trde societies and businesses. From this we can understand that the states has an important role and primare in the economy of a country. Therefore trade societies also play an iportant role in the economy of a country.According to the law on trade societies in ur country the trade society is union of several persons physic or judicial, where their goal is trade in a determined field, or in a firm where they function jointly.
Based in an analysis of comparison character we came to a conclusion that in the neighbouring countries they differ related to the law on trade societies. When we say we differ we think about the model based on which these laws have been drafted. Having a look at the neighbouring states as it is for trade economic scieties, they have drafted those according to the French model, wjereas Kosovo is based in the Austria-German model. However by passing the time, it doesn't mean that this law is not going to change in order to acomodate within the needs of the country.
As the priority of the Kosovo society is the easening of procedures which would help founding od trade societies and their registration. This meaans that we should work more in this direction so the doars are open and more facilities are in place so they

[21] https://www.researchgate.net/publication/301777144_Personaliteti_juridik_apo_biznesor_i_shoqerive_tregtare_ne_te_drejten_biznesore_kosovare.
[22] https://www.investopedia.com/terms/c/company.asp.
[23] Ligji nr. 02/l-123 për shoqëritë tregtare.
[24] https://gzk.rks-gov.net/actdetail.aspx?actid=2585.

have a more important role in the economy of country.
In order to have a better economic development of a country the acts of governent have a crucial role and simultaneously it is also important to have a bigger economic force as well as the consumer force.Exactly for this reason, above it was stressed out that the trade societies play an important role by which help the means of production are developed and the productivity as well. However in order to a society function as better in trade, in addition to implementation of rules of trade it is also important to implement legal rules for better inner functioning.
Finally, based on the literature and based on the praxis, we could say that the trade societies are a key element of economic development of a country.

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Some of the cult objects in Elbasan and its surrounding areas

PhD (C.) Nereida Omeri

Abstract

Elbasan has been and continues to be an important historical and cultural center. It is located in the heart of Albania and this reason has influenced this city to be closely associated with important events with a national impact. It is not a coincidence that the Congress of Education (1909), the opening of the Normal School (1909), and the active participation of the Elbasan patriots for the Declaration of Independence (1912) all took place in the Congress of Lushnja (1920). The people of Elbasan have also made a great contribution to the nationalization of the Albanian church (1922) and the Albanian mosque (1923). They mainly belonged to the Sunni and Bektashi branches of Islam, who were the majority in the city, compared to the Orthodox religion. The presence of various religious beliefs has not been an obstacle for religious harmony and coexistence between them. This is best shown by the presence of cult objects next to each other in the "Kala" neighborhood; the King Mosque and the Church of St. Mary. Elbasan is rich with a large number of cult objects: mosques, churches and tekkes. In this paper there will be discussed some of the most famous places of worship in Elbasan and its surrounding areas, such as: King Mosque, the church of St. Mary, the monastery of St. John Vladimir, the Great Tekke, etc. which are famous not only for their religious activities, but also for patriotic activities, as it is worth mentioning that many clerics of Elbasan have played an important role not only as representatives of the religious hierarchy, but also as patriots who helped to spread the Albanian language , the opening of the first schools, the Declaration of Independence, and the autocephaly of religious institutions by foreigners which means for their nationalization. There can be mentioned: Sheh Hysen Sulova, Haxhi hafez Sulejman Kungulli, Deputy Metropolitan Dhimiter Dhimitruka, Visarion Xhuvani, Hoxha Fejzulla Guranjaku, Sheikh Ibrahim Guma, Hoxha Musa Basha and there are many others who are remembered with respect by the people of Elbasan belonging to different religions.

Keywords: Cult Objects, Church, Mosque, Tekke, Autocephaly.

Introduction

Elbasan is known for the great material cultural heritage that it possesses, a good part of which is preserved from the distant past. This makes this place to be identified for its many cultural, historical, artistic and religious values. Worship sites are also important and of special value in this city. They constitute one of the most important elements of the material cultural heritage, as they have got not only spiritual values related to the belief in God, but also extraordinary architectural, artistic and historical values. According to Teki Selenica, the following was the condition of the cult objects in the '20s of the XX-century[1]:

Subdis-trict.	Nr. Of Mosques	Ma-drasah	Imam	Tekke	Father	Sheh	Dervish	Cherches		Mitropolit	Archbishop	Priest	Monas-teries
								Or-thod.	cath-olic				

1. Teki Selenica, *Shqipëria në vitin 1927* , Tiranë: Shtypshkronja "Tirana", 1928, f. 268.

Elbasan	117	1	148	14	4	2	9	16				10	1
Peqin	19	1	26	1									
Gramsh	36		22	2	2	1	3	1				1	
Shuma	172	2	196	17	6	3	12	17				11	1

According to Lef Nosi in the 1930s. Elbasan had a total of 31 mosques, some of which were: Xhamia Mbret, Xhamia e Kullës, Xhamia e Sufionës, Xhamia e Hamamit, Xhamia e Adil Beut, Xhamia e Ballies, Xhamia e Pazarit, Xhamia e Agait, Xhamia e Idrait, Xhamia e Tabakëve, Xhamia e Hasan Pashës, Xhamia e Nazireshës, Xhamia e Namazgjaut, Xhamia e Çaushliës, Xhamia e Pashës, Xhamia e Sulejmanies etc.[2] The scholar Shyqyri Demiri mentions even their locations, such as: Xhamia e Sufionës was located northwest of the Castle Gate, Xhamia e Adil Beut was located near Kristoforidhi school, Xhamia e Nazireshës was located near Shkumbin river (today it is Cultural Monument), Xhamia e Pazarit (Çaushve) was located in Bezistan, Xhamia e Idrait was located in the old market, Xhamia e Hasan Pashës was located in Alejdine neighborhood, and Xhamia e Kalendaries was located near the main Library, etc.[3]
According to the priest of the Church of Shën Mëri, Father Nikola Marku, the following are some of the churches of Elbasan: Kisha Shën Marisë, Kisha Shën Kollit, Kisha Shën Joan Vladimirit (Shijon village, Elbasan), Kisha Shën Sotiri (Zavalinë village, Elbasan), Kisha e fshatit Gjinar (Elbasan), Shën Dhimitri (Fikas village), Shën Dhimitër (Shelcan village), Shën Marena (Mlizë village) etc.[4] There can be mentioned other well-known churches, such as: Kisha e Shën Thanasit, an orthodox church built on the northern edge of the city of Elbasan, in 1846. It served for the funeral ceremonies of the Orthodox population of the "Kala" neighborhood[5], Kisha e Shënepremtes, in Valësh (1554), a village in the southeast of the city of Elbasan, in the Highland of "Shpati", where there are preserved some of the most important paintings of Onufri, ,[6] Kisha e Shën Kollit, Shelcan (before 1554), a village in the Highland of "Shpati", Kisha e Shën Kollit, Valesh (1604), Kisha e Mamëlit (XVII century, today still remains its bell tower), a village near the city of Elbasan, etc.[7]
Elbasan also had many Bektashi believers and as a result many Bektashi cult buildings. The first tekke in Elbasan is thought to have been founded by Xhefai Ibrahim Babai, at the end of the XVII.[8] century. Some of the most famous tekkes in Elbasan are: Teqja e Madhe, Teqja e baba Hamidit, Teqja e Baba Xhemalit etc.[9]
Some of these religious and cultural monuments are appreciated not only by the

2. Arkivi Digjital i Elbasanit(*ADE*), *Lista e Xhamive të Elbasanit në vitin 1930*, Google internet, https:// elbasaniad.org./, artikull i publikuar, më 7 qershor 2018.

3. Shyqyri Demiri, *Histori e shkurtër e trevës së Elbasanit (nga Neoliti deri më 1939),* Tiranë: Medaur, 2006, f. 54.

4. At Nikolla Marku, *Dorëshkrim për krishtërimin dhe ortodoksinë*, i përgatitur nga prifti i famullisë së Kishës së Shën Mërisë në Elbasan, Elbasan:10 qershor, 2000, f. 9- 10. (marrë nga arsimtari Albert Gjini).

5. Kujtim Bevapi, "*Antropologjia e besimeve fetare në qytetin e Elbasanit dhe krahinat e tij*", Tiranë: Onufri, 2020, f.34.

6. *Elbasani - Trashëgimia dhe e sotmja e një qyteti shqiptar,* Tiranë: Shtëpia botuese "Mësonjëtorja e parë",Dhoma e Tregtisë dhe e Industrisë e Rrethit të Elbasanit, 1999, f.74.

7. *Elbasani Enciklopedi*, Elbasan: Sejko, 2003, f. 287-289.

8. Zhuljeta Kadilli Daja, *Elbasani në vitet 1892-1908 sipas regjistrave osmane,*Tiranë: Morava, 2014, f. 232-233.

9. *Elbasani Enciklopedi*, Elbasan: Sejko, 2003, f. 282-283.

inhabitants of Elbasan, but also by visitors. They have become of national importance for the values they carry. Even foreign tourists are very interested in them. Elbasan is often visited by tourists who give their impressions about them.

Cult objects in Elbasan

One of the most prominent monuments of cult objects in Elbasan is Xhamia Mbret which is located in the "Kala" neighborhood of the city of Elbasan. This building belongs to the XV century. It was built around 1492 and it is the second mosque which was built, because before it, there was built another mosque known as the earliest mosque in Elbasan, but also in Albania. It was called xhamia e sulltan Fatihut, which was built in 1466 in the castle of the city, near the entrance tower, (in the center of the city) by Sultan Mehmed II. During this time many works were undertaken for the restoration and the building of the surrounding walls of castle. [10] (This mosque existed until 1920, when it collapsed as a result of a strong earthquake). In terms of construction style, Xhamia e Mbretit matches all other mosques built in Albania by Sultan Bayezid II, at the end of the XV century, which are considered "mbretërore" (royal). There can be mentioned the mosques in: Përmet, Berat, Gjirokastër, Shkodër.[11] According to Evlija Çelebi, a well-known Turkish scholar and writer, who visited Elbasan at the end of the XVII century (1670), this mosque was known as Xhamia e Gazi Sinan Pashës.[12] According to Alex Vin, this mosque was considered as a church by older Christians. It was called by them as Kisha e Shën Sofisë and was the most beautiful church in the city of Elbasan. It was the first church of the city. They claimed that it was also the Cathedral of the city. [13] This is also confirmed by Nikola Marku in his manuscript, stating that there are some opinions that inside the walls of the castle, even before the restoration by Sultan Fatih, around the year 1450, it is thought that in the heart of the Kala neighborhood was built the earliest cathedral of the Christian cult where later the Turkish invaders built Xhamia Mbret. [14]
Alex Vin thinks that this mosque was called "Xhamia Mbret" because when Sultan Murat conquered this city for the first time, he prayed there. [15] Xhamia Mbret consists of a prayer hall, a porch and a minaret. [16] It is covered with wooden roof. [17]
There can be found the same architectural style when these buildings are compared with the Ottoman-Turkish buildings of this kind built in the countries of origin but there are changes in the architectural implementation.
Another important cult object in Elbasan is Kisha e Shën Marisë (XVII century), which is located in the Kala neighborhood. It was originally built from wood.[18] On

10. *Ibid,* f. 646.
11. *Ibid*.
12. Arkivi Digjital i Elbasanit, https://elbasaniad.org/xhamia-mbret-ne-kala-te-elbasanit/, Prof. Dr. Aleksandër Meksi, artikulli "Xhamia Mbret në kala të Elbasanit", publikuar, më 05.06.2017.
13. Arkivi i Insitutit të Historisë, (AIH) Tiranë, Aleks Vini "ELbasani", A-V-71, fl. 41.
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November 11, 1819, the church burned down completely. In the period between 1826-1833, the works for its reconstruction began and were fully completed.[19] It was rebuilt larger than before. The main inscription on this new cathedral mentions the bishop of Durrës, Krisianth Karamanlis from Madhiti, Greece. Karamanlis usually stayed in Elbasan. He was one of the most prominent musicians in the history of Byzantine music and taught the orthodox youth of the Kala neighborhood.[20] This church is of great interest regarding the construction, planimetry, and volume. The church is built from stone and brick. Its uniqueness is found in the iconostasis carved by 40 Dibran masters, who worked for about ten years. It is painted with gold varnish. It is distinguished for its architectural values.[21] At the iconostasis the yellow lacquer was mixed with gold water which gave it a very decorative look. The dome of the church of Shën Maria was painted in 1859. This church was considered a monument of the Christian cult for the Romano-Byzantine rituals. It is worth to be mentioned "Kapela" or "Pagëzimorja" which today is located next to the the "Shën Maria" church in the Kala neighborhood of Elbasan and is thought to be one of the earliest evidence of the practice of Christian rituals within the castle. The fact that the two Christian cult buildings were not built on equal levels, shows that in the conditions of the construction of each of them must have been specific differences.[22] Kisha e Kalasë (the church in the castle) also had a basement with entrance from the outside, facing south. This basement was called by a Greek word "qimitër".
Boxes containing the remains of the dead and their names were brought to the basement. This was done at a time when there was no cemetery.[23] Kisha e Kalasë (the Church of the Castle) in Elbasan owned 2000 olive trees, 4 shops, 2 oil mills, 2 houses, and 2 schools, one for boys and one for girls. This property was a gift given by the people of Elbasan and the church used it for the church administration and helped the poor, orphaned children and people who had gone bankrupt. This property was administered by the inhabitants of the castle themselves Neither the metropolitan of Durrës nor the bishop had the right to hold the castle leaders accountable for the administration of this property.[24] The most mentioned clergymen of this church were V. Xhuvani, Dh. Dhimitruka, V. Deliana, whom the Greek patriarchate excommunicated and anathematized for preaching the gospel in Albanian, translated by K. Kristoforidhi.[25]
Father Venemin Deliana was also the deputy metropolitan of this church. He was a member of the council of the patriotic club "Bashkimi i Ri" in Elbasan since 1910. He also participated in the ceremony organized by the "Normale" School, on the occasion of the completion of exams in the school year 1910.[26] In this church there was celebrated Shën Mëria festival every 8th of September. It was the centuries-old

Tiranë: Onufri, 2020, f.33.

19. *Elbasani Enciklopedi*, Elbasan: Sejko 2003, f. 288-289.

20. Shyqyri Demiri, *Histori e shkurtër e trevës së Elbasanit (nga Neoliti deri më 1939),* Tiranë: Medaur,2006, f. 70.

21. *Elbasani Enciklopedi*, Elbasan: Sejko 2003, f. 288-289.

22. At Nikolla Marku, *Dorëshkrim për krishtërimin dhe ortodoksinë*, i përgatitur nga prifti i famullisë së Kishës së Shën Mërisë në Elbasan, Elbasan, 10 qershor 2000, f. 8. (marrë nga arsimtari Albert Gjini).

23. Aleks Vini, *Traditat zakonore në qytetin e Elbasanit,* Elbasan: "Rama Graf", Drejtoria e Trashëgimisë Kulturore, 2008, f .302.

24. *Po aty.*

25. Elbasani Enciklopedi, Elbasan: 2003, Sejko, f. 288-289.

26. Kujtim Bevapi, "*Antropologjia e besimeve fetare në qytetin e Elbasanit dhe krahinat e tij*", Tiranë: Onufri, 2020, f. 120.

celebration of the Castle Monastery even before Ottoman rule. It remained the same after the destruction of the Monastery by the Ottomans. The choirs of the Church in the castle were generally the inhabitants of the castle, but the most important participants were: Din Monçi, Vasil Papajani, Kole Papajani, Mim Bibaja. After them were: Laz Papajani, Met'he Papajani, Las Monçi, Dhimitër Paparisto. They were volunteers who served in the choir of the church during festivals. After they retired, there were hired the folowwing paid choirs : Dhadamir Gjini, Vasil Andoni, Taq Deliana. [27]

Monastery of Shën Gjon *Vladimirit*

Monastery of Shën Gjonit is located near Egnatia road, in one of its branches leading to Petrela. [28] This monastery is built in the village of Shijon near the city of Elbasan. It was rebuilt by Karl Topia in the 15th century, on the ruins of an older building and it was built 4 times larger than the first building. On the door of the monastery there was found the emblem of Karl Topia and three inscriptions: in Latin, Greek and Slavic. There, it was written that Karl Topia, king of the Albanians, built the monastery for his glory. This monastery is one of the largest ecclesiastical cultural centers in Albania. It survived until 1944, when it burned down and now there remains only the walls.

It is a very important historical monument for the Albanian Middle Ages. There was a large library, which was lost, as well as an excellent collection of icons, some of which are still preserved. On the walls there are some sculptures and ornaments earlier than the 14th century. The carved portal of the monastery has been removed and was placed in the National Historical Museum.[29] After the destruction of the Voskopoja Academy, to escape persecution, many scholars found refuge in the monastery of Gjon Vladimir. The monastery became a center where many translations were made, through which the Albanian language was cultivated. This fact is confirmed by the numerous manuscripts that have been found in the monastery. Elbasan at that time was the residence of the Metropolitan of Durres, so the monastery of Gjon Vladimir became the place where Albanian writings found a suitable place, as there used to work and live important personalities of the time, such as: Papa Totasi, Dhaskal Todri, Monsignor Visarion Xhuvani etc. [30] Under the auspices of the monastery it was made possible to publish the first book about Elbasan, "Akoluthi", in 1690, in Venedik. The Russian consul of the monastery (city) came to Shengjon in 1900 and received there a valuable book, where all the donors of the monastery were registered, among them Skanderbeg. [31]

The name of the monastery comes from saint GJON VLADIMIRI, (XI century), who was the prince of Diocletian, in Montenegro. It is thought to be of Slavic origin. Gjon Vladimir married the daughter of the Bulgarian king Samuin. Her name was Kosara. He refused to consummate the marriage and remained a virgin. He was later killed by the Samuins near Lake Prespa. [32] Kosara took his body and buried it in the Church of Shën Mëri in Kraja, in Montenegro. After that begins the sanctification of Gjon Vladimir in

27. *Po aty,* f .303-304.
28. Aleks Vini, "*Traditat zakonore në qytetin e Elbasanit,*"Elbasan: "Rama Graf", Drejtoria e Trashëgimisë Kulturore, 2008, f. 348.
29. *Elbasani Enciklopedi*, Elbasan: Sejko, 2003, f. 364.
30. Andrea Llukani, "Manastiri i Gjon Vladimirit, qendër e rëndësishme për shkrimet shqipe", në *Albanon*, nr.1, janar-mars, viti 2019, Elbasan: Shtëpia botuese "dy Lindje & dy Perëndime", 2019, f. 78.
31. Kreshnik Belegu, Ortenca Dakli "SKAMPIS (Elbasani) Romako-Bizantin", fq.26.
32. *Elbasani Enciklopedi*, Elbasan: Sejko, 2003, f. 232.

Albania.[33] Mihal Komneni, exhumed and brought his remains to Durrës.[34] It was then taken by Karl Topia and finally brought it to the Orthodox monastery near Elbasan, in 1381despite the fact that Karl Topia himslef was a Catholic. It is still preserved.[35]
Every June 4, rituals are held in this monastery with participation not only from the inhabitants of Elbasan, but also beyond. This tradition still continues today, every June 4th. (I was lucky enough to experience these rituals myself, as my mother is an Orthodox from the village of Shijon.)
The monastery of Gjon Vladimir was ruled for centuries by the rulers of the Kala neighborhood. It was like a holiday camp for the residents of the Kala neighborhood and all boys, men and women used to go there during the winter and summer season.[36] The last hierarch to live in the monastery after a lot of suffering was Visarion Xhuvani. Until 1967 the monastery was, perhaps, the most visited religious center, with extraordinary values for its architecture, art, icons, and especially for the ecclesiastical and historical literature that it owned.[37] This monastery still continues to preserve special cultural-artistic values and it is visited by many Albanian and non-Albanian Orthodox believers, particularly every June 4th.

