



# Conference proceedings

## ICSNS XXII - 2022

**TWENTY-SECOND INTERNATIONAL CONFERENCE ON:  
“SOCIAL AND NATURAL SCIENCES – GLOBAL CHALLENGE 2022”**

**25 June**

**Brussels**

**Organized by**

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

**in Partnership with**

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





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# Book of proceedings

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Edited by: Dr. Lena Hoffman

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AND NATURAL SCIENCES – GLOBAL CHALLENGE 2022”  
(ICSNS XXII-2022)**

**Editor: Lena Hoffman**

**Brussels, 25 June 2022**

**ISBN: 979-8-950029-17-2**

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# Phenotypic and allelic frequencies of blood groups in Shkodra district main municipalities

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## Abstract

The distribution of phenotypic and allelic frequencies of ABO and Rhesus blood group systems have been analysed in 5077 individuals from three municipalities, Shkoder, Malesi e Madhe and Vau Dejes, situated in North-West Albania. For this study were used the data from Red Cross Shkoder during 2014-2015 period.

In relation to distribution of ABO system blood groups according to the municipalities resulted that there is no significant change ( $\chi^2 = 8.262$  and  $p=0.222$ ) of the blood groups distribution. However of interest is the distribution of blood groups B and AB where is ascertained a considerable difference between Malesi e Madhe and Vau Dejes municipalities. In the distribution of the Rhesus system blood groups according to three municipalities for the values of  $\chi^2 = 0.443$  and  $p > 0.05$  ( $p=0.801$ ) there is no important statistical change.

The analysis of the distribution frequency for blood groups of ABO system combined with them of Rhesus system present these results for each municipality:

Shkodra Municipality O (+) > A (+) > B (+) > O (-) > AB (+) > A (-) > B (-) > AB (-)

Malësi e Madhe Municipality O (+) > A (+) > B (+) > O (-) > A (-) > AB (+) > B (-) > AB (-)

Vau Dejes Municipality O (+) > A (+) > B (+) > AB (+) > O (-) > A (-) > B (-) > AB (-)

The blood groups with highest percentage in all three municipalities resulted groups O (+) and A (+), whereas the lowest percentage was AB (-) group.

The allelic frequencies calculation was done based on Hardy-Weinberg equation. From the processing of data were found considerable differences inside the allelic frequencies values for IA and IB between municipalities. While in relation to the frequency of i0 allele there were no differences between municipalities.

**Keywords:** ABO system, Rhesus system, allelic frequency, Hardy-Weinberg equilibrium.

## Introduction

The discovery of the ABO system blood groups, over 100 years ago, caused a great feel of euphoria. Until then, all blood had been supposed to be the same, and the often tragic consequences of blood transfusions were not understood. The level of recognition for ABO blood groups increased significantly, marking not only the beginning of safe blood transfusion, but scientists could now study one of the first human characteristics proven to be inherited.

The mode of inheritance of blood groups was identified in 1924 through a relevant study on families, conducted by Bernstein (Hosoi, 2008). Blood groups are determined by the presence of antigens on the surface of red blood cells (Garraty et al., 2000). About 700 antigens are known on the surface of erythrocyte membranes arranged in order of inheritance in 30 systems, of which the most important are two: the ABO system which means the traditional term of blood groups (A, B, AB and O) and the system Rhesus which consists of more than 50 antigens (Reid, 2012).

Blood group prevalence is essential in the field of medicine as it plays an important

role in blood transfusion (Poole & Daniels, 2007), organ transplantation, evolution and genetic research. It is also associated with various diseases including cardiovascular disease (Garrison et al., 1976), fetal erythroblastosis, duodenal ulcer and diabetes (Mourant, 1977; Zaidi et al., 2018; Ziegler et al., 2004). Blood group polymorphism in human populations has been studied in correlation with the occurrence of certain types of tumors, the degree of malignancy, response to therapies, and patient survival (Hakomori, 1999; Le Pendu et al., 2001).

In the gynecology department, blood groups are useful in identifying possible hemolytic pathologies that occur in newborns, usually associated with Rh antigens (Birchenall, 2013).

The differences between the blood groups of the ABO system are already known, both within the ethnic groups and the geographical areas.