The Great Tekke

It was founded by His Holiness, Gjysh Mustafa Fakri Babai in 1803. It is located in the north of the city, on a beautiful hill, near the national road linking Elbasan and Korça (on the left). It was built in a place that was called "Ledhja e Madhe".
The two main founders are known as saints, Baba Fakri and Xhefai. Fakri belongs to the Timurid tribe which today is called Hajrullahu, while the Xhefai is from the Haskaj tribe that existed even in the late twentieth century[38].
This tekke was run by some well-known tribes in Elbasan, such as: Balza, Ekmekçiu and especially by the Dedei family. In the years between 1874-1962 there were five members from the Dedei family who managed and rebuilt the Great Tekke.[39] The materials for this tekke were a gift by Ali Pasha Tepelena. Baba Shemimi managed its construction.[40] When Sultan Mahmut II defeated the Janissary army in 1826, the government of that time, using as an excuse the fact that some heads of the Janissary were Bektashi, decided to close of all Bektashi institutions operating in the Ottoman Empire. The tekke of Baba Fakri and Xhefai was closed by the government in 1826, 23 years after it was founded. It was completely destroyed and its property was confiscated and sold to the inhabitants of the city.[41] In 1862, the Great Tekke was reopened on the same place and in the ruins of the previous tekke. Fatih Hysen

33. *Ibid.*
34. Aleks Vini, *Traditat zakonore në qytetin e Elbasanit,* Elbasan: "Rama Graf, Drejtoria e Trashëgimisë Kulturore, 2008, f. 348.
35. *Elbasani Enciklopedi,* Elbasan: Sejko, 2003, f. 232.
36. Aleks Vini, *Traditat zakonore në qytetin e Elbasanit,* Elbasan: "Rama Graf", Drejtoria e Trashëgimisë Kulturore, 2008, f. 346-347.
37. Kreshnik Belegu, Ortenca Dakli, *"SKAMPIS (Elbasani) Romako-Bizantin*, Elbasan: Bashkia Elbasan, (vit botimi nuk ka), f. 26.
38. *Elbasani Enciklopedi*, Elbasan: Sejko, 2003, f.583.
39. *Ibid.*
40. Ahmet Mehmeti, "*Sulejman Pashë Vërlaci (Elbasani) figurë e ndritur kulturore kombëtare*", *në Albanon*, nr.1, Elbasan: Shtëpia botuese "dy Lindje & dy Perëndime", 2019, f. 1-8.
41. Gjysh Qazim Dedej, *Fillimet e bektashizmit në Shqipëri dhe në Elbasan*, Elbasan: Egnatia, 1997, f. 30-31.

baba Duhanxhiu and Qefshi Mustafa baba Baltzës are considered as the second founders of this institute. In 1914 this building was burnt down by the supporters of Haxhi Qamil as it was considered a cradle of national activity. [42] According to Alex Vin, "The Great Bektashi Tekke used to have wild pigeons. In 1914, when the Great Tekke was looted and burned by rebels, the wild pigeons were harmed." [43] The third construction of this institution was done in 1916 by Baba Ahmet Dedej, who adopted a grass warehouse as the tekke. It was located north of the Elbasan-Korca highway near the current bus parking. This building collapsed a few years ago (although in 1963 it was declared a cultural monument protected by the state). [44] Like other Bektashi institutions, the "Great Tekke" in Elbasan has been a prominent center of patriotic activity. Myhibë (members) of the Great Tekke have been prominent patriots of Elbasan, such as: Aqif Pashë Elbasani (Biçakçiu), Muç Shqiptari and others. [45] Until 1967, 12 Baba served in this tekke. For the patriotic, cultural and spiritual activity that occurred there it was called "The Great Tekke".

Conclusions

• Elbasan and its surrounding areas have a very rich heritage of religious culture. This heritage proves that in this city most of the inhabitants belong to the Muslim faith: the Sunnis and Bektashis. There also exist Christian Orthodox belivers.

Religious coexistence between these communities has been impressive and this is evident in the cult objects that have been often built next to each other. They celebrated together the relogious festivals and wished the best for the people of other religions. In Elbasan religious tolerance has been significant among different religious communities.

Cult buildings in Elbasan are important not only for their religious, architectural, historical and artistic values, but also for their national identity. The Albanian language was written and spread by clerics who were not only religious, but also patriots. The clergy often became part of movements for freedom and independence, and as a result some cult objects were burned and destroyed.

The cult objects in Elbasan due to their important values have also influenced the development of cultural tourism, as this city is often visited by foreign tourists and the number of tourists is always growing.

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Is multiculturalism a solution for nowadays society?

Blerina Fusha

Abstract

The European agenda is more and more being affected by the immigration discourses, and more and more European leaders in their speeches are confirming the problematic of the so called multiculturalism society and rethinking the new ways of integration and assimilation of immigrant crossing borders. This article will analyze the failure of the multiculturalism society in Europe , the rise of nationalism, re-emergence of the power of nationalism as the most value of European states. It will go throw a definition of multiculturalism, to the experiments of multiculturalism in some European states and analyzing the failures of this new political approach. The failure of multiculturalism showed that the nationalist roots in Europe are very deep, cultivated and inherited from generation to generation with fanaticism and are very important to the European people

Keywords: multiculturalism, Europe, immigrant.

Introduction

One of the most important phenomena that is appearing and being noticed these days is the triumph and re-emergence of the power of nationalism, as a great and important force that keeps a nation alive. The emergence of nationalism or more precisely the reconfirmation of its force and its influence is one of the key aspects that is emerging and being widely discussed today at the national and international level. Nationalism is a value, a feeling which has always been present and has the main, primary role in the legitimacy of a people, of a nation. Its irreplaceable role has never been questioned but it has often been thought that it would fade away, or rather it is intended that this influence be reduced or replaced by some new values invented from the time of modernity. So, when we say a re-emergence of nationalism we do not have in mind that it had disappeared or was erased as a phenomenon, but we simply have a reappearance of the stronger and more influential type, because nationalism has always been and will always be an irreplaceable indicator for the nation and the state.

Many attempts have been made nowadays to reduce the impact of nationalism by labeling it as a phenomenon, which brought about deep divisions between states and peoples, thus causing conflicts, hostility and strongly influencing the deterioration of the welfare of countries. Thus, the concept of nationalism tried to be replaced by new terminologies such as multiculturalism or globalism, the unification of cultures. These two phenomena will be part of the analysis of this essay to show once again that both multiculturalism and the homogenization or cultural unification of European countries under the pact of the European Union will fail, thus bringing a triumph of nationalism.In recent years, the influence of anti-immigration political discourse and policies in a postracial Europe has increased (Sayyid 2017).

These experiments of multiculturalism were carried out in many countries such as Germany, France, United Kingdom and on globalization and homogenization of

identity as a typical example was the European Union itself, which took on the great burden of securing triumph without the return of globalization and the erasure of changes that were defined by nationalism. We are often reminded that the globe we live in is getting smaller and more integrated. All over the world humanity is tied to the wheel of automated technology and surrounded by a forest of mass communications. In short, our world has become a single place (Smith, 2008 p 12).

Toward a multiculturalism definition

First let us analyze multiculturalism. Proponents of multiculturalism usually present two types of arguments in its favor. First, they claim that multiculturalism is the only means to ensure a tolerant and democratic politics in a world in which there are deep conflicts between cultures embodied in different values. This argument is often linked to the claim that the attempt to create universal norms inevitably leads to racism and tyranny. Second, they suggest that human beings have an almost biological basis, the need to attach cultural files, as a perfect opportunity for solidarity between them. Multiculturalism has been used as an umbrella term to describe diverse concepts, and thus its meaning can change in accordance with the context. It can refer to the demographic structure of a society, the notion of cultural diversity, the policy of managing immigration, a pedagogical concept, an ideology, or even a management style (Gingrich 2003)

Multiculturalism is a system of beliefs and behaviors that recognizes and respects the presence of all diverse groups in an organization or society, acknowledges and values their socio-cultural differences, and encourages and enables their continued contribution within an inclusive cultural context which empowers all within the organization or society (C. Rosado, 1996 p 2)

This is how the world is defined today. Also, the undertaken policies, especially those of liberal multiculturalism which is defined as a phenomenon, which states should not only consider family connections to create civil, political and social laws, civil rights protected by all the Constitutions of liberal western countries, but also the protection of certain rights for certain specific groups who aim to recognize their identity diversity and aspire to an intercultural group.(Kymlicka, 2007, p3)"It's good to be different" may be the motto of our time. Celebrating change, respect for pluralism, affirmation of identity politics - these are the hallmarks of being considered a progressive, anti-racist view. Thus these two terms multiculturalism and a homogenization of all identities as claimed in the European Union are two phenomena that are trying to bring out the ancient national identity and nationalism. In this new world, local politics is the politics of ethnicity ;global politics is the politics of civilizations. The rivalry of the superpowers is replaced by the clash of civilizations" (Huntingdon 1998, 28).

If we were to start analyzing so-called liberal multiculturalism, not as a concept because we have already given it a definition, but as a practicable policy, we will see that the problems that will be encountered will be big and this will be precisely the need and this lukewarm desire for multiculturalism that will influence the even stronger resurgence of nationalism.

European problem on multiculturalism

So very soon we would see and read through the pages of the most important newspapers in Germany, Great Britain, France, articles that clearly wrote the statements of the leaders of these countries that Multiculturalism is dead. So initially it would be David Cameron, the British Prime Minister who would come out at a conference and make it clear that this policy was not working.

Prime Minister David Cameron arguing for a more active policy to heal divisions and promote Western values. Cameron, in a speech at a security conference in Munich, will argue that Britain and other European countries should"wake up to what is happening in our countries",as well as tackling terrorism through military operations overseas. "It's time to turn the page on failed policies of the past," he means, according to excerpts from his speech issued by his office

After Cameron's statements, another statement comes from the Chancellor of the Federal Republic of Germany, Angela Merkel, who says that multiculturalism has also failed in Germany.

There is also a study on immigration in Germany and the large number of different cultural groups in Germany, conducted by the German Parliament, which gives concrete emigration figures and clearly describes the measures taken by the German government to become part of German society. According to the report of the German parliament, 15.6 million foreigners live in Germany and make up 1/5 of the country's population compared to 8.3 million Germans living in the Federal Republic of Germany. This means that the German government will be more active in the measures it will take from the large emigration in the country.(Deutscher Bundestag, 2014)

French President Nicolas Sarkozy said that multiculturalism had failed, joining a growing number of world leaders or former leaders who have condemned it. The French leader said that while it is important to respect cultural differences, France should be a country with a national community - not a place where different cultural communities just coexist

The problem was also seen in the use of headscarves by Muslim immigrants in European countries, emphasizing once again the fact that accepting the cultural mosaic in Europe is quite difficult and almost impossible to accomplish. There is growing rigidity regarding Islamic religious practices among Europeans.In England, the issue has become public veil and many people push towards a legislation in order to ban the use of the veil in public places or government bodies.In the Netherlands, the most restrictive law contrary to the law is being discussed and if passed, the veil will become illegal in the public sphere.In Belgium, Germany and Switzerland, the veil is increasingly seen as a sign of rejection of citizenship and in many German Lands and Switzerland, teachers cannot wear a scarf at school.There is a dubious attitude on the part of many politicians that is a consequence of the rigidity of European societies "growing towards Islamic identity. The two main countries where multicultural politics are part of government policy, the United Kingdom and the Netherlands, have been asked that question in many different aspects of it. In public opinion, the so-called issue of Islamic fundamentalism is becoming one of the most pressing topics debated in Europe.

But each case expressed above, indeed, what will happen will prove the opposite,

because it is precisely these modernist enterprises that will instead bring about a powerful reaffirmation of nationalism and identity as a fundamental component of every nation and an essential legitimizer of every state, every government.
Nationalism not only is not dead, it has not been replaced, erased or forgotten but on the contrary it is always present there and with a great and extremely important influence. Thus, with these statements we will see clearly that the idea of accepting multiculturalism as a modernist idea that unites all different identities, accepts their peculiarities and that together in diversity we will bring development, was a failure. When this initiative was undertaken, or this new pioneering policy was thought to bring about an increase in the welfare of the country, would increase the security of the country, bring about a genuine economy of the state, would bring solidarity between peoples and policies that would bring about the alleviation of racism. Multiculturalism has its problems when it comes to the flourishing and cultural rights of minorities within a country and finding the optimal ratio, of the flourishing of particular cultures and the difficulties of defining the cultural identity of a country. Multiculturalism, as a feature of modern society, would inevitably affect some orienting points of modern man and old society, replacing them with the new values of civil society, which aims to "break down the old conceptual, ideological and cultural barriers", the movement of taboos and socio-political signs, which have been negative and indicative of forbidden areas, in which one could not interfere with different cultural identities. Undoubtedly, we would not be realistic if we did not identify as the first constant of today's debate, the one according to which multiculturalism is indeed an essential feature of civil society, but at the same time, it undermines the national identity of a people. This tendency to appreciate the multicultural character of today's society, as a violation of the national identity of peoples, has appeared everywhere.
When Chancellor Merkel declared that multiculturalism in Germany had practically failed as an idea, or when President Sarkozy launched a fierce expulsion campaign against the Roma, the law against headscarves in schools or public places, Camerpn's condemnation of state multiculturalism was all openly expressed in the opposition immediately found an understanding and a broad form of legitimacy from the people and it was as if the people themselves agreed with these statements.In the same vein, we can see an increase in the percentage of votes for the far right across Europe, from the Netherlands to the Jobbik party in Hungary or the votes for Le Penn party in France, already led by her daughter. The rhetoric of the far right in general is based mainly on anti-immigration discourse, often combined with racist calls for the Other in society, as a source of social wounds for the crisis the country is going through.The myth that immigrants 'steal' local jobs, so there is rising unemployment or that they are the main cause of crime are also among the most prevalent in the vast majority of European countries, although all the empirical data and studies that have been conducted in this direction, reject them.
When multiculturalists talk about equality in the development of different cultures, what is really evident in this equal development is the demand for equal recognition; however, it contradicts the claim that cultures are proportional. To treat different cultures in relation to equality (actually to treat them with all sorts of respect at all) we need to be able to compare them to each other.If values are proportional; such comparisons are not easy to compare. The principle of change cannot provide all

the standards that compel us to respect the "difference" of others. The idea of the equality of cultures (as opposed to the equality of human beings) denies one of the critical features of human life and human history: our capacity for social, moral and technological progress. The irony of multiculturalism is that, as a political process, it undermines what is valuable in relation to cultural diversity. Diversity is important, not in itself, but because it allows us to broaden our horizons, compare and contrast different values, beliefs and lifestyles, and make judgments about them. In other words, because it allows us to engage in political dialogue and debate that can help you create more universal values and beliefs, as well as a collective language of citizenship. But it is precisely such dialogue and debate, as well as making these judgments, that contemporary multiculturalism attempts to suppress in the name of "tolerance" and "respect".

Cultural similarity becomes the necessary and at the same time sufficient condition that legitimizes the belonging of the members: only the members of the right culture can be united in this unit and all of them must be united in it (Gellner, 2002, p 14). So, as Gellnerr puts it, culture is one of the main aspects that shapes nationalism and makes peoples who belong to the same culture feel the same and unite to protect this culture by forming state instances. Therefore, the non-acceptance of the equality of their cultures with other cultures imported by immigrants in their countries expresses better that their nationalization does not allow this fading of their culture, as the only one that is of primary importance to them. Thus, this phenomenon which would be not only unaccepted by the people of the various states but would also be declared dead because it would not find the right support, would not be accepted and would be punished as one of the greatest wrongdoers. of the much-desired nationalism of states.

The second phenomenon that was mentioned is the unification of cultural changes under the European Union project as a step that would bring success to this great enterprise that started as an economic union, then political and finally cultural and identity. The idea of creating an organization that would bask European countries under an umbrella of common institutions was an idea which was called the savior of the image of Europe which after two world wars had been labeled as a weak power and was being left behind from the USA, which was once again reconfirming itself as the winner and dominator of the world. They argue their thesis in the argument that in this way Europe will return to its former position as a "great power" on the world stage, on the same level as the US, Japan and possibly even Russia, and that through in this union, the peoples of Europe will enjoy unrivaled prosperity within their borders through tariffs, free trade and the internal market of goods and labor (Smith, 2008 p 135).

First, we will have an economic union and then the political one and finally we are looking to have a cultural union and now we are trying to have a European identity. All different, all equal, the European slogan which would mean an opportunity for the unification of cultures and respect for each different culture to create a homogeneous and common culture where every citizen of a united Europe would feel first European then German, French or British.Thus, this desire to create an identity, initiated and promoted by the ruling elite, by the EU institutions is another phenomenon that will bring about the strengthening of the idea of nationalism and national identity.

European identity has been formed as a result of the accumulation of long-lasting wars, bloody revolutions, religious-political pressures, enlightenment and industrialization. European states do not act as unified members of a coalition. On the contrary, they defend their national interests and act as autonomous nation states. This means that when a security problem arises, those states will look for hegemonic power not the economic prosperity of union and multiculturalism. "There is no such thing as a European civilization that is separate from all the peoples of Europe and is unique to them - a civilization that marks 'us' from the rest of the world." Although cultural exchanges are the reality of the EU"(Armesto 2002, p 10). Armesto states that, forces, which have made Europe an arena of competing cultures and not a single civilization, and they have been cultivated, by peoples on the borders of Europe, with neighbors abroad, with a kind of centrifugal effect. Common historical experience is a dangerous background on which to appeal: its effect is generally divisive. In such an environment where cultural differences become sensitive phenomena involving many meanings and multiculturalism becomes an important international dynamic; the European Union strategy to stay as an exclusive club creates controversy

Even at the most superficial, bureaucratic level, European pessimists consider the possibilities of European Union far away and note that the growing wave of ethnic nationalism will further delay the European project. This means that although the ideas and institutions of the EU are and function well like other state institutions, their role is limited only there, in that aspect in the legislative, administrative aspect, but this does not give them the opportunity to create a common identity union for all Europeans who are labeled European Union.

There is often a tacit assumption that federalism brings a certain degree of cultural compatibility at least in terms of identity and inclusive European community, which in itself sums up existing national identities. This means confusing politics with culture, although they may be closely related in special cases, at these levels they must be kept separate from each other. So, the functioning of the EU as a federation does not give it the possibility of inclusive identity of the people under the same identification so-called European identity.

Nor does economic and monetary union impose the loss of a people's culture and heritage. After all, the Walloons and the Flemings, the Scots and the English, the Basketballs and the Castilians are allied in economic and political unions but none of these ethnicities and nations have lost any of their cultural features. Consequently, we cannot imagine a European economic and political union or a European federation abolishing or eroding the deeply rooted historical and diverse identities and cultures of the peoples of Europe (Smith, 2008 p 139).

What does Europe lack to be identified as a whole?

What does Europe lack to be identified as a whole? In the era after Copenhagen, the EU seemed like a divided entity which deals with severe identity crises. Armesto asks the crucial question: is there any such thing named European civilization? According to him, "there is no such thing as a European civilization that is shared by all the peoples of Europe and is unique to them – a civilization that marks 'us' out from the rest of the world "(Armesto 2002, p 13). It lacks common traditions, it lacks a unifying language, it lacks the same values, it lacks the unifying symbols,

it lacks the same religious identity, even though we say that Europe in general is Christian, we do not forget the fact that this religion also has many branches, have always been war-torn, crusaders between peoples, ideals and the feeling of being a single European people.All these components cannot be replaced by a large number of supranational institutions that try to unify the different cultures and so much ingrained in the different European peoples.As the Europeans point out, economic and political unions can be deliberately created by building shared infrastructures and establishing institutions.Collective cultures and identities on the other hand are the products of a series of political and cultural traditions of values, memories, symbols at the popular level, which have merged in time to produce a common heritage, under the myth of political constitution as has happened with vertical democratic ethnicities. The prediction of a truly European cultural identity at this popular level can only be made as a product of the experiences, memories, traditions, common values, myths and unifying symbols of several generations of all European poets. This raises a difficult question: Where do we find these values, traditions, symbols and popular experiences to be pan-European? (Smith, 2008 p 140)

The very large identity systems that tried to live and wrap around themselves many peoples together have failed. The failure was precisely in not achieving the unification of all the differences that the peoples had with each other and also in not diminishing the sense of national belonging. Large-scale cultural nationalisms have often tried unsuccessfully to unite certain states and their peoples on the basis of common cultural criteria and common cultural heritage and to integrate them into a single supranational unit. Nationalist movements of this kind included Pan-Turkism, Pan-Slavism, Pan-Africanism, Pan-Americanism, Pan-Europeanism, of Jean Monnet, and the Pan-Europeanist movement founded in 1948 in The Hague (Smith, 2008 p 142).

Any attitude that connects countries with the EU is necessarily a connection of mutual needs and interests related to the well-being of the country and the people, but not a unifying and inclusive way of thinking for all peoples. Governments can lead but their peoples do not always seem ready to pursue European integration. There is a calculating judgment in the attitude towards Europe which shows the lack of deep emotional or cultural ties between the peoples of the European community and the slightest sense of the values and beliefs that are categorically shared by its peoples (Smith, 2008 p 141). This is a good indicator to show the cooling that the EU institutions have with the European people. The Brussels bureaucracy is seen coldly and as if it is not part of the way of life and social organization of different European peoples.

Simply the number of minorities and the vitality of ethnicities and the vitality of ethnicities and their unique cultures means that Europe itself, a geographical expression of problematic utility would seem dim and elusive if we removed the long-established cultures and heritage and that make up its pure mosaic. Compared to the insults and vulnerabilities caused to the peoples belonging to the cultures and ethnic traditions of the French, Scottish, Catalan, Polish or Greek, the European identity being emptied and inaccessible, a lifeless summary of all the peoples and cultures of the continent. What already exists, alternatively, Europe is simply an arena for conflicting identities and cultures. Then the Europeans committed to it cannot appeal to the intimacy of the feeling of austerity, the love that often evokes

your ethnicity and nation.
The fullest argument is that attempts to create unification on a large scale in Western Europe or elsewhere, while in other parts of the world empires and large multinational states are disintegrating by ethnic component, are the result of not-so-high levels of different economic and political than the diversity of historical trajectories and very different ethno-historical cultures of certain peoples and regions (Smith, 2008 p 158). Similarly, the growing interdependence of state systems in different parts of the world, as well as in the UN, highlights cultural differences and connects peoples more closely with the ento-history and heritage they think is being threatened. The feeling of irreplaceability of your cultural values becomes more acute when global uniformities become more prominent (Smith, 2008 p 159).

Conclusions

Nationalism is a political principle according to which cultural similarity forms the basic basis of society (Gellner, 2002, p 14). This is exactly the reason that creates the states, that keeps the nation connected and is one of the most important phenomena of all time.Nationalism cannot be erased, it cannot be forgotten, it cannot be replaced or reconstructed with new terminology.Nationalism is a feeling that stems from the desire of everyone to be and to be identified as part of a certain group and different from others. When we talk about multiculturalism or globalism we really have nothing to do with any triumph of human solidarity against identity changes or the eradication of racism or to have a cultural homogeneity but once again we will see a triumph of nationalism, of identity. Although efforts were not lacking in accepting different cultures, it happened that this was not feasible because everyone agreed with the fact that national culture was predominant and any other culture that came with immigrants or other different cultural groups had to be merged and to become as national culture or otherwise there was no place for them anymore. The failure of multiculturalism showed that the nationalist roots in Europe are very deep, are values that Europe has fought to protect, cultivated and inherited from generation to generation with fanaticism and are very important to the European people. These cultures constitute the irreplaceable axis of European cultural diversity, diversity which will always be one of the main European characteristics. So, when we talk about practicing multiculturalism, we really have no chance to realize a policy that contradicts the aspect of mentality, feeling, nationalist identification that Europeans have for themselves.
Likewise, the idea of deleting the changes under the motto of European identity was a failure because, as one German, French or Englishman said, they are first identified as part of this identity and then if they want and feel necessary, they are also identified as European. It is often thought that European identity, starting from the elites as a major enterprise and that would bring stability to the region and the organization itself, would actually bring the opposite. Their identification with the symbols of the country, with their cultural values is growing even more when it was seen that they were trying to be replaced by these values and the widespread European tradition. A German is first and foremost a German because he swears in front of his tricolor flag, because he has his German country, he speaks German and he has his values defined by the long German tradition. He feels German and will always be identified as such

and it will never happen that he feels more European than German. This sense of identification applies to all European peoples, because this sense of identification is an important product of the wars, traditions and historical memory of every European people. These two aspects described and analyzed above clearly show that nationalism will prevail and will always prevail. This is a clear reflection of the triumph of nationalization.

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Impact of the COVID-19 pandemic on crime rates

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Abstract

The Coronavirus outbreak is defined as an exceptional public health emergency. However, it has impacted not only people's health, but their livelihoods too. Many researches have analyzed crime rate in exceptional events and stated that it will increase (Social Disorganization theory), decrease (Altruism theory) or it will vary depending on the type of crime and the opportunity structure for crime (Routine Activity theory). The aim of this paper is to investigate the effect of the coronavirus on the frequency of various crime types such as cybercrime, personal crime, theft, smuggling, drug crimes and driving-related offenses in Albania. This paper also statistically tests the aforementioned crime types. Time series techniques and linear regression are used to analyze different kinds of crimes at the country level and to model the relationship between variables, number of COVID-19 infections and crime rates for different types of crime.
Research results show that, it was noticed that the COVID-19 has an impact on all crime types, however statistical testing shows relationships between driving related offenses, intimate partner violence, and cybercrime. The increases in COVID-19 cases shows a positive statistical relationship with intimate partner violence and cybercrime. Also, it has a negative statistical relationship with driving related offenses. An explanation for the aforementioned positive and negative statistical relationships is the changes in routine activity.
Keywords: Pandemic; Exceptional event; Crime; COVID-19

Keywords: Covid-19, crime rates, statistics.

Introduction

Coronavirus, COVID-19 disease is caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and first cases were identified in Wuhan (China), in December 2019. On 11 March 2020, the World Health Organization announced COVID-19 outbreak as a pandemic and referring to the same resource, since December 2019 -until December 2020, there were about, 65,257,767 confirmed cases of COVID-19 worldwide (WHO, 2020). Most of the countries have described their fight against Coronavirus as a "war" and have applied drastic measures to prevent the spread of the virus such as closing boarders, cancelling flights, locking down cities, enacting social distancing, closing schools and working from home. This pandemic has changed our lifestyles. It has affected our interpersonal relationships and social life.
The current study explores the shift in criminal behavior across crime types in Albania during and after the shutdown period in early 2020. The Albanian government started

to implement restrictive measures on March 8th, the first confirmed cases of COVID-19. The escalation of different measures such as suspension of all international flights, closure of cafes, schools and restaurants, public appeals to stay home were finalized with the lockdown on March 13. Albania's land borders were closed and all commercial flights from and to Tirana International Airport were suspended. Also, for everyone coming from "red alert" zone such as Italy or China, self-quarantine was required for 14 days. People were told to stay home, and only one person per household was allowed to go out in order to buy food and medicines respecting timeframes specified by the government. Before going out, people needed to apply online for permission through an electronic system, which was introduced on March 30.

This research explores the relationship between COVID-19 pandemic and crime. It is said that social order can be changed by exceptional events and COVID-19 is the latest exceptional situation, described as a public health emergency. There are three sociological theories that analyze relationship between these two variables. The first theory is social disorganization theory. Criminologists use it to explain that disaster may increase the occurrence of crime because the social order is disrupted. The second theory, altruism theory is supported by sociology of disaster researchers. They explain that exceptional events reduce criminal activity during and after the event based on altruism and social cohesion. The third theory it is the routine activity theory. Its researchers suggest that disaster may increase or decrease criminal activity depending on the type of crime and the opportunity structure for crime. Rational choice theory is another theory, which analyzes social control and criminal opportunity. However, referring to the resources, crime rate during COVID-19 was explained by the three aforementioned theories only. Other criminal theories will be the main focus in the future studies. This paper creates an opportunity to explore the preliminary effects of COVID-19 on crime trends. Its aim it to determine if the shift in opportunity structures have changed crime trends and to improve planning for safety and crime prevention in case of future exceptional events.

Related literature

1. Exceptional events

Exceptional events are defined as destructive phenomena and are explained as the modulations in earth's system and in its "spheres". They are outcome of changes in lithosphere (land), atmosphere (air) and biosphere (living things). According to Tipson, modulations in lithosphere are related to energy eruptions in the earth's crust. They can cause earthquakes, tsunamis, and volcanoes. In atmosphere, changing concentrations and distributions of temperature through water and air can cause hurricanes, tornadoes, floods, droughts, and wildfires. While changes in biosphere and in living microorganisms, such as bacterium, pathogens, viruses, or fungus can cause illness, "the modulation and migration of microorganisms can cause epidemics that weaken and kill people, animals, and plants. Biosphere disasters emphasize also the vulnerabilities of social and political systems, including access to health care, safety and economic security (Tipson, 2013)". Based on what is explained, COVID-19 is an output of the biosphere modulation, followed by political, economic and social instability.

2. *Theoretical explanations of crime and exceptional events*

Since December 2019, the world is changing dramatically in response to COVID-19, which represents the latest exceptional event. It is unclear the social impact of this pandemic, however some authors suggest that exceptional events have a destructive effect in society: "These incidents are acute, stressful, often unanticipated, and can disrupt the informal regulatory processes of social life (Ritchie, L.A & Gill, D.A, 2011)."As a result, many destructive behaviors can be shown: "Disasters have a destructive effect on the social fabric thereby causing "anomic" conditions such as looting" (Drabek, 1986). Also, during 2009 novel influenza A (H1N1), it was noticed an increase mostly in consumer fraud rate, such as adulteration of vaccine, illegal sale without prescription and smuggling into the USA. In contrast, some other authors say that social cohesion dominates in these kinds of situations. Some examples are major earthquakes in Chile between 1960–2010: "Exposure to earthquakes has a positive effect on several indicators of social cohesion" (Calo-Blanco, A.,Kovářík, J., Mengel, F., and Romero, J., 2017). Also, the September 11, 2001 attacks in New York, Washington, DC, and Pennsylvania witnessed the same phenomenon:" That communities could experience social cohesion after major disasters (Neria, Y., Gross, R., Marshall, R. & Susser, E, 2011)." According to academics, there are three main theories that explain crime trends during exceptional events. These theories are social disorganization, social cohesion/altruism and opportunity theories (routine activity theory).

Social disorganization theory: Many researchers have accepted social disorganization theory as the most important theory in criminology. According to the Professor of Criminology Robert J. Bursik, social disorganization is defined as an "inability of community members to achieve shared values or to solve jointly experienced problems". Referring to this theory, society is a complex organism where all elements are interdependent, and they cooperate with each other to achieve equilibrium in society. Social disorganization is product of lack of social consensus in a society, while social organization is true if cohesion dominates. However, as a result of rapid social change sometimes social equilibrium is impossible: "Population density and heterogeneity of the members in some societies cannot perpetuate the equilibrium, which causes an increase in the rate of criminality (Traub, S.H. & Little, C.B., 1985)." Also, exceptional events may aggravate social conditions and lead to social disorganization because they ruin the bonding between the members of a community: "Natural disasters can fracture community cohesion, impairing a community's ability to respond to and sanction antisocial conduct or crime (Zahran, S., Shelly, O.T., Peek, L.,& Brody, S. D, 2009)." This theory links crime rates to neighborhood ecological characteristics and neighborhood dynamics. It assumes that crime is a result of individual's reaction to the social environment. Residential location is a crucial element of this theory, whose role is more important than one's individual characteristics in terms of shaping the chances that a person will become involved in crimes. Social disorganization theory explains also that residential instability, ethnic diversity and economic status may impact crime rates, "communities characterized by residential instability, low social economic status, and poor collective efficacy have impaired capacity to informally control crime (Davila, M., Marquart, J. & Mullings, L., 2005)." This theory is criticized by the fact that it may explain street crime at the neighborhood level, but not organized crimes or corporate ones.

Turning back to COVID-19, some authors think that it gave to gangs and to organized crime groups the chance to lead. They used the disorganization theory to explain this phenomenon. "In areas where gangs and OCGs have more influence than law enforcement, it is likely that they will naturally take on the role of the provider, protector, and enforcer (Shanti, D, 2020)". They attempt to win over local communities by providing food, and financial aid to areas that have had very little or no help from the government. In many poor neighborhoods the state may hold very little authority and can often be absent, so residents must cope with criminal groups holding the majority of the power (Fajardo, 2020)". Situations when social control is missing and when organized crime group provide good materials, increase the chances of the disadvantaged communities to rely and to cope with these communities by increasing crime rates.

Social cohesion: Social cohesion or altruism theory is another theory, which explains crime rates in exceptional events. It emphasizes solidarity among groups in society, by identifying two main elements, the sense of belonging in a community and the relationships among community members. According to this theory, crime trendline will decrease: "crime rates decline or remain stable during an exceptional event (Zahran, S., Shelly, O.T., Peek, L.,& Brody, S. D, 2009)." This is explained by the fact that people tend to help each other in order to recover and rebuild. "This argument has largely emerged from natural disaster research, in which proponents of the theory argue that during an emergency, people are more likely to help each other and act altruistically (Barton, 1969). Referring to Charles Fritz form the Disaster Research Center; post disaster altruism is explained by some reasons. First, people tend to become equal in front of an exceptional event, they share the same experience, as result they tend to solidarize, and social divisions tend to dissolve. "Risk, loss and suffering become public rather than private phenomena (Fritz, 1996)." The second reason is that needs of people to survive are the most important element in disasters, and empathy is the answer in these situations. "Visible suffering increases empathy, inducting social cooperation to solve immediate problems like rescue and debris clearance (Fritz, 1996)." Third reason is that disasters encourage people to improve social system and to make reforms.

Routine Activity Theory/ Opportunity Theory: Based on this theory, the structure of routine activities in a society influences what kinds of situations emerge. Changes in society's routine activities will emerge changes in terms of the situations people confront too. In contrast with the two previous theories, the routine activity theory predicts that during an exceptional event, different types of crime will have a different trend. "crime rates will both increase and decrease depending on the crime type (Hodgkins, T. & Andresen, M, 2020)." This theory emphasizes three essential elements in crimes, such as a target, an offender, and the absence of a guardian, "in order for a crime event to occur, a suitable target, a motivated offender, and the lack of a capable guardian need to come together in time and space. (Cohen, L.E. & Felson, M., 1979)." This theory assumes that anyone who has an opportunity can commit a crime. However, Crime Opportunity Theory is criticized because it cannot explain unpredicted crimes, crimes when the three elements are not present or because opportunities are not objective entities. Moreover, to be an opportunity, the conjunction of favorable factors must be perceived by a person who can then decide whether or not to seek to capitalize on the situation (Sutton, 2012)". Even though this

theory can be criticized it has explained crime rates in many exceptional events.

3. *COVID-19 and Crime*

COVID-19 has significantly affected social order and crime level. It is difficult to speak about a general increase or a general decrease in crime rate trends because Coronavirus pandemic has affected types of crime differently from one another. Also, based on different studies in America, Australia, and Europe, it has affected countries differently too.

During COVID, the overall level of crime decreased in the USA. Centre Daily Times has published a research of David Abrams, professor at the University of Pennsylvania saying that: "Across almost all of the cities examined, crime decline a tremendous amount -to overall levels over 23% below the average of the same time period in the previous 5 years (Wolford, B, 2020)." Research shows also that drug crime declined over 63% compared to previous years, the violent crime rate fell 15%, and property crimes declined by 19%.

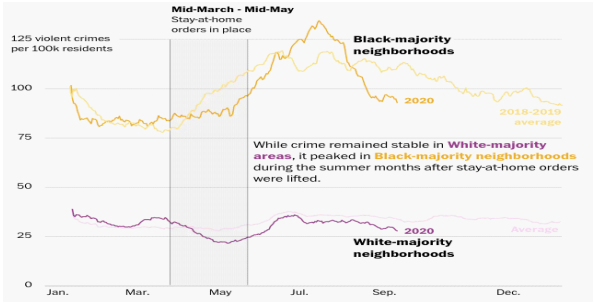

Figure 1. Crime rates in white and black neighborhoods during "stay in home orders" (Washington Post)

Going deeply into analysis, other studies have analyzed the crime index and neighborhood racial composition. Washington Post analyzed 27 cities and showed that the rate of violent crime in white neighborhoods decreased by 30% during staying at home orders, while, in black ones, the rate remained fixed during the same period. This difference is noticed even after the quarantine, "Once the orders were lifted, violent crime in white neighborhoods returned to pre-pandemic levels, but rose dramatically, peaking at 133 crimes per 100,000 residents in July, the highest level in the past three years in black ones. (Harden, J.D & Jouvenal, J, 2020)." Based on many studies, factors of social disorganization, such as collective efficacy and economic disadvantage, may affect differences in delinquency, but racial and ethnic factors may not. However, based on this example, even race and ethnicity matter.

In the USA, the overall level of crime decreased, however, commercial burglaries and car thefts rose in some specific cities such as Austin, Denver, Los Angeles and Philadelphia. This is explained by the fact that as people stayed home during lockdown, there were fewer eyes on cars left on the street and on commercial properties by increasing the chances of burglaries. "This makes for more attractive targets for would-be thieves (Wolford, B, 2020)." An increase in burglaries and murders it is noticed in New York also. Based on the FBI data, "Burglaries went up 42%, representing 3,601 more incidents reported year to date in 2020 compared to 2019 and the city has also seen a 32% jump in murders. (Edwards, 2020)". Computer fraud rose during the pandemic in the USA too. Cyber scammers took advantage during this period of time by sending fraudulent emails. "In Queensland, for instance, computer fraud was up 76% in April compared to the year before," (Boxall, H., Morgan, A., & Brown, R, 2020)."

Types of Crime	Increase
Burglary/Theft	594 / 15%
Assault	459 / 12%
Arson	377 / 10%
Armed Robbery	347 / 9%
Arrest	317 / 8%
Stabbing	316 / 8%
Murder	252 / 6%
Small Arms fire (crime)	183 / 5%
Trafficking-Drugs	175 / 4%
Vandalism	122 / 3%
Affray	111 / 3 %

Figure . Types of crime in Europe during Covid-19 (Fusion Intelligence)

In Europe it is noticed an adoption with existing criminal activities and an innovation in showing new criminal types. On one hand, it is found an increase in some types of crime such as commercial burglaries, assaults, arson, armed robbery and stabbing (Fig 2). Medical theft, cybercrime and domestic violence has risen as well. These types of crime where amongst the top incidents of criminality highlighted by Europol and by Fusion Intelligence, which has conducted a research on correlation between COVID-19 and crime in Europe. This increase in the crime rate it is explained by the fact police were focused on enforcing lockdown measures. On the other hand, decrease was shown in violent crime, drug trafficking, and home burglary.

Based on Europol, in many countries, it happened what is called 'Fake and Enter' incidents where criminals pose as police or service workers to access vulnerable people homes and to steal different items. Also, online fraud, phishing emails, cybercrime, fake 'corona home test kits', and telephone fraud, are only some new types of crime reported by Europol. "Europol has also stated that the COVID-19 pandemic has seen organized criminal networks spot opportunities for online fraud, property crime, scams and other activities which would indicate a change in their operations and their subsequent tactics, techniques and procedures (TTP) (Pratten, 2020)." These criminal activities created a new reality and criminal networks adopted to it very soon. Fake corona test and pharmaceutical products, which supposed to treat COVID-19 were seen in Europe and outside it, specifically in Bulgaria, Germany, Netherlands, Poland, even in the USA.

Moreover, there were reported phishing emails through spam campaigns referring to COVID-19 with intention of stealing credentials and sensitive data. Furthermore, types of telephone fraud were received based on a scenario called 'grandchild or nephew trick' where people were asked by their "relatives" to give money and pay for coronavirus medications; "impersonating a family member pretending to be sick to ask for money to pay for medicine (Europol, 2020)". Another type of fraud it was when fraudsters contacted their victims claiming that their money was no longer safe in bank accounts and offer to withdraw the money on the victims' behalf. Fraudsters targeted even children, who were spending more time on the internet due to Coronavirus restrictions. Europol registered many sexual exploitation cases while children were online in socializing and e-learning activities. Criminal networks were really sophisticated: "impersonated government organizations, ministries of health, centers for public health or important figures in a relevant country in order to disguise themselves as reliable sources (European Union Agency for Cybersecurity, 2020). For this reason, ENISA, European Agency for Cybersecurity published advices how to protect against phishing.

It is difficult to compare crime rates in different countries because there is a lack

of studies in world level and the period of time analyzed per different countries is different. Adding also that crime is measured and defined differently. However, based on different resources, the table below shows that COVID-19 has impacted Europe more than the USA. In the USA is noticed a decrease in many types of crime, while in Europe crime level is increased in almost all types of crime.

Table 1. Crime rate in the USA and Europe

Types of Crime	USA	EUROPE
overall crime rate	decreased by 23%	No data
drug crime rate	decreased by 63%	increased by 4%
violent crime rate	decreased by 15%,	increased by 9%
property crime rate	decreased by 19%	increased by 15%
burglary	decreased by 8%	increased by 15%
murder	increased by 15 %	increased by 6%
assault	decreased by an average of 13%	increased by 12%
robbery	decreased by 15%	increased by 9%

Focusing on Australia, a study conducted by the Australian Institute of Criminology (AIC) surveyed 15,000 women during the COVID-19 lockdown, (March-May), and found that they were exposed to emotional abusive, to controlling behavior, to physical and sexual violence. 4.6 percent of women experienced physical/sexual violence from cohabiting partner, 5.8% experienced coercive control and 11.6 percent reported experiencing at least one form of emotionally abusive, harassing or controlling behavior. Psychologists explain that domestic violence during COVID-19 it is explained by stress, loss of income and isolation.

Current Study

As COVID-19 started to spread in March of 2020, Albania moved quickly to shut down borders, turned Albanians home, provided financial support to people who lost employment and gave "in staying home" orders. The current study examines different crime trends across Albania during the COVID-19 and compares these trends with projections of previous years. Data were available from January 2016-September 2020 and they were obtained from the monthly reports of the Ministry of Interior Affairs. Many researchers suggest that "different crime types will have different patterns during an exceptional event (Prelog, A., 2016). So, in order to analyze crime patterns, were examined criminal offenses rate, rate per 1000 inhabitant and seven types of crime such as: *Cybercrime*, which referring to the resources it relates to information technology crimes and computer system crime; *Personal Crime* focusing mainly on domestic violence/ intimate partner violence, intentional homicide, crime resulting in injury, sexual crime; *Theft; Smuggling; Illegal trafficking; Drug crimes and Driving-related offenses* such traffic violations, driving erratically, accidents resulting in death, accident resulting in physical injury, fines.

Data collected per each type of crime were processed by using R statistical package/ time series analyses and linear regression.

Research question: Is there a relationship between the number of COVID infections and crime rates? This crime rate it is instrumentalized by different types of crimes mentioned above.

Null Hypothesis (H0): There is no statistical relationship between COVID infections and crime rates. Research Hypothesis (H1): There is a statistical relationship between

COVID infections and crime rates.
Independent variable is the number of coronavirus cases and dependent variable is crime rates per each type of crime mentioned above (cybercrime, personal crime, theft, smuggling, illegal trafficking, drug crimes and driving related offenses).
This paper also statistically tests the aforementioned crime types.

Data process

Research data gathered were processed in two steps. The first step was by using time series and the second step was by using simple linear regression.

Time series analysis

The statistical package R/times series was chosen to analyze the time series data gathered at regular intervals (monthly basis). In general, when seasonal variations and random fluctuations are almost constant, times series can be described by using an additive model. While when seasonal fluctuations and random fluctuations seem to increase with the level of the time series, an additive model is not appropriate. In order to apply an additive model even in this case, a transformation of the time series was needed. This transformation was done by using the natural logarithm of the original data. Our dataset showed that random and seasonal fluctuations were roughly constant, and the time series corresponding to all crime types were decomposed according to the following model:

$$y_t = \tau_t + s_t + \varepsilon_t$$

where τ_t is the trend component (the increasing/decreasing value in the time series and reflects the long-term progression of the time series), s_t is the seasonality component (the repeating short-term cycle in the time series) and ε_t it is the noise component (the random variation).

Research results show that from January 2016 to September 2020, there is decrease in criminal offenses rate and in the trend for crime rate per 1000 inhabitants (Figures 3 and 4). From the trend lines below, it can be noticed a decrease in both cases, respectively by 9.6% for criminal offenses and by 5.2 % for crime rate per 1000 inhabitants compared to 2019. It is worth mentioning that during Coronavirus months, criminal offenses rate was 8% below the average of the same time period in the previous 5 years, while crime per 1000 inhabitants was 3.4% lower. The decrease of 8% was a significant decrease for a single country, like Albania, compared with the decrease by 23% below the average of the same time period in the previous 5 years in the USA. Also, if crime rate had a seasonal pattern, and it tended to be higher during the winter than during other seasons of the year, during Coronavirus months this pattern changed.

Focusing on specific types of crime, it can be seen a significant decline in driving related offenses, drug crimes, smuggling and theft. It is a sharp decrease in driving related offenses (Figure 5) in general, and in other types of crime under this category, such as in fines and accidents resulting in deaths and in injuries (Fig 15, 16 and 17, in Annex 1). This decline is explained by the measures taken by both individuals and by decision-makers. Respecting stay at home orders, working remotely, allowing only one person to go out in order to buy food and medicines, specifying timeframes when to go outside, applying for "exit permit" through the electronic system, and

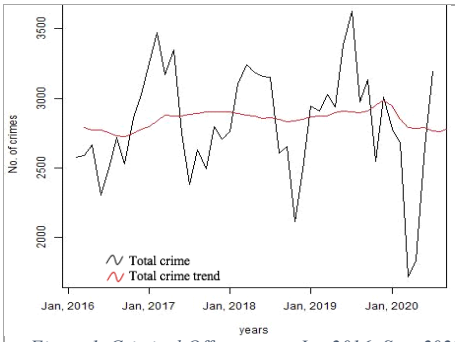

Figure 1. Criminal Offenses rate Jan 2016- Sept 2020 (trend)

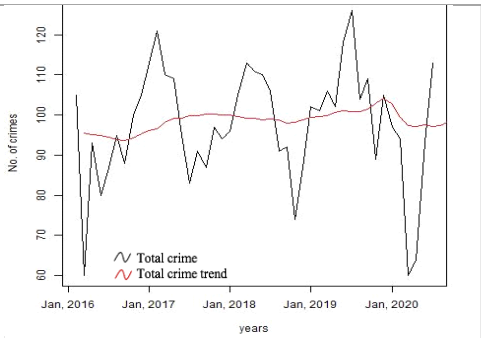

Figure 2. Crime rate per 1000 inhabitants Jan 2016-Sept 2020 (trend)

implementing fines for everyone who violated rules, were the main reasons why the driving related offences were low. According to the Prime Minister Edi Rama: "the penalties aimed to protect people from violations that threaten their health in this war situation" (Erebara, 2020). Moreover, in theft and smuggling (Figure 6 and 7), it is easily seen a decrease from March to September 2020. It corresponds to the government's decision to close borders and to stay at home. Even though, Albania sticked to reopening in May, crime rate for these types of crime remained low compared to the same months in the 5 last years. Even though theft rate is increased by 15% in Europe, in Albania it is noticed a decline in "theft crime" and in all what this term represents such as property crimes, larceny, robbery, burglary, and auto theft. Based on the routine theory explained before, because of stay-at-home orders, the potential offender, the suitable target, and the capable guardian were not together in time and space. People spent more time at home, by improving their guardianship over their residencies and reducing the risks of commercial and residential burglary. Drug crime rate increased by 2.4 % during 2020 in Albania, even though it is seen a decrease in last 5 years (Fig 8). It is worth mentioning that drug crime decreased by 63% in the USA, but in Europe it increased by 4%.

A completely magnitude and direction is shown in cybercrime and personal crime because, as it can be seen form figure 9 and 10, there is a significant rise in 2020. The increase in cybercrime, is explained by the fact that people started to spend too much time in internet, they were confused about COVID-19, and shifted their working habits. These conditions encouraged cybercriminals to be more active. According Nicholas Davis, visiting professor in cybersecurity at University College London "They are using interest and attention to an issue as a way to get clicks and take advantage of changed behavior, (Sheng, E, 2020)". Malicious domains containing the terms: "coronavirus" or covid19, malware, ransomware were some of the common cybercrimes recorded by the Ministry of Internal Affairs. From March - July 2020, cybercrime increased by 40% compared to March- June 2020.

Domestic/intimate partner violence represents the biggest increase compared to other types of crime under the category of personal crime. Domestic violence/ intimate partner violence is another type of crime which has shown increase (Fig.11). Stay-at-home orders, having family members of relatives infected with COVID-19, financial stress of being unemployed and isolation were the main reasons for this increase.

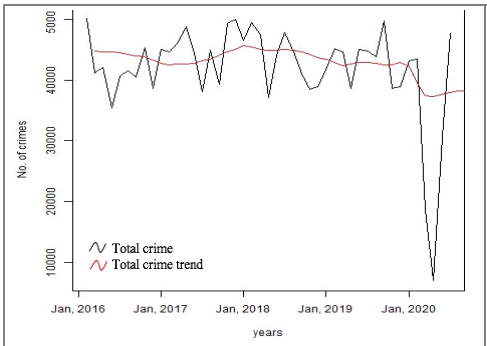

Figure 1. Driving Related Offenses Jan 2016-Sept 2020 (trend)

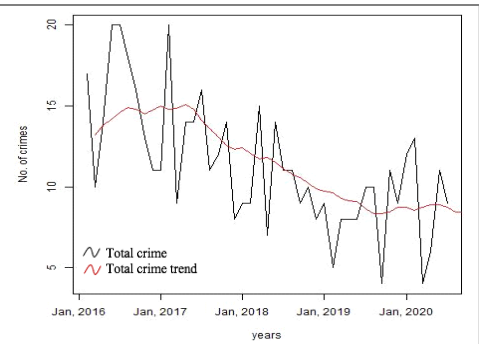

Figure 6. Theft Jan2016-Sept 2020 (trend)

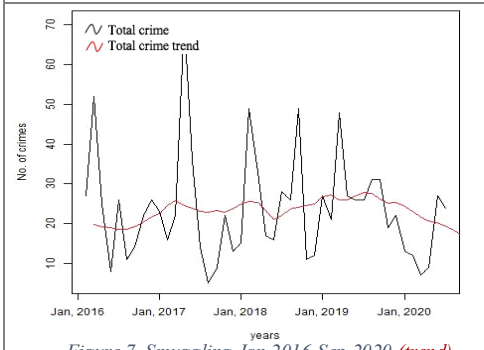

Figure 7. Smuggling Jan 2016-Sep 2020 (trend)

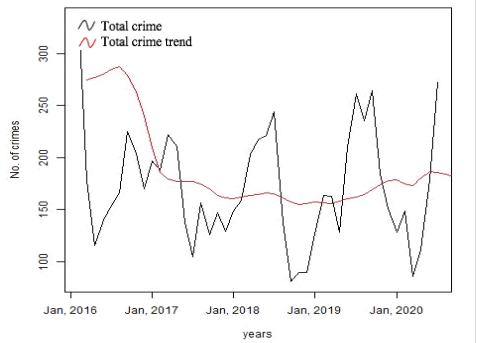

Figure 8. Drug Crimes Jan2016- Sept 20 (trend)

During July 2020, domestic violence was increased by 19.7% compared to July 2019.

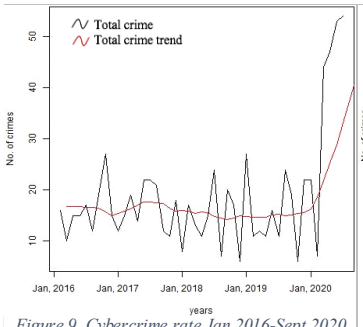

Figure 9. Cybercrime rate Jan 2016-Sept 2020 (trend)

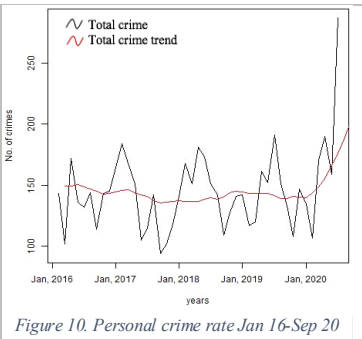

Figure 10. Personal crime rate Jan 16-Sep 20 (trend)

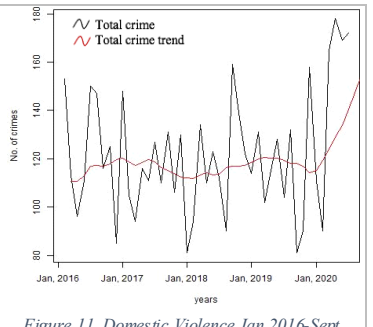

Figure 11. Domestic Violence Jan 2016-Sept (trend)

Linear regression

The same findings derived by using linear regression and focusing on data from March to September 2020. Trend of criminal offenses rate and trend for crime rate per 1000 inhabitants decreased when the number of coronavirus infections was increased. The correlation coefficient (multiple R) between COVID-19 infections rate

and number of criminal offenses was -0.68. While the correlation coefficient between number of coronavirus infections and crime rate per 1000 inhabitants was -0.7. It means that in both cases there was a relatively strong negative relationship between variables. Also, significance F, P-value was <0.05 in both cases, which means that the research hypothesis is true. There is a statistical significance between the dependent and the independent variable per each case.

	COVID-19	*Crime Offenses rate*
COVID-19 infections	1	
Crime Offenses rate	-0.6876159	1

	COVID-19	*Crime per 1000*
COVID-19 infections	1	
Crime 1000 inhabitants	-0.718	1

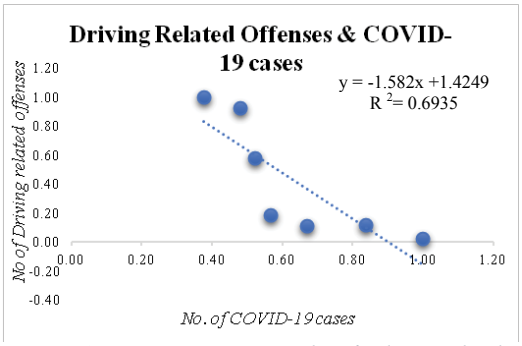

Figure 12.a. Linear regression analysis for driving related offenses and COVID-19 cases

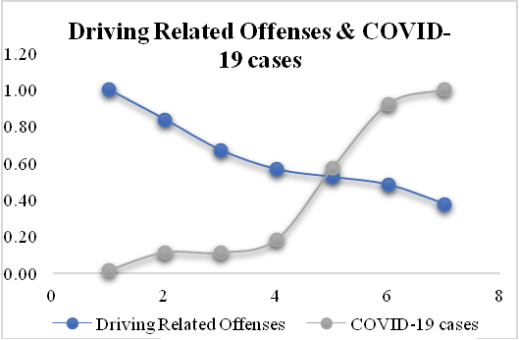

Figure 12.b. Negative relationship between variables

Furthermore, there was a strong negative relationship between coronavirus infection rate and driving related offenses rate. After the linear regression, the coefficient correlation was -0.83 and the statistical significance was 0.02. The correlation (R) was negative, and this is the reason the regression slope is negative too. This can be noticed in Fig 12. a, which shows the linear regression line and Fig 12.b which shows negative relationship between variables. When the number of COVID-19 infections increases (grey line), number of driving related offenses decreases (blue line). More information about regression statistics can be found in the Annex 2.

The opposite was reconfirmed when focusing on two other types of crime, domestic intimate/partner violence and cybercrime rates. By analyzing separately COVID-19 infections rate (independent variable) and two types of crime mentioned before (dependent variable), it was found that the correlation coefficient was strongly positive in both cases. It was 0.93 in the first case and it was 0.97 in the second. The significance F value was 0.002 for domestic violence and 0.0003 for cybercrime, which means that the results are reliable. Research hypothesis are true in both cases because the significance F is less than 0.05 (5%). Moreover, R^2 which represents the percentage of the dependent variables variance that is explained by the model was 87% in the first case and 94 % in the second.

	CO-VID-19	Domestic violence
COVID-19	1.00	
Domestic violence	0.93	1.00

	COVID-19	Cybercrime
COVID-19	1	
Cybercrime	0.96734289	1

Figure 13.a shows the linear regression line, where the regression slope is positive. Figure 13. b shows that when the number of COVID-19 infections increases, the number of domestic violence cases increases too. More information about regression statistics can be found in the Annex 3.

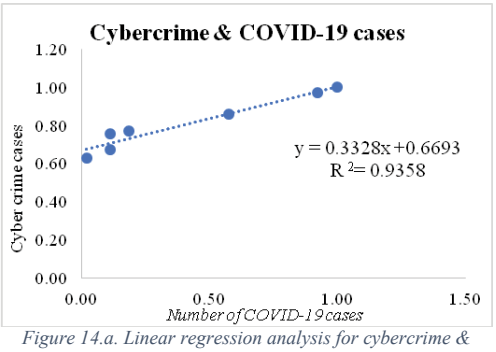

Figure 14.a. Linear regression analysis for cybercrime & COVID-19 cases

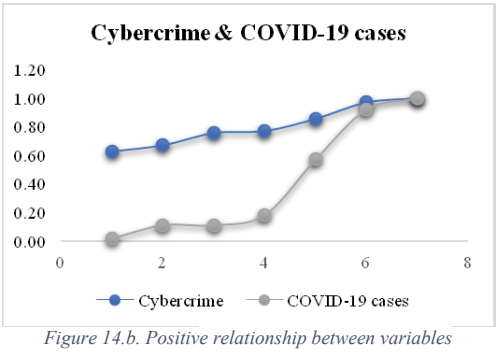

Figure 14.b. Positive relationship between variables

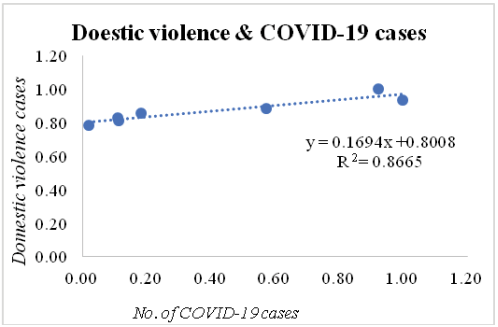

Figure 13.a. Linear regression analysis for domestic/intimate partner violence and COVID-19 cases

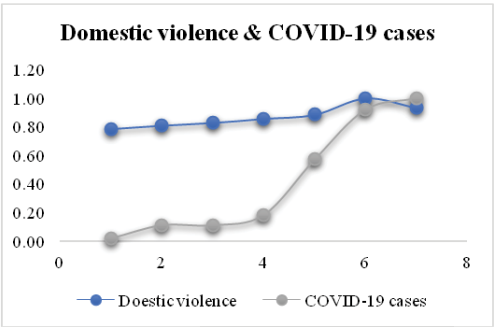

Figure 13.b. Positive relationship between variables

Figure 14.a shows the linear regression line, where the regression slope is positive. Figure 14. b shows that when the number of COVID-19 infections increases, number of cybercrime cases increases too.

Both by times series and by linear regression it was found that when Coronavirus infections rate increases, criminal offenses rate and crime per 1000 inhabitants decreases. The same findings were confirmed for driving related offenses. While the opposite was true for domestic violence and cybercrime because it exists a positive statistical relationship between variables and when coronavirus infections rate increases, domestic violence rate increases too. The same thing happened for cybercrime. Lastly, it was found no statistical relationship between COVID-19 infections rate and other types of crime. Also, their correlation coefficient was not strong (both positively and negatively. However, these findings help to arrive in

conclusions that COVID-19 trend affects differently different types of crime. Neither social cohesion, nor social disorganization theory are true. Crime trend can be explained by Routine Activity Theory, which says that during exceptional events, crime rate will increase or decrease based on the type of crime.

Limitations

This research paper has some limitations, which can impact the validity of this study. The first limitation is related to the fact that it is difficult to arrive at conclusions on crime rates during the pandemic due to a lack of long-term data. Adding also that Coronavirus is an ongoing issue, number of infected people is increasing every day, while many other cases are unreported. Second limitation is related to the fact that resources in Albania are not consistent, different resources present different data. This research referred to the monthly reports of the Ministry of Interior Affairs, which presents an official and a consolidated report, however data published by statistical institutions was different.

Thirdly, crime rate is a broad concept, and some specific types of crime, such as cybercrime, theft and personal crime need to be elaborated and analyzed separately. However, the aim of this paper is to analyze crime rate in general. Lastly, it is worth to mention that the definition of types of specific crimes per different countries are different. However, in this research definitions were used based on the concepts of Ministry of Interior Affairs.

Recommendations

Some foreign policies and practices can help in preventing crime rate in Albania, specifically cybercrime and domestic violence as they had a considerable increase. Even though each country has its historical, social and political history and following some foreign models does not mean that success will be guaranteed. Also, COVID-19 is an ongoing issue, and it is difficult to realize in long-term which country has been successful in handling crime during the pandemic.

The first policy is to create Electronic Crimes Task Forces and to train staff continuously. Their role is to focus on cybercrime: "identifying and locating international cyber criminals connected to cyber intrusions, bank fraud, data breaches, and other computer-related crimes" (Cyber Inrastructure and Security Agency, 2018)." Investing in human resources and having experts in investigation and prosecution of cybercrime by training in both legal frameworks and in IT is a necessity. The U.S. Secret Service, through similar task forces, has arrested many cyber criminals. Albania has promulgated many laws in accordance with European standards and it has ratified many international conventions on protection against cybercrime. However, the necessary mechanisms in implementing these laws are missing. Awareness campaigns on dangers of internet and online security are recommended also.

COVID-19 has significantly affected global economy; however, women's lives are affected differently from men. According to the United Nations, more women rely on the informal economy in developing countries: "in developing economies where the vast majority of women's employment – 70 per cent – is in the informal

economy with few protections against dismissal or for paid sick leave and limited access to social protection. (United Natios, 2020)". Even in Albania, anti-COVID-19 measures impacted more female-headed households, who remained homeless and had no access to social support schemes during quarantine and isolation. A gender perspective into socio-economic support schemes is missing and a recommended policy. Even though the Albanian government has implemented some social schemes, this is not enough in solving this issue. Asking a coordination between national level, state level and local level it is needed. Colorado, Minnesota, North Carolina, Illinois, and Indiana have shown good indicators in terms of creating an infrastructure and building a network of national, state, and local programs aiming to prevent and respond to domestic violence: "This informal infrastructure—made up of elements such as crisis hotlines, shelters, DV programs, and state, local, and tribal law enforcement survivors' needs have not disappeared in the face this pandemic (Bleiweis, R & Ahmed, O, 2020)."

Referring to Women's Empowerment Network in Albania, the National Hotline for Women and Girls received more calls than a year ago:" about 2000 calls during the period of isolation from the pandemic March 10 - May 18, marking a tripling of calls compared to the same period in 2019 (AWEN, 2020)." In April 2020, the Minster of Minister of Health and Social Protection approved the Order on "Protocol on the operation of public and non-public residential centers that provide housing services (shelters) for victims of domestic violence and trafficking in the pandemic situation of COVID-19". However, seems like international actors, such as Swedish government, USAID and UNDP, are more active that national actors in terms of implementing these orders and in supporting victims of violence. They have organized an awareness campaign in 15 municipalities and have providing emergency local and national hotline numbers to call if violence occurs. A good network between national, state and local level and a good coordination between them and international actors are strongly recommended as it will lead in domestic violence decrease in the similar future situations.

Punishing people who commit crime can be a solution, but it is better to prevent crime by reducing poverty policies in terms of improving neighborhood living conditions. "Efforts that create decent-paying jobs for the poor, enhance their vocational and educational opportunities, and improve their neighborhood living conditions should all help reduce poverty and its attendant problems and thus to reduce crime" (Currie, 2011). Poor people do not commit crime, however based on the social disorganization theory, economic factor can be a reason of committing crimes. Another suggestion, based on the routine activities' theory is to reduce the opportunities for crime, by increasing formal surveillance in terms of using, private security patrols or neighborhood watch and by increasing natural surveillance, for example improving streetlights.

Furthermore, other experiences which have resulted successful abroad and which can good recommendations are related to education policies. It is needed to establish youth recreation programs and to strengthen social interaction in urban neighborhoods. establishing early childhood intervention programs to help high-risk families raise their children. Lastly, a more general recommended policy is related to the fact that Albania implements a harsh criminal policy against people arrested. According to Aleks Nikolli this harsh criminal system is implemented by three

actors, "by the police, prosecution and later sentenced by the courts and it has cause prison overcrowding" (Nikolli, 2014). Moreover, some years ago the government pressured judges to lock up defendants pending trial. However, neither this policy, nor the American focus on get-tough approach[1] to fight crime, seems to reduce crime rate. One general suggestion is to focus on Finland and the Netherlands approach, which favors community corrections and relatively short prison terms for violent offenders because overseeing offenders outside of prison has been more productive in terms of crime rate.

Conclusions

The Coronavirus outbreak is defined as an exceptional public health emergency. However, it has impacted not only people's health, but their livelihoods too. This paper investigated the effect of the coronavirus on the frequency of various crime types in Albania. Time series techniques and linear regression were methods used to analyze different kinds of crimes at the country level and to model the relationship between variables. After processing the data, it was noticed that the COVID-19 had an impact on all crime types analyzed, however statistically significant changes has been identified in three of them domestic driving related offenses, intimate partner/ domestic violence and cybercrime in Albania. For different crime type, the magnitude and direction of the change in frequency is different. So, crime trend can be explained better by Routine Activity Theory, which says that during exceptional events, crime rate will increase or decrease based on the type of crime. Despite limitations mentioned above, this paper can serve as a resource for other researches in criminal justice. There is a lack of resources in this filed in Albania, however this study can help people interested in criminal justice and social service practitioners when operating within an exceptional event.

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[1.] This approach has involved longer prison terms and the building of many more prisons and jails.

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Annex 1. Trend of Types of Crime

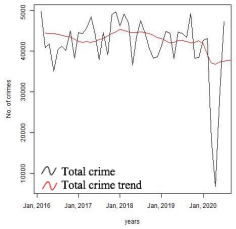

Figure 15. Fines (trend)

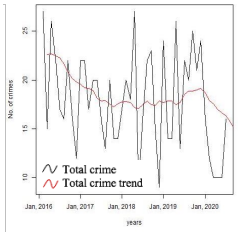

Figure 16. Accidents resulting in death (trend)

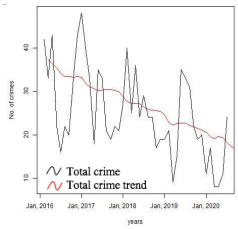

Figure 17. Accidents resulting in injury (trend)

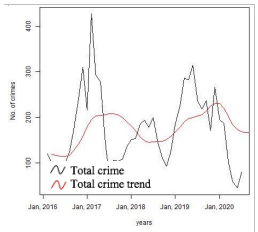

Figure 18. Environmental crimes (trend)

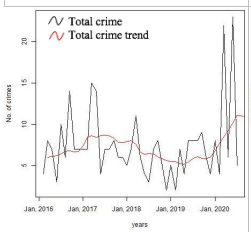

Figure 19. Computer system crimes (trend)

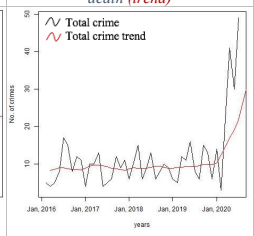

Figure 20. information technology crime (trend)

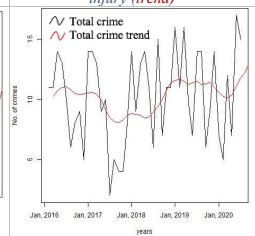

Figure 21. Sexual crime (trend)

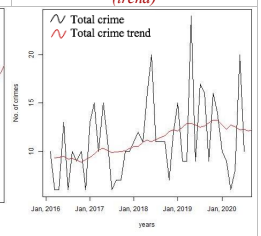

Figure 22. Crime resulting in injury (trend)

Annex 2. Linear Regression statistics (negative linear relationship)

Regression Statistics for Driving Related Offenses	
Multiple R	-0.83
R Square	0.69
Adjusted R Square	0.63
Standard Error	0.13
Observations	7.00

ANOVA

	df	*SS*	*MS*	*F*	*Significance F*
Regression	1.00	0.20	0.20	11.32	0.02
Residual	5.00	0.09	0.02		
Total	6.00	0.28			

	Coefficients	*Standard Error*	*t Stat*	*P-value*	*Lower 95%*	*Upper 95%*	*Lower 95.0%*	*Upper 95.0%*
Intercept	0.82	0.07	11.13	0.00	0.63	1.01	0.63	1.01
X Variable 1	-0.44	0.13	-3.36	0.02	-0.77	-0.10	-0.77	-0.10

Annex 3. Linear Regression statistics (positive linear relationship)

Regression Statistics for Domestic violence	
Multiple R	0.93
R Square	0.87
Adjusted R Square	0.84
Standard Error	0.03
Observations	7.00

ANOVA

	Df	*SS*	*MS*	*F*	*Significance F*
Regression	1.00	0.03	0.03	32.47	0.002
Residual	5.00	0.00	0.00		
Total	6.00	0.03			

	Coefficients	*Standard Error*	*t Stat*	*P-value*	*Lower 95%*	*Upper 95%*	*Lower 95.0%*	*Upper 95.0%*
Intercept	0.80	0.02	47.63	0.00	0.76	0.84	0.76	0.84
COVID-19 cases	0.17	0.03	5.70	0.00	0.09	0.25	0.09	0.25

Regression Statistics for Cyber crime	
Multiple R	0.97
R Square	0.94
Adjusted R Square	0.92
Standard Error	0.04
Observations	7.00

ANOVA

	df	*SS*	*MS*	*F*	*Significance F*
Regression	1.00	0.11	0.11	72.82	0.0003
Residual	5.00	0.01	0.00		
Total	6.00	0.12			

	Coefficients	*Standard Error*	*t Stat*	*P-value*	*Lower 95%*	*Upper 95%*	*Lower 95.0%*	*Upper 95.0%*
Intercept	0.67	0.02	30.35	0.00	0.61	0.73	0.61	0.73
COVID-19	0.33	0.04	8.53	0.00	0.23	0.43	0.23	0.43

The problems of the teaching process in the pre-university system in Albania under the Pandemic Circumstances

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Abstract

The Albanian pre-university educational system, in the last decades has been involved in a system of significant reforms. These reforms in their entirety have intended in the appropriate functioning of this system. But above all, these reforms have the final intention of improving the quality of teaching which over time has been on the way of progress. A good number of these reforms have positively affected the educational system. In some cases the reforms have had a negative effect and instead of improving the situation have artificially hindered its progress.
Accordingly, taking into consideration the positive results these reforms were having, with the pandemic situation the effects are temporarily interrupted. The Albanian pre-university system faced new challenges. For over a year, new and contemporary methods are being applied in the development of the teaching process: online learning. In the current situation in Albanian educational system these were completely unknown challenges in the aspect of the progress of the education. The problems were faced in the numerous shortcomings in the infrastructure.
This called for finding new ways and means in order to meet the required standards for the unexpected situation created during the pandemic situation.

Keywords: education, reform, system, pandemic, teaching.

Introduction

The Albanian pre-university educational system, in the last decades has been involved in a system of significant reforms. These reforms in their entirety have intended the appropriate functioning of this system. After 1990-ies, the Albanian reality was involved in a variety of reforms in terms of the entire reforming process of the pre-university educational system. First of all, these reforms were mostly related to the complete change in the teaching structure of this system. This change of the educational structure appeared to be a necessity, as the inherited educational system was a politicized one and completely served the state-party. In fact, it was not the education of the individual at the center of the system.
During the communist regime the educational system underwent fundamental changes and achievement. This is an indisputable fact if we compare the previous situation and the current progress of the education. The investments made during this period were substantial. Thanks to these, investments within a relatively short period of time Albania managed to abolish illiteracy, a social wound of the confused past state of our country.
Upon the illiteracy abolition, phenomenon of the communist regime there was a

parallel undertaking to transforming schools into 7- th cycle education (in the later years it was 8 th cycle education system and recently to a 9th cycle system), setting the goals and making it a compulsory educational system. But the communist regime was totally focused on changing the system and doubling the number of schools according to the number of inhabitants of certain areas. It was a policy of building high school in every inhabiting center. In 1957, the first university opened its doors which were century's long dreams of all Albanian intellectuals and patriots. All these new schools were equipped with modern laboratories and facilities for the time, as donations from former Soviet Union and later from China, too.

But despite these achievements, it should be emphasized that this system had its shortcomings which derived from the profile of the regime itself. Although the curricula and teaching plans were carefully planned and designed by the experts of education, still they were more theoretically centered, providing students with a complete knowledge on the theoretical relevant concepts. There was not enough space to put all this information into practice or bringing theory close to reality, fieldwork or workplace.

Therefore, the textbooks were flooded with theoretical concepts and they created a lot of difficulties and problems about the absorption of the scientific concepts and relevant laws on the part of the students. On the other hand, schools were completely centralized and did not respect any regulation or law related to transparency and democratic culture. Accordingly, despite being called as centers of the individual education, schools were indirectly transformed into military units which abided by the regime laws and a very strict discipline. Within this framework children `s rights were far from being considered and respected. What is more, children underwent psychological and even physical violence on the part of teachers.

All this was a deliberate strategy which aimed at molding an individual who fully believed in the country leadership and which in turn, was considered as flawless.

But above all, these reforms have the final intention of improving the quality of teaching which over time has been on the way to progress. A good number of these reforms have positively affected the educational system. In some cases the reforms have had a negative effect and instead of improving the situation have artificially hindered its progress.

Therefore, after 1990-ies the Albanian educational system had to deal with new challenges in order to appropriately and clearly reflect all new developments in the political and economic aspect. And it was obvious that the first steps the educational system had to take were to completely remove the political content in the school textbooks as well as the management approach. For this reason brave measures were further taken. We consider these measures as brave, because the undertaking of such a reform was confronted with strong contradictions from the fanatic elements of the communist regime, still to be in the hands of strong power.

Anyhow, within a short period of time this system was on the way towards clearing all the political elements in the aspects of education. So, a successful step of the reform was the redesigning of the school textbooks, teaching plans and programs. The schools curriculum was fully transformed into a content which fitted the needs and requirements of the time. Respecting the children's rights, transparency and the democratization of the school life were other reforms and steps which gave another view of the whole educational system, gradually setting goals and aiming at reach-

ing the objectives and set goals.
All these reforms of after 1990-ies can be considered as a complete success of the Albanian educational system. But this does not mean the reforming of this system is fully completed. Still, this system continues to be under the reforming process for the simple fact that there is much to be done in order to reach a level of perfection and master the elements of educations to the fullest. One of the problems the educational system has faced in the last decades under the reforming system is the lengthening time of applying all these reforms to the system. This creates problems with the appropriate functioning of the whole educational system.
Furthermore, the unexpected burst of the pandemic not only hindered the reforming process, but the system was completely unaware and unprepared to face and continue to progress. This is explained due to the absence of investments in the modernization of the Albanian educational system. First of all, it should be mentioned that after 1990-ies, attempts were made to build and supply school with the necessary laboratories by the respective ministry of education and despite its being the main priority, this did not extend the amount of laboratories in all the schools in order to create the proper environment for a successful facing of the situations we are actually living.
One of the main problems in the schools during pandemic was the lack of computers and technology. Although the pre-university system has a variety of IT subjects in its curricula, they are mostly theoretically based and developed and leave no space to the practical aspect of the subject. The lack of computers does not enable the practical classes in the field of Information and Communication Technology.
So, the pandemic changed the whole teaching process by completely transforming it into distant or online teaching process. The teachers and a majority of students were caught unaware by this new way of schooling. The most frequent problems were seen in the rural areas of the country, where the infrastructure has a noticeable absence of the necessary facilities in order to develop and arrange the appropriate online classes.
On the other hand, not all the methods of teaching proved to be fully successful. Although it was considered as a school year which reached the minimal objective set at the beginning of the year, still it has problems in meeting the top targets and objectives as well as improving the quality of teaching. From all the data we have received, by the interviews, the students and teachers especially in rural areas could not be part of the online platform and attend classes from the beginning of the online learning stages. There was an attempt from the Ministry of Education to supply these strata with mobiles technology. But the teaching process cannot be carried out and facilitated by the use of the mobile technology. This was due to the fact that within a day it could not face several teaching classes. A lot of students have stated that for weeks they could not have access to several subjects as it was impossible to follow the teachers online.
As both parts were focused all day in front of a laptop or mobile it led to a psychological tiredness on the part of the teachers and students. It was a common problem among all teachers and students in the world, but the lack of these facilities in most of schools hindered the completion of different subject during the whole school year. It was mostly the basic subjects like math, physics or Albanian language that were dealt with online and other subjects were almost avoided for a certain period. So, students tended not to attend classes even in cases they had the necessary facilities as it was mostly focused on 3-4 main subjects and for them school became a boring, tiring and fruitless undertaking.

It is important to mention that although apparently it seemed to reach a type of success, a superficial one in fact, we think that it was totally unsuccessful. The main cause of this failure was infrastructure, which if it was previously considered to equip schools with the facilities, pandemic period would not have such a terrible influence not only in the academic aspect, but also in the social and psychological molding of the children. Online learning became a nuisance for children, although it was actually the only way out, in order not to lead to catastrophic effects which would last for the oncoming decades.

However, despite the absences in facilities, infrastructure and poor quality of teaching, impossibility of children to be part of this process, as a matter of fact the Albanian educational system acquired a new experience in this field. Also, we think that it strengthened the concept of involving the technology as a fundamental part of the teaching process. This would facilitate the teachers and children and would bring satisfactory results for both sides.

Accordingly, taking into consideration the positive results these reforms were having, with the pandemic situation the effects are temporarily interrupted. The Albanian pre-university system faced new challenges. For over a year, new and contemporary methods are being applied in the development of the teaching process: online learning. In the current situation in Albanian educational system these were completely unknown challenges in the aspect of the progress of the education. The problems were sometimes not faced because of the numerous shortcomings in the infrastructure. This called for finding new ways and means in order to meet the required standards for the unexpected situation created during the pandemic situation.

In the future this way of teaching is about to prove successful. The improvement in the teaching infrastructure would lead to a progress in the quality of teaching and the results of comprehension. Above all, the pre-university education shows off highly professional and experienced human resources. Nowadays, in the pre-university system we can meet devoted and scientifically prepared teachers who have successfully integrated the traditional and modern methods of teaching, leading to a teaching class which is professionally carried out from the academic and methodological point of view.

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Difficulties and particularities during translating from German into Albanian using the example of medical texts

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Abstract

This article deals with the particularities of medical language translation from German into Albanian. Medicine is a subject of particularly great interest. Here, experts meet people very often and very sensitive topics are usually dealt with. When different cultures collide in this environment and translators and interpreters come into play, the situation becomes even more complex. It is a major challenge for the translator to adequately translate a specific text.Many factors play a role here which must be taken into consideration and which pose a great challenge for the translator. This article tries to look at it from the perspective of the translator. The main scope of the empirical study is to describe and analyze the problems and particularities of translating medical texts. This leads to the main research question: What difficulties arise when translating medical texts? In addition, the study answers the following questions: 1) What are the translators' attitudes towards various aspects of medical translation, etc. compared to keeping the original text? 2) What tools do the translators use? 3) What further training do they need?
Furthermore, this article also explains the properties and characteristics of medical language as a technical language. The particular terminology and style of the medical language are described and illustrated with examples from the Albanian and German medical language.

Keywords: translate, translator, medical text, terminology.

Introduction

Medicine exerted a stimulus on humans. The human body and health are topics that have dealt with mankind time and again and with which experts have always dealt very intensively. Due to its long history and the lively professional exchange between cultures that has always taken place, medical translation is also of particular importance. Only through translation was and is it possible to pass on knowledge on an international level. International cooperation is essential for this progress, and for this reason specialist medical translators are of particular importance. It is more surprising that there is no explicit training for medical translation in Albania and that this topic is still neglected in the translation scientific literature.
When it comes to specialist translations in the healthcare sector, the translator has to meet very specific requirements - translation errors can have devastating consequences in this area. Of course, this can also be the case in other specialist areas, but when it comes to specialist translations in the healthcare sector, the mistakes often have a direct impact on the health or even the life of the patient. This is why it is particularly important that when translating in the medical field, only experts are consulted who have extensive training and, ideally, have already gained professional experience. Another very important aspect of translation - if not the central aspect - is culture. Translation is often referred to as cultural transfer - i.e. the transfer of a text

from the source to the target culture[1]

2. Definitions of terms

2.1 About the term "technical language"

The term technical language has not yet been validly defined. Fluck (1996) explains that this difficulty in defining the term technical language results primarily from the fact that it is used in contrast to an equally undefined term common language and covers such diverse areas as craft, technical or scientific language and its transitional forms.[2]

Ickler (1984) also notes that a satisfactory definition of technical languages, in contrast to common language, which is also not easily defined, has not yet succeeded.[3]Hylgaard-Jensen (1982) addsthefollowing:

"[…] basically the same lexical and grammatical means are available to the technical language as to the common language, and without the help of common language elements one cannot communicate in a technical language at all. Technical language and common language differ only in preferences for certain language elements. They can be described as different types of language or styles of language.[4]

With regard to the relationship between technical and common language, Pfeiffer (1986) states that the mutual influence of common language and technical language is a fact. "It takes place in many ways and in many layers."[5]

Due to the multifaceted nature of the term technical language, Hahn (1983)

"[…] it makes sense, depending on the focus of the description, to look at the technical language from different perspectives." [6]He is guided by five dimensions: language system, text form, content, speaker / listener and intention and function.

The previous statements emphasize on the one hand the problem of understanding the term and on the other hand the complexity of the term technical language. Therefore, today there is "[...] broad agreement in the use of the plural form of the term designation, which means that the common or standard language includes a larger, so far not fixable number of primarily subject-related languages as subsystems"[7]

In other words, one could say that a large number of technical languages coexist in addition to the standard language. However, it is difficult to calculate the quantity of technical languages that exist side by side. According to Fluck (1996) it can be assumed. that there are about as many technical languages as subject areas. The number is therefore estimated to be around 300.

From the point of view of Hoffmann (1985), the technical language is "[...] the entirety of all linguistic means that are used in a subject-specific communication area in order to ensure understanding between people working in this area."[8]

Bußmann (1990) also takes up the aspect of communication in its definition and describes technical languages as "linguistic varieties"[9]. She explains that technical lan-

1. Kadrić/Kaindl/Kaiser-Cooke,2005:59ff.
2. Fluck 1996,11.
3. Ickler 1984, 28.
4. Hyldgaard-Jensen 1982, 12f.
5. Pfeiffer 1986,195.
6. von Hahn 1983, 60.
7. Fluck 1996,11.
8. Hoffmann 1985,53.
9. Bußmann 1990, 235.

guages "[...] have the function of precise and differentiating communication about mostly job-specific subject areas and fields of activity [...].
According to Roelcke (1999), technical languages can be divided horizontally and vertically. The horizontal differentiation follows "subject divisions and departmental divisions" [10]whereas the vertical stratification refers to the "abstraction levels within a single subject".

2.2 Medical terminology

In the following, the technical terminology of medicine will be discussed in more detail. Medicine is a subject in which the technical language is particularly important: Conversations among doctors are full of technical terms, the Latin language plays a particularly important role and thus also brings with it many specific linguistic means that are not used by laypeople be understood.
Technical languages mostly use common language, from which terms for technical communication are formed. In medicine, on the other hand, not only means from the common language are used, but also means from other languages, namely mainly from Greek and Latin. As a result, patients often have difficulty understanding their doctors. Above all, it is also medical terms that cause difficulties for such patients. In the doctor-patient discourse, not only a reasonably good command of the German language is necessary. The patient is expected to have a medical “Latin specialist vocabulary”.
The doctor tries to bring his linguistic level to that of the patient by replacing technical terms with "appropriate terms of colloquial language"[11]. He tries as much as possible to adapt his expression to the patient's usual everyday language. However, these slang terms still cause problems for patients. Expressions such as “Stuhlgang”, “Teerstuhl”, “Steinleiden” are incomprehensible to some patients. The doctor would first have to make these terms understandable to the patient.Often it seems impossible to him to find a description for these expressions. It would also take too much time. Conversely, when asked about previous illnesses, patients remember them, but cannot find a name that could be used in conventional medicine[12]. We also count the cultural differences that have emerged when expressing pain among the language barriers. If a German patient goes to the doctor, he will usually describe his symptoms and describe them in more detail. Ehlich[13]calls this "pain story" and "pain description".For this purpose, the patient primarily uses naming and, in some cases, deictic procedures. It can be quite different for patients of Mediterranean origin. In order to express their pain and suffering, they use much more painting, expedient and deictic procedures. On the one hand, this happens because they lack the vocabulary for telling and describing pain, and on the other hand, the dramatic representation of complaints has social roots. The environment is called upon to provide assistance through such procedures.[14]

2.3. Medical terminology in theory and practice

Medical terminology is a kind of special language in which rapid and precise commu-

10. Roelcke 1999,34.
11. Löning 1985,143.
12. Eser 1984.
13. Ehlich, 1990, 88.
14. Ehlich 1990, 87.

nication on very complex issues is of great importance. For this reason, Greco-Latin names are often used, which enable such communication through their achievable precision and brevity.[15]Medical terms are made up of one or more of the following components:
- The root of the word as the core of the word
- Connecting vowels to aid pronunciation, with no meaning for the word
- suffixes to create categories (e.g. -itis for inflammation), formationof matching adjectives to nouns or deriving nouns from verbs, and suffixes can also be used to identify whether a term is a verb, a noun or an adjective
- Prefixes to modify the meaning of the following word stem by restricting and specifying the meaning (e.g. polyarthritis)

Most medical terms contain at least a stem and a suffix. However, there are numerous other possibilities, such as two or more word stems and connecting vowels for more complex terms, one or more prefixes and a suffix. In addition, an inflected ending can also be part of a medical term.[16]Latin or Latinized terms make up the majority of anatomical and clinical terms. Both single nouns and longer expressions consisting of adjectives and nouns (eg "Musculus abductor pollicisbrevis" = "the short leading muscle of the thumb") as well as complex terms (compounds of prefixes, basic words and suffixes) are used Form technical language.[17]

In addition to the terms of Greco-Latin origin, there are also components of otherorigins in medicine. Karenberg gives several examples here:
- Foreign words such as inspiration, culture or medium,

- Words such as lavage, shunt or influenza from the livingForeign languages French, English and Italian that become oneat a certain point in time have been incorporated into the terminology of medicine andreceived a specific meaning there
- Abbreviations such as EKG
- Furthermore, as in every language, there are synonyms and antonyms in medical terminology.

3. Translating medical texts

The translation of medical texts is particularly delicate, as errors can affect the further treatment of a patient or lead to misdiagnosis or incorrect use of medication. It is also important that text type conventions are known and, depending on the situation, either transferred to the target culture (e.g. package insert) or deliberately left in the form of the source culture (e.g. findings, in order to make it clear that the finding was made in another country). If terms are used in the translation that appear foreign in this culture or are simply not used in this form, this often causes frustration for the readers and can lead to the text not being read through to the end.[18]If the translation is intended for laypeople, care must be taken that not too many technical terms are used and that the text is understood without any problems. However, since there are no official guidelines for the translation of texts from the health sector, just as there are no specific training as a medical translator or interpreter, various difficulties can arise in the course of the translation - the translators work according to their own

15. Karenberg, 2007, 7.
16. Karenberg, 2007,8ff.
17. GadebuschBondio / Bettin, 2007, 10.
18. 'Neill, 1998,70f.

experience and discretion.

3.2 Terminological difficulties

- Rohrpostanlage - postametuba (Pneumatic tube system)

Pneumatic tube systems are now part of the basic equipment of hospitals with more than 200 beds. Because they are the ideal solution when long distances have to be bridged and seconds matter. For example, if a blood unit or the result of a sample is required during an operation. Whether blood, tissue and urine samples or medication - everything that is urgent is transported by hospital pneumatic tube as quickly, safely and gently as possible.

There is no aduqate translation in the Albamian language as the object does not exist in Albania. This is a difficult case for the translator.

- **Nierenschale – bacinela (Kidney dish)**

A kidney dish (also known as an instrument dish) is a kidney-shaped container made of plastic, stainless steel or pressed cardboard used in healthcare. Enamelled sheet steel is rarely found any more, as the glaze is easily chipped off.

Kidney dishes are used, among other things, in hospitals, nursing homes and in the emergency services and ambulance services to collect vomit from a patient. The convex-concave and curved shape of the kidney bowl enables it to be guided to different parts of the patient's body in a handy manner. Contaminated cardboard kidney dishes are disposed of after a single use. Kidney dishes are also used to put down used instruments or surgically removed tissue.

In the Albanian language, the word is translated using an Italian term.

- **Herschrittmacher- Pejsmeiker (Pacemaker)**

A pacemaker is a device used to treat heart conditions where the heart beats too slowly.

The pacemaker works like a clock that brings the heartbeat into a normal rhythm. In the Albanian language, the English term is used and adapted.

- **Erkrankung der großen Halsschlagadern -Sëmundja e arterieve kryesore karotide (Disease of the major carotid arteries)**

"Large blood vessels in the neck" might initially appear to be a difficult construction to translate (large blood vessels in the neck?) - in this case a certain medical background is necessary to recognize that this is the carotid artery. This is a very good example of how important and helpful basic technical knowledge is when translating medical texts.

Conclusions

Medical translation is therefore already in great demand and will gain even more reputation in the future, especially if relevant training and awareness-raising work can continue to contribute. One of the main difficulties beginners face when translating is that problems in the text are not recognized as such. They very often overlook these problems, while experienced translators can grasp them immediately. It is therefore very important to understand that not everything has to be as simple as it looks and therefore to develop your own skills with regard to recognizing problems, making decisions and self-control.

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Integration of Key Competencies at the University of Elbasan from the perspective of the German Department

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Abstract

We cannot properly understand the present, our world today, if we do not know its past, its history. The intellectual as well as political and economic phenomena that are effective today can only be understood in their thrust and power if their historical background is seen and correctly assessed.
For this reason I would like to begin with a historical overview of the development of German studies at the University of Elbasan/Albania.

Keywords: Integration, Key Competencies, University of Elbasan, German Department.

Introduction

In 1992, German was introduced as a subject at the Foreign Language Faculty (now Faculty of Human Sciences) in Elbasan.
The German students who were accepted were German beginners. Therefore, the main focus was on language teaching.
Since German was only established as a school subject shortly after the fall of the Wall, it was taught by teachers without demonstrable teaching qualifications.
The German teacher training took place in Albania as part of the German studies at the universities of Tirana, Elbasan and Shkodra.

Implementation of the Bologna Process

In September 2003 the Albanian Ministry of Education and Science signed the "Bologna Declaration". Since then the Albanian universities have tried to find possible and suitable ways to implement the "Bologna Process" in Albania.
Following the approval of the Ministry of Education, the Bologna Process was implemented in the 2004/2005 academic school year, initially at the Universities of Elbasan and Shkodra, and a year later also at the Foreign Language Faculty in Tirana.
For example, a working group consisting of professors and specialist lecturers was set up in the Foreign Language Faculty Elbasan, which since March 2004 has dealt intensively with the implementation of the Bologna Process in the Foreign Language Faculty. In order to achieve this objective, various materials and numerous publications were studied that dealt with the implementation of the Bologna Declaration at European universities that had a profile similar to that of the Elbasan Foreign Language Faculty. On the basis of these programs and the existing drafts, as well as building on the many years of experience of this working group in didactics, science and research, a draft of the new curricula (curricula) was initially worked out.
The names of the new diplomas were discussed for a long time. Finally, an information pack for students and faculty on the curriculum for the first three years was put

together. This was done in cooperation with various European universities
For the students, this process means good prospects for education, further training and further education at various universities in Europe and unlimited mobility: more independent work by students, increased use of the widest possible range of literature, the Internet, etc. Preparation of the students for those labor markets in which their ingenuity, knowledge and skills are most in need.

Core curriculum German Studies Elbasan

Our department offers several general theoretical lectures on German grammar and disciplines in linguistics and literary studies, but also the seminars on language practice, which extend over six semesters. Practical exercises on grammar, translation, oral and written communicative strategies and texts in different hours, not least in coordination with the parallel lecture series, complement each other.
The three-year course focuses on teaching very good receptive and productive language skills. Both theoretically and practically relevant aspects of the German language: phonetics, phonology, syntax, lexicons, text linguistics are important components of language training. Working with these disciplines is intended on the one hand to improve the language skills of the graduates and on the other hand to give them an overview of the different variants of the German language.
The courses in German linguistics are supplemented by lectures in general and applied linguistics. At the same time, the students complete literary courses, which among other things also offer them the opportunity to deal more intensively with the history and culture of the German-speaking area. In addition to the traditional lectures, students have the opportunity to put into practice everything they learn in theory about language, translations, communication, etc. in the course of several courses with an exercise character.
Apart from linguistic and literary studies courses, depending on the course chosen, teaching modules from the fields of art history, history, philosophy, geography and sociology, which are weighted differently, form a further focus; furthermore, individual courses from the field of Albanian literature and literary history are provided in all courses.
Another challenge is the requirement to impart key competencies in the bachelor's degree such as presentation skills, moderation skills, organizational and planning skills, etc., which represent the core of the required general professional qualification. Especially in the modern media and knowledge society, in which lifelong learning as well as flexibility and mobility play a central role in almost all areas of work and life, the acquisition of key qualifications is becoming increasingly important.
The importance of key competencies is therefore now well known and there is consensus that a wide range of competencies is required both for studying and for a successful career start.
Their communication must also lead to a change in the high school didactics in the courses themselves. Rather, job-related university teaching itself must make a contribution to the development of key qualifications by incorporating the didactic key qualifications into the planning and implementation of the content in every course (e.g. also in language teaching), for example in the presentation of lectures by students, the appropriate use of media in the implementation of the seminars by the teachers, the ability to cooperate in projects and seminar papers, the encouragement

of students to take on moderation tasks in learning groups, etc.
That is why studying at the Foreign Language Department of the University of Elbasan is used to acquire key qualifications. The course is not only a phase of intensive learning and personal development, but also a decisive qualification phase that offers a wide range of opportunities to acquire key competencies and develop them further.
Key qualifications that we consider indispensable, which students can acquire during their studies and which, in our opinion, are necessary for successful studies and should therefore be promoted, are fully integrated in the German studies course at the University of Elbasan and in the BA core curricula as compulsory subjects or compulsory courses includes. The aim of each of these subjects is to present the most important qualifications in a clear form, to convey the relevant overview knowledge in a comprehensible and reliable manner, and to give practice-oriented information and tips for the independent development of key qualifications
These are:
• Scientific writing (2nd semester, 4 CP), the independent development of scientific questions, the formulation of hypotheses and the preparation of seminars and theses are practiced and further developed in this subject.
• Working methods in the library (research) (1st semester, 3 CP), the ability to quickly and reliably research literature on a topic and to collect the most important information should be practiced
• Rhetoric and presentation techniques (3rd semester, 4 CP), the ability to give convincing presentations, to convey complex arguments clearly, to appear confidently in front of larger groups.
• Creative writing (creativity techniques) (4th semester, 4 CP)
• Project work (3 semesters, 4 CP)
• Advanced IT skills and media (6th semester, 6 CP).
• Intercultural communication (5th semester, 5 CP), language skills alone are not enough to act as mediators between different cultures. Knowing the similarities and differences between the two language systems is extremely important, especially for activities in this area. In addition to linguistic and metalinguistic knowledge, regional and cultural knowledge of the relevant cultures is indispensable for activities in the field of cultural mediation. Students can acquire this knowledge through, among other things, cultural studies-oriented study of literature.
Graduates of the German studies course acquire intercultural skills that are extremely important and useful not only for Western Europe, but also for the other regions of the world. The importance of this intercultural competence grows with the awareness of the cultural diversity and with the need to be able to understand and interpret this cultural diversity. In the globalized European labor market, in addition to very good foreign language skills, skills in dealing with intercultural, national differences in corporate and academic cultures are required. Intercultural competence is therefore also shown in the necessary sensitivity and openness for people from other cultures in private, professional and scientific contacts.
Qualifications that are acquired by graduates of the German language at the foreign language department in Elbasan after three years of study include:
- Mastery of humanities instruments and methods: The graduate can confidently use the instruments and methods of humanities subjects

- Problem-solving skills: The graduate can recognize problems and design solutions using scientific arguments while implementing the organizational preparatory work required for this
- Comprehension skills: The graduate can process complex information and large amounts of text in a short time and check it for its usefulness with regard to problem solving
- Documentation competence: The graduate is able to obtain and provide information that is necessary for making scientifically sound decisions using modern information and documentation technologies
- Intercultural competence: The graduate can also communicate at an appropriate level in a foreign language environment

When integrating key competencies in our degree program, we have introduced forms of work into the courses that have rarely been in the foreground in academic teaching up to now.

At the center of learning processes is the acquisition of competencies and less that of reproducible knowledge. The relationship between specialist knowledge and methodological competence has to be constantly redefined. In addition to solid basic knowledge, learning requires both development and orientation skills. Expertise is only fully usable through key competencies. Key competencies are best taught in conjunction with content-related knowledge.

Through the restructuring and reorganization of the curriculum, the new weighting of individual subjects and the embedding of the German studies branch in larger contexts, open up new career opportunities for graduates of the German language at the Foreign Language Faculty Elbasan.

The MA course in German Studies does not prepare graduates for a specific job, but nevertheless for several activities in a wide variety of professional fields.

Solid humanistic education in combination with active and passive knowledge of the German language make graduates of an MA course in German studies at the Foreign Language Faculty Elbasan into versatile experts who have the ability to react to the demands of a changing labor market.

Compared to the BA courses (the three-year course), they are more job-oriented. There are more options for aspiring German scholars: On the one hand, you can choose the traditional teaching degree at the university; there are also other curricula that are cross-philological and also try to take into account the needs of the respective national philologies: language, culture, communication, tourism.

The increased importance of key competencies can be seen particularly clearly in the new BA and MA courses. The intensive discussion of this topic in magazines and newspapers also documents this development. Whereas the previous degree programs were primarily geared towards a canon of content, specialist knowledge and topics, the conception of the new BA and MA degree programs is based on the so-called learning outcomes, i.e. the question of which competencies students acquire through their studies.

Democracy as a multidisciplinary concept

Alban Brati

Abstract

Multiculturalism is closely connected to an intercultural approach to law, education, society, and to social relationships. It is primarily not a legal concept, but a matter of political or sociological choice. If the population of a State is, as is most frequently, and indeed increasingly, the case nowadays, composed of a number of groups of distinctive ethnic, religious or cultural identities, the State may so establish its political and legal structures as to take account of the existence and the interests of these various groups. The State may however adopt (or more commonly, have adopted) a particular cultural model, on historical or patriotic grounds, as the national paradigm, so that all other models which may characterize individual groups will be seen as variations of that paradigm or departures from it. When I say that a State *may* act in this way, I intend merely to state a fact of political practice; I offer no value judgment on the desirability or otherwise of either a multicultural or a monocultural approach; nor, at this stage, am I making any suggestion as to the compatibility of either with law, international or national. In this sense, the the main objective of this paper is to analyse the impact of multiculturalism and democracy in international law.

Keywords: Multiculturalism, law, democracy, society, Europe.

Introduction

In comparison to democracy, international law had a different situation. Since the United Nations was created in 1945, its membership has increased nearly four-fold, from 51 original members to the 192 members of today. Any such increase is bound to have major repercussions on the work of the organization, and this one especially so because the new membership is made up largely of former colonies and developing countries which bring into the organization a vast wealth of legal and cultural traditions. For the first time, the international community has become global, comprising States that differ significantly regarding economic development, politics, culture and religion. Never before has the United Nations as well as the international community been so truly "international" as it is today.

The deployment of democracy in international law

Academic discussions often suffer from the fact that concepts and terms, when used as the basis for argumentation, fail to be sufficiently interpreted, or are differently invoked. Even where those terms are introduced into legal codifications, no sufficient clearness is obtained as long as no definition is provided. In the field of international law, mainly two terms suffer from the lack of definition although they are permanently and strikingly presented (Boric 2013). When, for instance, the "rule of law" is invoked, some are prepared to define this term as only guaranteeing the observance of positive law, whereas others see it as a guarantee of justice in an

idealistic sense. Similarly, this is the case with the term "democracy". Some regard it as no more than a formal participation in the formation of political decisions; whereas others see in it the guarantee against a certain tyranny of the majority which could suppress the minority; some even see it as a guarantee of human rights. The following considerations are dealing solely with the problems arising when democracy is used as a legal requirement without clear definition of this concept. Until now and continuing, no rule of international law exists expounding that a state in its capacity as a subject of international law is only recognizable when its government is legitimated in a democratic sense. Nevertheless, a tendency is obviously appearing in which only democratically established governments are internationally acceptable. Thus, for instance, the international treaty law seems more and more to incline to this view, in particular where those treaties relate to human rights.

It should also be mentioned in this respect that membership in the European Union presupposes democratically legitimated governments. So we can ascertain that in international law, many indications can befound qualifying democracy not only as a political but also as a legal goal of the world community. Nevertheless, a strict principle requiring the democratic legitimacy of all international subjects and institutions is not yet established; it is, rather, a kind of soft law which does not yet form part of positive international law. The reason why the concept of democracy does not, up until now, belong to the basic principles of international law, may be found in the traditional idea that states are completely free to organise their internal legal system. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (1970) emphasises the freedom of states to shape autonomously their political and social life without interference from other states. One could, possibly, argue that this freedom is not unlimited, for instance in regard to the protection of human rights. So, one might argue that democracy as an element of human rights has to be respected when the organisation of the internal legal system of states is at stake. However, the difficulty in drawing this consequence arises from the fact that the community of nations has not, until now, succeeded in shaping a commonly accepted concept of democracy.

Nearly all governments in the world pretend to be of a democratic nature or, at least, to be on the way to create a democratic legal system. Even dictators exercise their power mostly with the assertion that the majority of the population recognizes their authority, so that a certain legitimacy in a democratic sense is obtained. The unclearness of a generally accepted concept of democracy supports such a doubtful justification. But even when recognising the concept of democracy of the Western world as the only true democratic system and accepting the position that under international law every national government must be legitimized by free
elections or that a state without parliament would not comply with the requirements of international law, one cannot escape from a decisive problem. It consists in the question of whether or not the executive power of a state is bound to perform the will of the people, represented by the parliament, even when international law is disregarded by the majority of the parliament.

Let us once again undermine this view by a simple example that shows the doubtfulness of an undifferentiated claim for international democracy. The case may occur – and has occurred – that a treaty obligation is stipulated but one party to

this treaty fails to comply with it by enacting a law preventing the performance of the international obligation in municipal law. The other party to this treaty invokes, maybe before an international court, the rule of *pacta sunt servanda*, whereas the defending party replies that the fulfilment of the obligation needs, under national law, the consent of the parliament, but a respective decision cannot be obtained due to the lack of parliamentary majority. Since international law – so the argument of the defendant goes – demands, as often proclaimed, that national governments must be based on the democratic concept, the observance of the treaty obligation cannot be reached. Under positive international law the deciding international court could not accept this argument. The Vienna Convention on the Law of Treaties clearly excludes the invocation of obstacles in national law in order to escape from the rule of pacta sunt servanda. If under a dictatorial government the treaty obligation is respected, it would be an abstruse view to reproach such a government for not having obtained the consent of a free parliament so that an international duty was wrongly fulfilled. One could, ironically, raise the question of what lastly international law prefers: a democracy which violates international law, or a dictatorship which does not admit democracy but respects international law?
Since international law increasingly qualifies international organisations assubjects of international law, the question arises as to whether they are alsobound by the rule – suppose it exists – claiming democracy as a principle of democracy.

The deployment of Multiculturalism in International Law

Multiculturalism is a big challenge for international law. Indeed, although international law is by no means of uniquely Western origins, modern international law has been strongly influenced by the European understanding of its contours. For example, the European model of the nation-state and international legal order became universalized through its active acceptance by former European colonies. In order for international law to be effective, however, it should strive to accommodate potentially differing views of the international legal order in this new community of States and peoples. One of the most fundamental principles of public international law is its universality◎its recognition as valid and applicable in all States, whatever their historical, cultural or religious traditions. Universality◎or at least cultural relevance◎is crucial to the international legal order, because international law is sure to be ignored if it is not culturally relevant (An-Na'im 1990). But universality is also a very challenging goal, in light of the fact that the Universal Declaration of Human Rights was adopted at a time when most countries in the developing world were still under colonial rule. For example, of the more than 50 States of modern-day Africa, making up almost one third of the current United Nations member states, only four existed at the time of the drafting of the Universal Declaration of Human Rights.
The goal of universality is considered laudable by some, but to others it is viewed as unrealistic and even offensive (Steiner & Alston 2000). For this reason scholars have developed the notion of "moderate cultural relativism", which accepts regional variations in human rights norms but aims to uncover a core group of rights which are indeed universal. The approach of moderate cultural relativism thus strikes a balance between strict cultural relativism, which holds that all human rights are

culturally unique, and pure universalism, which holds that all human rights are universally applicable. The application of moderate cultural relativism is often problematic, however, because of the tendency of scholars to begin their search for a core group of human rights with traditionally Western standards of human rights, looking to other cultures only for confirmation or denial of the universality of those standards rather than for original inspiration in the creation of that core group of human rights. This is problematic from the standpoint of legitimacy: In order for international law to maintain its legitimacy, efforts to define universal rights must not be dominated by Western values. It is also problematic from the standpoint of compliance, because human rights are sure to be ignored if they are not culturally relevant or are seen as a subtle and modern form of intrusion (An-Na'im 1990).

In addition to the ways, discussed above, in which the law itself may not accurately reflect the views of all people, one should also consider the *de facto* effects of an international legal order in which States of vastly disproportionate economic, military, and political strength co-exist. When systems of international law are established based on a presumed equality of States, the actual presence of such disparities can be further exacerbated. For example, under the international law on the use of force, states are prevented from using force except (1) as part of a collective security measure authorized by the United Nations Security Council, and (2) in self-defense under UN Charter Article 51. The first is an example of a *de jure* imbalance of power, because the five permanent members of the Security Council will always have a great say on the authorization of collective security measures, including the veto power. It was precisely for this reason that the General Assembly passed the "Uniting for Peace" Resolution in 1950. This Resolution resolved that "if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security." The Uniting for Peace Resolution was used to authorize collective force during the Suez crisis of 1956 and in the Congo in 1960 (Thomas 2002). The International Court of Justice found the Uniting for Peace Resolution *intra vires* the Charter in *Certain Expenses of the United Nations* in 1962. The second permissible use of force, self-defense under Article 51, does not suffer from this *de jure* imbalance, because all states are equally authorized to invoke it. From the point of view of *realpolitik,* however, many smaller and developing States simply have no power to use self defense, even if it is in their interest to do so. Because only strong States have the power to use force in self defense, coupled with the fact that the system of collective security does not function effectively, the law on the use of force is multicultural in theory, but not in actual practice. Another area where *de facto* discrepancies exist between States is the international law related to development and globalization. First, developing

States can be disproportionately effected by tariffs in the international trade regime, as the current debate on agricultural subsidies has made clear. Second, whereas developed nations are free to adopt domestic policies they see fit, developing nations dependent on money from the international financial institutions can be

limited by the structural adjustment programs imposed by those institutions as a condition of lending. For example, it has been argued that "the [International Monetary Fund] adopts a doctrinaire monetarist approach, that it is insensitive to the individual situations of borrowing countries, that it imposes onerous conditions, that it is ideologically biased in favor of free markets and against socialism, and that it overrides national sovereignty and perpetuates dependency." From a legal standpoint, it also bears noting that voting in organizations such as the International Monetary Fund is weighted according to the size of each country's economy; such institutions will therefore be more representative of developed country interests than the interests of developing countries (Steiner & Alston 2000). Thus, both in the international law on the use of force and in the
international law related to development and globalization, even if the law itself does not directly favour developed, primarily Western, countries, the application of this law in the current geo-political realities disparately impacts developing, primarily non-Western countries in a negative way. Efforts to improve multiculturalism in international law must therefore take into consideration not only whether the law is *de jure* legitimate from a multicultural standpoint, but also if the law as applied to geo-political realities is multiculturally legitimate.

Conclusion

The question of multiculturalism in international law is a complex one deserving a multi-facetted response. In this point of view, this paper has offered three angles with which to view the issue, each offering its own challenges and benefits. First, concerning the question of the universality of international human rights law, it is posited that human rights are certain to be ignored if they are not culturally relevant, but it is crucial that efforts to uncover universal rights are not West-centric and begin in multiple legal traditions. Second, we examined the two *de facto* weaknesses in the multiculturalism of the international legal order, namely the law on the use of force and the law related to globalization and development. In both of these areas, although the law itself is generally sensitive to multicultural concerns, it negatively affects developing, non-Western countries when applied under current geo-political realities. Third, expanding the scope of inquiry even further, we have analyzed which over-arching theory of international law best accommodates multicultural approaches. Although the transnational perspective of non-state actors marks an improvement over the international paradigm based exclusively on the European model of the sovereign nationstate, the new trans-civilizational perspective marks an even further improvement by acknowledging cultural diversity within each civilization and indeed within each individual.
Democracy on the other hand gives a modern tendency to see individual states as under an international obligation to install democratic governments. Moreover, the position of the minority in such a system and its legal protection when acting as the opposition, and the chance to gain to its side the authority of the state, should be guaranteed. An obligation of states to admit the participation of the citizens in the exercise of political affairs, in particular through guaranteeing elections, remains without substance as long as respective details are not cleared up. How often should elections be performed? What kind of institutions of the state should be legitimized

by elections? Should the president of the state be elected, or appointed by the members of the executive power? Should the composition of the parliament depend on elections? Is secret or public voting required? Should one introduce the so-called imperative
or free mandate? Who would be the controller of the elections? How can one limit the power vested in the majority? The behaviour of many governments, when acting free from detailed rules, demonstrates the danger of misunderstood democracy which, in the end, might produce a kind of tyranny.

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Some fresh components of the Law no. 136/2015, dated 05.12.2015 "*On some additions and amendments to Law no.* 7961, dated 12.07.1995 "*Labour Code of the Republic of Albania*", as amended"

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Abstract

By law no. 136/2015, dated 05.12.2015 "On some additions and amendments to Law no. 7961, dated 12.07.1995 "Labor Code of the Republic of Albania", as amended, several additions and amendments to the Labor Code have been approved. Some of these additions and amendments are essential, as per se, they make a fully new provision to certain aspects of employment and the relationship arising from employment, or a change to an existing provision. Thus, as you will find broadly addressed following the paper, a new provision in the Code is the employment of foreign employees in Albania, defining our legislation as applicable legislation for the regulation of employment. Another innovation is the establishment of the Temporary Employment Agency, which is defined as an employer hiring an employee to work temporarily in a host company. The relationship is regulated by virtue of an employment contract concluded between the Agency and the employee. It is also important to have a detailed provision of one of the basic principles in labor law, such as that of equal treatment and non-discrimination. New rules have been set for part-time job, work from home and telework. The latter is firstly regulated in the Labor Code and is a job performed using information technology. A more detailed regulation has been applied to the provisions that foresee the obligations of the employer, in order to protect the employee, who is the most vulnerable party in an employment relationship. It is worth mentioning that the most important changes have been made in terms of the rules for termination of the employment contract, termination procedure, notice period, grounds for termination. Unlike the previous provision in the Code, in case of termination of the employment contract for an indefinite term, the employer is obliged to notify the employee in writing the grounds for termination of the employment contract, which are related to reasons such as the employee's ability, conduct and operational requirements of the enterprise. It is the non-determination of one of these reasons that makes the contract termination to have been made by the employer without reasonable cause and the employee has the right to receive compensation up to one year of salary.

Keywords: Employee, temporary employment agency, discrimination, maternity leave, unreasonable cause.

Introduction

Life in all its dimensions is evolving and consequently the need arises to establish the rules of law in order to regulate the various relations that arise. Thus, it becomes requisite to set rules in certain areas of law or to change existing rules. The right to work itself is an evolving, pervasive and dynamic right. In our country the employment relationship is regulated by the Labor Code and other special laws regulating certain areas of work. Notwithstanding the development of the internal labor market, its expansion beyond the borders of Albania and despite the fact that the number of disputes filed for resolution before the court has been considerable over years, the Labor Code is one of the Codes that has undergone fewer additions

and amendments years. The Code itself has been approved by Law no. 7961, dated 12.07.1995, while additions and amendments have been made to three other laws, specifically Laws no. 8085, dated 13.03.1996, no. 9125, dated 29.07.2003 and no. 10053, dated 29.12.2008. Finally, by Law no. 136/2015, dated 05.12.2015 "On some additions and amendments to Law no. 7961, dated 12.07.1995 "Labor Code of the Republic of Albania", as amended, the Assembly of Albania has approved several additions and other amendments to the Labor Code. Although the law was approved at the end of 2015 and published in the Official Journal, referring to its express provision, it entered into force 6 months later, specifically on 22.06.2016. As this law brought some fundamental changes, this 6-month transitional period remained at the disposal of the parties participating in an employment relationship to adapt the employment contracts to the legal provisions. The following are some of the main changes this law brought to the Labor Code, i.e.:

1. *Temporary employment of foreign employees in Albania*. The case of temporary employment of foreign employees in Albania has been added to the provision made by the Labor Code to its field of application in space. According to this additional provision, this type of employment will be regulated according to the provisions of the Labor Code of the Republic of Albania. Also, Article 3/1 has been added to the Labor Code which provides for cases when a foreign company sends employees to work in Albania. This relationship is formalized through an employment contract, which cannot last more than 12 months. In this case, the employment relationship is created between:

- One sending enterprise and another enterprise in Albania, which is registered with the tax authorities;
- The sending company or its branch in Albania and the employees;
- Temporary employment agency or employment agency and employee.

This Article provides for the general rule that for the regulation of the employment relationship with foreign employees the provisions of the Albanian legislation are applied, envisaging the exceptions in the case of the most favorable legislation, i.e. when the foreign employee legislation contains a more favorable provision. . Exceptions are also provided for exceptions to the application of the rules of this type of employment in certain areas such as the construction sector, employment of merchant ship sailors etc. This type of employment is linked with what is widely discussed today, the globalization of labor law, i.e the extension or expansion of the labor market beyond the borders of a country. Affording the possibility of legal employment of foreign persons in Albania affects the development of certain sectors of work and consequently the economic growth. On the other hand, this can not be seen as a narrowing of the internal labor market, i.e as a shrinking opportunity of Albanian employees to be employed. Thanks to the training and work experience in their country, foreign employees are a good opportunity to enhance the quality of work performance in Albania.

2. *Prohibition of discrimination*. One of the basic principles in labor law is the principle of equal treatment and non-discrimination. This principle is regulated by Article 9 of the Labor Code. By Law 136/2015 this Article has been fully changed. Unlike the previous provision, in determining the prohibition of any form of discrimination in the exercise of the right to employment and profession, the legislator refers not only to the concept of discrimination expressly defined in this Code, but also refers to the

definition that makes them special legislation for protection against discrimination. The concept of discrimination is introduced more widely in the Code, expressly defining other causes of discrimination that have as their purpose or consequence to prevent or make impossible the exercise of the right to employment and profession in the same way as others. Likewise, there are cases where differences, limitations, exceptions or preferences based on characteristics related to causes defined as discriminatory, do not constitute discrimination. This is conditioned by the nature of the professional activities, the conditions in which the profession or activity is exercised and which are such that make them necessary, the purpose of the different treatment must be justified and the requirement shall not exceed what is necessary for its realization. Also, cases when the prohibition of discrimination and the principle of equal treatment are applied in the exercise of the right to employment and profesion are expressly foreseen, early and special measures taken by the employer for the real establishment of equality in the exercise of the right to employment and occupation, reasonable adaptation of the workplace for certain categories of employees, such as disabled persons etc. Of particular importance are the provisions regarding the procedures followed in case of allegations of violation of the principle of equal treatment in the exercise of the right to employment and profession, referring to the appeal procedures set out in the special law on protection against discrimination. Therefore, if someone alleges that the principle of equal treatment has been violated or has been discriminated against for one of the reasons provided for in the Labor Code or in the special law on protection against discrimination, he/she should pursue the line of complaint to the authorities defined in Law no. 10221, dated 04.02.2010 "On protection from discrimination" and then address the court if he/she does not find a solution or the solution given does not meet his interests. Of interest is also the provision regarding the burden of proof. Thus, the person who alleges that he /she has been discriminated against in the capacity of appellant during the administrative appeal or that of the administrative plaintiff before the court, has the obligation to present the facts on which he/she claims to have been discriminated. Then the person against whom the complaint is filed in an administrative procedure or the respondent before the court shall be obliged to prove that the principle of equal treatment has not been violated. Accordingly, the burden of proof lies with the latter, both during the administrative proceedings and during the litigation.

3. Part-time job, work from home and telework. Part-time employment had previously been regulated in the Labor Code, but upon the changes made by Law 136/2015, employees, part-time employees are guaranteed the right to be informed by the employer about new jobs and equal employment opportunities with other employees or jobseekers to be employed on full-time basis and vice versa. The novelty of legal changes are the provisions for work from home and telework. The latter is defined as a type of work performed using information technology. The employment relationship is regulated by the relevant employment contracts, where the parties, of their own free will, determine the conditions, which must be in accordance with the provisions of Labor Code. The law also defines the exceptions, i.e the provisions of Labor Code that do not apply to the regulation of these employment contracts and dictated by the nature of work performed by the employee, the method of its performance, i.e at home, or using information technology.

4. Temporary Employment Agency. This is another innovation of Law 136/2015, where,

after Article 18 of the Labor Code, 5 more articles have been added that regulate the definition, method of organization, conditions of employment, rights and obligations of the parties in the respective contracts etc. This Agency is an employer hiring an employee to work temporarily in a host company. The relationship is regulated on the basis of an employment contract concluded between the Agency and the employee. Meanwhile, the employer is considered at the same time the Agency and the host company, jointly exercising their rights and obligations. Employment in this way is temporary and cannot last for more than two years in the same host company. A thorough analysis of these Articles added to the Code and which regulate this structure and this way of temporary employment demonstrates that they have a protective nature for the employee, specifically in terms of guaranteeing his fundamental rights arising from this relationship as wages and other benefits, health, safety at work, working and rest time, liability in case of damage caused etc. Based on the provision expressed in this law, this type of employment is prohibited in certain cases, sectors and certain categories of employees and it is the Council of Ministers that determines with the relevant act the cases of prohibition of this type of temporary employment.

5. *Form of concluding an employment contract.* Article 21 of the Labor Code has undergone a significant change regarding the form of employment contract. Unlike the previous provision, according to which the employment contract could be concluded in writing or orally, now the legislator has expressly provided, i.e obligatorily that the employment contract must be concluded in writing. Even if, in special and justified cases, the employer has not respected the legal provision on the manner of concluding the contract and its elements of content, he/she is given a period of 7 days, from the day of employment, to enter into the contract in accordance with legal provisions. Referring to the previous provision of the Code, the lack of a written form of the contract did not affect its validity, but only shifted the responsibility of the employer under Article 202 of the Labor Code. With the changes made, such a provision no longer exists, so the contract between the parties must be concluded in writing. This provision is very important. The formulation of the contract in written form makes the parties provide in its content all the elements and this is a guarantee for the best fulfillment of contractual provisions, the realization of rights and fulfillment of the obligations deriving therefrom, as well as the settlement of disputes the parties may have in the course of the duration of the contract or upon its conclusion.

6. Obligations of the employer. Another novelty of the law are the changes and additions in Chapter VII of the Code, specifically in the provisions regarding the general obligations of the employer. Thus, in the framework of the protection of the employee's personality, with the changes made, more detailed or fully new provisions are foreseen regarding the prohibition of actions that constitute sexual harassment, actions that are intended or result in the degradation of conditions of employment for employees or jobseekers. The aim remains to protect the rights of the employee or jobseeker and related specifically to their physical and mental health, as well as their personal freedom. It is also crucial to regulate the burden of proof in such situations. If the employee alleges that he/she was harassed in one of these ways, he/she must present facts proving his harassment and then the employer has the burden of proof to prove objectively that his/her actions were not intended to harass or harass the employee. Of particular importance are changes made regarding the protection of

personal data of employees and their processing during the exercise of duty or after its completion, guaranteeing the basic principles of confidentiality and credibility, as well as other guarantees in accordance with the legislation. for personal data protection. Article 33/1 regarding information and consultation has been added to this Chapter of the Code. The information concerns the transmission of data from the employer to the employees' representatives to enable them to recognize and review the case. Meanwhile, consultation is the exchange of ideas and building dialogue between the employer and the employee's representative. The latter is the representative of the trade union organization or in its absence, the representative elected by the employees. In general, cases of information and consultation are provided in relation to the activities of the enterprise, economic situation, state of employment relations, as well as in cases of decision-making for the reorganization of enterprise. In such cases, informing employees and consulting is mandatory, as such decisions can have legal, economic and social consequences for employees. Information and consultation are intended to avoid or mitigate these consequences. In addition to these cases, which make it necessary to inform and consult with the employee's representatives, the legislator has given risë to the possibility of providing for other cases of information and consultation in the collective labor contract or in free agreement between the parties, namely the employer and employee's representatives. The law also provides for rules for the manner of providing information or consultation with employees, guaranteeing these rights, but also making them conditional on the obligation to maintain commercial, industrial or professional secrecy, as well as official and state one. In case of refusal to provide information or conduct consultations, the employee has the right to refer to court within a period of 6 days from the issuance of the refusal decision. It is then the court that, after examining the case and if it finds the refusal unjustified, obliges the employer to provide the requested information or to conduct the relevant consultations.

7. Annual leave and maternity leave for the employee. The amendments to the Code stipulate that every employee enjoys the right to have annual leave and this leave can no longer be replaced by financial compensation, unless the employment relationship has ended and the employee has not taken the leave due to him/her. In this case the employee receives a remuneration equal to the salary of these holidays.

Regarding maternity leave, unlike the previous provision, the period of rest after childbirth for the woman has been increased from 42 days to 63 days. If after the 63-day period and within the 1-year period, the woman decides to work to ensure the child's maintenance/feeding, she is entitled to benefit paid leave of up to 2 hours or a reduction in normal working hours of up to 2 hours per day, while receiving the same salary.

It also provides for an amendment that entitles both parents, husband or wife, to take care of the newborn child, whether adopted one. Parents can now receive double rest under medical leave, for children up to the age of 6 they are entitled to unpaid leave of not less than four months.

8. Termination of the employment contract, procedure, notice term, reasons for termination. Law 136/2015 has introduced fresh components in the part of termination of employment. Regarding the duration of employment relationship, previously the Code included a provision according to which the non-determination in the employment contract of its duration, i.e whether it is for a definite or indefinite term,

made the contract be treated of indefinite term. Further, an amendment has already been made according to which, in case when the employer enters into a fixed-term employment contract and does not justify setting a deadline with objective reasons related to the temporary nature of the position in which the employee will be employed, the contract shall remain valid, but the employer is liable under the provisions of Article 202/2 of Labor Code, so only a fine of up to thirty times the monthly minimum wage is applied.

Amendments have also been made to Article 143 of the Labor Code regarding the notice term which the employer must respect in case of termination of the contract for an indefinite term, defining them expressly in the first paragraph of Article 143 of the Labour Code, depending on the duration of their relationship. Meanwhile, with an addition made to this Article, the employee has been recognized the right to receive a paid leave of at least 20 hours per week during the notice term, in order to be able to look for a new job. Therefore, this is a protective provision for the employee.

A substantial change has been made regarding the procedure for terminating the employment contract for an indefinite term. In the second written notice sent to the employee, the employer must specify the reasons for the contract termination, which are related to reasons such as the ability, behavior of the employee or operational requirements of the enterprise. Thus, a reason must necessarily be given and it should be related only to the above mentioned causes. Also, of importance is the fact that Law 136/2015 has repealed paragraph 4 of this Article, according to which the procedure is applied in cases of immediate termination of the employment contract, i.e termination without respecting the notice term. Meanwhile, such a procedure does not apply in cases of collective dismissal, but the employer has the obligation to furnish employees the reasons for terminating the employment contract, according to the provisions of Article 148/5 of Labor Code.

Another significant change is the one related to the unreasonable reasons for termination of the employment contract by the employer, provided by Article 146 of the Labor Code. Thus, letter "c" of paragraph 1 of this Article has been amended, expressly providing for as an unreasonable reason for terminating the employment contract, the violation of prohibition that exists for the employer not to discriminate against the employee. The definition regarding discrimination is introduced by the Labor Code itself in its Article 9, but is also given by the special Law no. 10221, dated 04.02.2010 "On protection from discrimination". Meanwhile, in paragraph 1 of Article 146 it is added letter "gj", which defines as unreasonable cause of termination of the employment contract the case when the termination occurs contrary to the provisions of point 3 of Aarticle 144 of the Labor Code regarding the reasons of termination of the employment contract. As we explained above, referring to the provision of Article 144/3 of the amended Labor Code, the employer, in the second written notification sent to the employee, has the obligation to determine the reasons for termination of the employment contract which are related to reasons such as the ability, behavior of the employee and operational requirements of the enterprise. Exactly the non-determination of one of these reasons makes the termination of the contract be considered that it was done by the employer without reasonable causes and the employee has the right to claim by a lawsuit the payment of a compensation up to one year salary. Deadline for filing such a lawsuit remains the 180-day period, starting from the day of the notice term expiry.

This provision has brought a significant change that will have an impact on case law. This is because, so far, in addition to the provisions of Labor Code that did not make it necessary to determine the reasons for termination of the contract by the employer, in court practice the courts have referred to the unifying judgment no. 19, dated 15.11.2007 of the Joint Benches of the High Court, according to which, in case of termination of the employment contract with an indefinite term, the employer observes the procedure set out in Article 144 of the Labor Code and the notice term of termination of the employment contract according to the provisions of Article 143 of the same Code and he/she, i.e the employer, is not obliged to furnish the employee any reasons for termination of the employment contract or to terminate it for any reasons, except those specified by Article 146 of the Labor Code, i.e unreasonable grounds or otherwise abusive reasons. In such a situation the employee lost the right to receive compensation. More specifically, in this decision the Joint Benches state: "In conclusion, when the employer, referring to and pursuant to Article 141 et seq. of Labor Code, unilaterally terminates the employment contract for an indefinite term, the employee not necessarily has the right to receive compensation up to one year salary. Following this conclusion, the observance of the requirements of Articles 141, 143, 144, 145 of Labor Code by the employer, as a rule, entails the natural conclusion of the employment contract and the observance of all rights of the employee". Upon the entry into force of these amendments to the Labor Code, this unifying judgment can not be implemented. In case of termination of the employment contract, the employers are obliged to communicate to the employees in writing the reason for the termination, and to prove before the court its existence in case the dispute is submitted to the court for resolution.

Conclusions and recommendations

Additions and amendments made to the Labor Code by Law no. 136/2015, dated 05.12.2015 "On some additions and amendments to Law no. 7961, dated 12.07.1995 "Labor Code of the Republic of Albania", as amended, are of special importance. This is because such additions and amendments have affected various and most important parts of this Code from the scope of application, basic principles up to the elements of content of the employment contract and its termination.

There remains an urgent need to sensitize the general public to these changes. This can be done in different ways, such as organizing lectures and seminars in the auditoriums of law faculties with law students, realizing the publication of articles and writings by law scholars and practitioners where to analyze these changes. Doctrine has been and remains one of the main sources not only of the knowledge of rules but also of their development. Also, organizing meetings at the enterprise in the presence of employers and employees, or with representatives of their unions in order to be introduced to these changes and to adjust employment contracts to legal provisions. Likewise, the organization of seminars with judges, where the latter have the opportunity to be introduced in more detail to the changes would serve them in fulfilling the function, that of fair resolution of disputes arising from employment relations.

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Some remarks on migration law in Albania

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Abstract

Migration is a process and phenomenon that determines the history of humanity and its development. Hence, it has influenced and still continues to influence every field of life. The phenomenon of migration is nowadays in all the political programs of most of the political parties and movements in developed and developing countries worldwide. Borders and boundaries are no longer perceived as obstacles for moving, and the practical impact of rules regarding immigration is important to acknowledge.

This paper aims at providing a structured overlook over the rules applicable to migration to Albania. Being a country in transition, Albania seeks to strengthen its fragile democracy, establish law and order within its boundaries, and setting goals aimed towards integration into the family of large European Union. Nowadays, Albania has the status of Candidate Country of the European Union. Although it has achieved remarkable progress in its political, economic and social transformation, Albania still faces significant challenges and its democracy can be described as a 'work in progress'.

This paper aims at providing sufficient and adequate frameworks for the rules applied on migration. The objective is to trace the main institutional and legal procedures applicable to the migration legal framework in Albanian. We therefore believe that this paper is particularly relevant for all those who wish to understand, in a concise and schematic manner, the way in which migration and relative matters are processed in Albania in the context of the current applicable legislative regime.

Keywords: Migration; Human rights; Directive; Non-discrimination; Immigrants; Policy; Applicable rules.

Introduction

Albania has a long history of emigration and a very short one of immigration. Migration has been an essential part of Albania's history and extends to the present day, though it has changed both in size and type since the fall of Communism. Albania currently has the highest rate of migration, relative to its population, in Central and Eastern Europe. Since 1990, it has experienced massive internal and external migration. Between 1989 and 2001, approximately 710,000 people, or 20 per cent of the population, leaved the country. Of these, 600,000 are thought to have emigrated and a further 110,000 to be children born in migration.[1] However, this is a conservative figure and the actual number of Albanian migrants abroad is probably higher. Emigration after the creation of the independent Albanian modern state can be divided into three distinct periods based on motive and scale: an early

1. INSTAT (2004) *Migration in Albania, Population and Housing Census 2001*, InstitutiiStatistikës, Tirana.

outflow before 1944, a smaller, but more harrowing outflow during the Communist era, and a significant outflow following the 1990 fall of Communism. Before 1944, Albanians followed the pre-independence emigration paths of their co-nationals towards Argentina, Australia, France, Greece and the US, either for political or, more commonly, for economic reasons.[2]

The second phase of Albanian emigration, during the Communist period (1944-1990), was primarily political. Emigration came to a virtual halt, as it was officially prohibited and emigrants and family members left behind were ostracized or severely punished.

The 1990s radically changed this pattern. In the first years after the fall of Communism, emigration was seen as a short-term solution to dire poverty in Albania. Within a decade, between 600,000[3] and 800,000[4] Albanians went abroad. Greece, Italy, and other European countries were the main destinations. Albania quickly became the country with the highest migration outflow in Europe, when measured in terms of the ratio of migrants to overall population.

However, after the introduction of reforms, the migration picture has evolved in Albania. Albania has especially changed its legislation to improve alignment with the standards of the European Union for its eventual accession. Albania has today transposed all directives relating to immigration and asylum presented by the EU and participates in the negotiations about new migration and asylum measures at the regional level.

Nowadays, Albania has to create incentives for the entry of any foreigner who meets the legal requirements and criteria, in order to become an attractive place for tourists. Albania was a major recipient of migration during the 1999 Kosovo crisis, eventually receiving up to 450.000 refugees and to a much lesser extent during the Macedonia conflict in 2001. According to official statistics offered by the Ministry of Labor and Social Affairs, approximately 6,000 foreigners entered Albania as migrant workers in the period 1996-2003. According to the latest data of INSTAT on *Arrivals of Foreign citizens according to the purpose of travel* at the end of 2013 Albania hosted a community of in total 16.631 foreigners. They are mainly employed in the construction, trade, service, and education sectors. Around 75 % of them come from Turkey, China, Egypt, other Arab and Islamic countries, and EU countries.

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2. Vullnetari, J '*Albanian Migration and Development: State of Art Review*', IMISCOE working paper no.18, September 2007; Ikonomi, L., Diasporas and their role in the formation of the Public policy and economy of the home countries: The Case of Albania, p. 3; See Nika, Th, Lectures for the School of Diplomatic Academy, 2010; Ikonomi, L., Diasporas and their role in the formation of the Public policy and economy of the home countries: The Case of Albania, p. 4.

3. King R. "*Across the Sea and Over the Mountains: Documenting Albanian Migration*" Scottish Geographical Journal. 2003;119:283–309; King R, Vullnetari J. Development Research Centre on Migration, Globalisation and Poverty; Brighton, United Kingdom: 2003. "Migration and Development in Albania." Working Paper C5, pp.6-7; Vullnetari J. International Migration, Integration and Social Cohesion; Amsterdam: 2007. "Albanian Migration and Development: State of the Art Review" IMISCOE Working Paper No. 18.

4. See Barjaba, K. *"Migration and Ethnicity in Albania: synergies and Interdependencies"* Easton Institute for International Studies, Summer Fall 2004, vol xi, ISSUE 1, page 231-239; King R, Vullnetari J. Development Research Centre on Migration, Globalisation and Poverty; Brighton, United Kingdom: 2003. "Migration and Development in Albania." Working Paper C5, pp.6-7.

1. National legal instruments regulating migration in Albania

The composition of immigration has changed in recent years, especially with the return of irregular migrants residing in the EU to countries of transit or origin, which include Albania. Albania signed in 2005 a Readmission Agreement (RA) with the EU whereby the country committed to take back its citizens residing illegally in the EU and to accept nationals of other countries who had passed through Albania prior to entering the EU.[5] Albania initially converged on a 'zero-immigration' policy orientation, which continued into the 1990s. In the 2000s, economic growth, political stability, and perceived social safety led to increased immigration to Albania. This immigration consisted of the children and foreign spouses of Albanian emigrants who were considered foreigners due to extant citizenship laws and their birth abroad. Subsequently, in the second half of the decade, especially in Tirana, a growing number of Albanian immigrants increased the community of immigrants.

The new millennium also saw new migration to Albania, mostly from the EU, but, increasingly, from USA and Turkey as well. Increasingly aware of these new migration patterns and the associated public concern, the Albanian state started to discuss the development and implementation of a migration policy, though this is not the sole motivation. The EU accession process has also driven Albania to improve its legislative and policy framework for migration. The immigration laws that have come into effect due to this recently found interest must thus be understood in the context of dual imperatives: the need to respond to the new realities of migratory fluxes and the need to implement EU legislation. However, while Albania has developed several initiatives with regards to emigration in the last twenty years, it has yet to build an effective and comprehensive *migration policy*.

The first legislative act to be considered in this sense is the Constitution of Albania adopted by referendum on 22 November 1998. The Albanian Constitution includes strong guarantees for the respect of human rights and fundamental freedoms, not only for Albanians, but for foreigners and stateless persons as well.[6] In treating aliens, Albanian legislation must respect the principles of non-discrimination and equality before the law.[7] Since the return to democracy in 1991, different executives have developed migration laws in 1995, 2003, and 2013. The 1995 Migration Act, later modified by the 2003 Labor Migration Act, first regulated migration to Albania. The Act legally defines the government's responsibilities with regard to migration and emigrants: information, assistance, facilitating their integration into the receiving countries' labor market, social and human services systems, and promoting the return of migrants' social, human, and financial capital.

The Albanian government adopted in 2005 the *National Strategy on Migration and National Action Plan on Migration*, to elucidate priorities for migration.[8] The Albanian

5. The RA was negotiated in three rounds in May, September, and November 2003. It was ratified by the European Parliament in early September 2005 and by the Albanian Parliament in January 2006 and entered into force on May 1, 2006.

6. See article 16 of the Constitution of the Republic of Albania.

7. See article 17 of the Const. Article 18: '1. All are equal before the law. 2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or ancestry. 3. No one may be discriminated against for reasons mentioned in paragraph 2 if reasonable and objective legal grounds do not exist.'

8. VKM nr.760 dt. 19.11.2004 e Këshillit te Ministrave të Republikës së Shqipërisë and VKM nr.

Government adopted this strategy with European Commission funding from the CARDS Program 2001 as well as International Organization for Migration (IOM) technical and co-funding support. Albanian law on immigration reached its current form in Law no. 108/2013 'On Aliens' adopted on 28 March 2013 as part of its effort to align with EU law. This new Law is fully compatible with:

- *Regulation* (EC) No *810/2009* of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code)"[9];
- Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals"[10];
- Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment[11];
- Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals[12]; Council *Directive 2005/71/EC* of 12 October 2005 on a specific procedure for admitting third-country nationals for the purpose of scientific research"[13];
- Council *Directive 2004/82/EC* of 29 April 2004 on the obligation of carriers to communicate passenger data[14]; Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities";
- Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service"[15];
- Council *Directive 2003/109/EC* of 25 November 2003 concerning the status of third-country nationals who are long-term residents[16];
- Council *Directive 2003/86/EC* of 22 September 2003 on the right to family reunification"[17];

296 dt. 06.06. 2005 e Këshillit te Ministrave të Republikës së Shqipërisë. Strategjia Kombëtare për Migracionin dhe Plani i Veprimit për Migracionin: rruga drejt menaxhimit të Migracionit", Tiranë, korrik 2005, f 1.

9. CELEX Number 32009R0810, Official Journal of European Union, L Series no. 243, of 15 September 2009, pp 1–58.

10. CELEX Number 32009L0052, Official Journal of European Union, L Series no. 168, of 30 June 2009, pp 24–32.

11. CELEX Number 32009L0050, Official Journal of European Union, L Series no. 155, of18 June 2009, pp: 17–29.

12. CELEX Number 32008L0115, Official Journal of European Union, L Series no. 348, of 24 December 2008, pp 98–107.

13. CELEX Number 32005L0071, Official Journal of European Union, L Series no. 289, of 3 November 2005, pp 15–22.

14. CELEX Number 2004L0082, Official Journal of European Union, L Series no. 261, of 6 August 2004, pp 24–27.

15. CELEX Number 32004L0114, Official Journal of European Union, L Series no. 375, of 23 December 2004, pp 12–18.

16. CELEX Number 32003L0109, Official Journal of European Union, L Series no. 16, of23 January 2004, pp 44–53.

17. CELEX Number 32003L0086, Official Journal of European Union, L Series no. 251, of3

- Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorized entry, transit and residence"[18];

This law regulates the regime of entry, stay, employment and exit of aliens. The law stipulates the functions and competencies of the State authorities and other entities, be they public or private, Albanian or foreign, carrying out activities in the Republic of Albania which are related to aliens who seek to enter, those who enter, stay and exit from the Republic of Albania. International agreements concluded with the government of other countries, ratified by law, may foresee special and more favorable provisions for the citizens of these countries, which shall apply with reciprocity.

With regard to asylum, Law No. 8432/1998, dated 14 December 1998, as modified by the Law No. 10060, dated 26 January 2009 establishes the conditions and procedures for granting asylum or subsidiary protection and the statutes for asylum seekers, refugees and subsidiary protection, in accordance with EU law.[19] The Law regulates the conditions and procedures of granting and ceasing of asylum in the Republic of Albania, as well as the rights and obligations of refugees and persons falling under temporary protection. Under this law, the Republic of Albania recognizes the right to asylum and temporary protection to all foreigners in need, be they refugees or other persons who request asylum, in compliance with the provisions of this law and the international conventions to which Albania is a party—most notably, the 28 July 1951 Geneva Convention Related to the Status of Refugees and the 1967 New York Protocol—or other Albanian legislation.

The integration and family reunification of foreigners granted asylum is regulated by Law No. 9098, dated 03/07/2003 "On the integration and family reunion of foreigners granted asylum in the republic of Albania". Finally, with regard to border control, Law No. 9861, dated 24 January 2008, "On state border control and surveillance," regulates the control and surveillance of the state border, the mission of the Border and Migration Police, cross border police cooperation, cooperation within the structures of the State Police, and the cooperation with other agencies that have legal obligations related to border security. This law respects the fundamental human rights and freedoms established by the Albanian Constitution and the European Convention on Human rights without impairing the rights of the persons who ask for international protection by respecting the principle of non-refoulement.

The new institutional and legislative framework was constructed to better meet Albania's new democratic principles and the standards of organizations that Albania joined. This effort included changes in regulation, law and strategy towards immigration, as well as new understandings for how institutions and the Albanian Constitution interacted with the immigration issue. The new framework had to not only address new international standards, but also those of organizations and conventions to which Albania was already a party, as the totalitarian regime never executed the terms described in the agreements. The country's aspiration to be member of the European Union has also required various changes and new definitions in legislation in order to comply with EU criteria, an ongoing process[20].

October 2003, pp 12–18.

18. CELEX Number 32002F0946, Official Journal of European Union, L Series no. 328, of5 December 2002.

19. Council DirectivesNo. 2004/83/EC, dated 29 April 2004, and No. 2005/85/EC, dated 1 December 2005.

20. The most important international agreements with an impact on Albanian immigration

2. Administrative and judicial authorities

As regards institutional change, the Department for Border and Migration (DBM) was established in October 2004 in the Ministry of Interior (MoI). It handles all matters related to border and migration, including readmission. Prior to this date, competencies for these questions were divided among several MoI departments, and none had overall responsibility for irregular migrants. In 2007, a Migration and Readmission Department was established within the DBM. This department has a special unit for readmission issues and coordinates with foreign migration services and border police units for the readmission of Albanian and foreign citizens. Prior to this date, a single specialist in the Unit for the Treatment of Foreigners and Migration dealt with return and readmission issues. The actual readmission of irregular migrants into Albanian territory is responsibility of the Border Police.

The Council of Ministers Decision no. 194, dated 5 April 2006, provided the establishment of the National Institute of Diaspora (NID) attached to the Ministry of Foreign Affairs (MoFA) to handle to Diaspora issues. The Institute has been charged, among others, with the task of implementing the existing strategies with the National Strategy on Migration. Through the Albanian State Police (ASP) the Department for Border and Migration (DBM) implements immigration and asylum policies in Albania, in conformity with constitutional and legislative dispositions and the guidelines provided by the Government. DBM guarantees the enforcement of readmission agreements and covers the issues of trafficking and smuggling victims or potential victims, including providing humanitarian assistance. ASP is a centralized police force that functions under the jurisdiction of MoI. The ASP has twelve regional police directorates, each of which administers at least one police commissariat. Each police commissariat oversees several police stations and police border crossing posts.

The Law 'On State Police' creates special sectors for migration and readmission issues in all eight regional departments of the border police. The Border and Migration Police (BMP) monitor and enforce the border. A unit within ASP, BMP cooperates closely and continuously with other services of the State Police and other subjects operating in Border Cross Points. According to legislation, BMP has the following specific duties: controlling and surveying the state border in order to protect human lives and health; preventing illegal migration; stopping persons performing illegal

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legislation include:International Covenant on Civil and Political Rights of 1966; International Covenant on Economic, Social and Cultural Rights (1966); Convention against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment (1984); Convention on the Rights of Child (1989); International Convention on the Elimination of All forms of Racial Discrimination (1966); Convention on the Elimination of All forms of Discrimination against Women (1979); European Convention on Human Rights (1950); ILO Forced Labor Convention (1957); ILO Abolition of Forced Labor Convention (1957); Convention relating to the status of Refugees (1951) and its Protocol (1967); Conventions relating to the Status of Stateless Persons (1954) and the Convention on Reduction of Statelessness (1961); European Social Charter (1961) (1996); European Agreement on Abolition of Visas for Refugees (1959)p; European Convention on Extradition (1957); European Convention on Nationality (1997); Convention on the Nationality of Married Women (1958).

activities across the border, including wanted persons fleeing justice; intercepting vehicles and goods entering/exiting illegally; informing the Customs Office of suspected violations of the Customs Code; implementing obligations stemming from international conventions, bilateral or multilateral agreements; organizing meetings with counterpart agencies in other countries regarding the implementation of joint agreements and information exchange to improve the performance of other duties; gathering and processing data in the interest of the service, control, and surveillance of the border; implementing control rules and interview procedures at BCPs; and, implementing measures for entrance, stay, handling, and control of foreigners in the Republic of Albania. In immigration disputes, Albania, since 2013, employs courts separate from criminal and civil courts to handle most procedures with regard to immigration. These issues, for example, whether an individual may enter and stay in Albania, are directed to administrative courts comprised of the Supreme Administrative Court, as well as the administrative courts of first and second instance. Generally, all decisions in administrative courts may be appealed within the following thirty days, though some exceptions exist in the legislation.

Conclusions

Albania, perhaps more than any other nation, offers a unique perspective on the entire international migration process, from a point when migration was legally forbidden until a time when migration became a central demographic and social process with more than one-half of all households reporting family members with migration experience[21]. Albania is recently transitioning from a migrant-sending country to a migrant-receiving nation. Official migration- and development-related policies are roiled by political and ideological tensions and contradictions arising from development and security concerns on the one hand and Albania's new role as simultaneously a migrant-sending and a migrant-receiving nation on the other. Albania initially has converged on a 'zero-immigration' policy orientation, which continued into the 1990s. In the 2000, economic growth, political stability, and perceived social safety led to increased immigration in Albania. This immigration consisted of the children and foreign spouses of Albanian emigrants who were considered foreigners both because of extant citizenship laws and because they were born abroad. Subsequently, in the second half of the decade, especially in the capital, Tirana, a growing number of Albanian immigrants increased the community of immigrants. At this period the state has not reacted proactively to this migration. The new millennium saw new migration to Albania, mostly from European Union but increasingly also from USA and Turkey. The Albanian state has responded to these recent migration flows and associated public concern with interest and a determination to discuss the development and implementation of a migration policy. In the context of the EU accession process, Albania has, in recent years, improved its legislative and policy framework for migration. The immigration laws that have been in effect since then must be understood in the context of dual imperatives, i.e., on the one hand to respond to the new realities of migratory fluxes and, on the other hand, the need to implement pertinent EU legislation.

[21] Carletto C, Davis B, Stampini M, Zezza A. "A Country on the Move: International Migration in Post-Communist Albania" International Migration Review. 2006; pp. 767–785.

Albania has developed several initiatives with regards to emigration in the last twenty years, but seems that they do not constitute an effective *migration policy*. Immigration to Albania has been scarce, and the country has not attracted foreign workers or other immigrants in significant numbers. The Albanian society, both in a very practical sense and referring to the structures of policymaking, has, hence, remained fairly homogeneous throughout the last century. Even if the situation has changed somewhat during recent years, with an increasing immigration from the EU and also third countries, Albania must still today be perceived as a country with only a small foreign population.

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