Blood type A is the most common group in Europe and Australia. In East Asia (Japan, China and India) group B is the most common. Its frequency decreases towards the west, especially in Western Europe. Blood type O is the most common blood type on the American continents, especially in Central and South America and most parts of Africa, but is less common in central parts of Europe and Asia. (Jovanović-Cupić et al., 2008).

In this paper is presented the distribution of genotypic and allelic frequencies of ABO and Rhesus blood groups in a comparative way between the three municipalities: Shkodra, Malesi e Madhe and Vau Dejes.

### **Material and methods**

This study includes a population of 5077 inhabitants from three municipalities: Shkodra, Malesia e Madhe and Vau Dejes in the Region of Shkodra, North-West Albania. For this purpose, were used the data of the Shkodra Red Cross during the period 2014-2015, which have been registrated because of legal procedures to obtain driving license of Albanian citizens during that period of time.

This data is recorded in the excel program which contains: list of individuals, gender, place of residence, blood type according to the ABO system and Rhesus system. The data obtained are entered in the table separately for each individual, based on the documentation available to the Shkodra Red Cross.

The Statistical Program for Social Sciences (SPSS), version 21 was used for statistical data processing.

The chi squared test was performed to compare differences between groups and categories. P values less than 0.05 were regarded as statistically significant.

Allelic frequencies are calculated according to the Hardy-Weinberg equation, which expresses:  $p + q + r = 1$  (Hamilton, 2009), where p, q and r are the respective allelic frequencies of blood groups A, B and O.

Also have been reviewed various scientific papers that have the same issue in the countries of the region and we compared our results with them.

### **Results and discussion**

The results for the distribution of ABO and Rhesus blood groups in three municipalities, Shkodra, Malesi e Madhe and Vau Dejes are shown in Table 1.

The table shows that out of 4131 individuals in the municipality of Shkodra, 1520 (36.7%) resulted in blood group A, 589 (14.3%) with blood group B, 1834 (44.4%) with blood group O and 188 (4.6%) with blood group AB. Out of 239 individuals of the Malesi e Madhe municipality, 94 (39.3%) resulted in blood group A, 29 (12.1%) with blood group B, 106 (44.4%) with blood group O and 10 (4.2%) with blood group AB. While in the municipality of Vau Dejes from the total number of 707 individuals, 266 individuals (37.7%) have A blood group, 118 (16.7%) have B blood group, 283 (40%) have O blood group and 40 (5.6%) have AB blood group blood. For the three municipalities taken in the study it is observed that the ABO blood group frequencies occurred in the following order  $O > A > B > AB$ .

From the statistical processing of the data it was concluded that there is no significant change ( $\chi^2 = 8.262$  and  $p = 0.222$ ) in the distribution of the ABO blood groups according to the three municipalities.

However with interest presented the distribution of B and AB blood groups where a significant difference is found between the municipalities of Malesi e Madhe and Vau Dejes.

Table 1. Distribution of ABO and Rhesus blood groups by municipalities.

	Shkoder Number (%)	Malesi e Madhe Number (%)	Vau Dejes Number (%)	$\chi^2$	P
<i>ABO blood groups</i>					
A	1520 (36.8)	94 (39.3)	266 (37.6)	8.262	0.220
B	589 (14.3)	29 (12.1)	118 (16.7)		
O	1834 (44.4)	106 (44.4)	283 (40)		
AB	188 (4.6)	10 (4.2)	40 (5.7)		
<b>Total</b>	4131 (100%)	239(100%)	707 (100%)		
<i>Rh blood groups</i>					
Rh(+)	3694 (89.4)	211 (88.3)	635 (89.8)	0.443	0.801
Rh(-)	437 (10.6)	28 (11.7)	72 (10.2)		
<b>Total</b>	4131 (100%)	239 (100%)	707 (100%)		

A similar study was conducted by Xharra et al. (2020) on the distribution of blood groups in the southwestern region of Kosovo, which includes six sub-districts in the district of Prizren: Prizren, Suhareka, Sherri, Rahovec, Malisheva and Has. The results of this study showed that the ABO blood group frequencies for the six sub-districts did not show significant differences between them.

Regarding the distribution of Rhesus blood groups by municipalities, it resulted that out of 4131 individuals in Shkodra municipality, 3694 individuals (89.4%) had Rhesus positive, while 437 (10.6%) had Rhesus negative. Out of 239 individuals of Malesi e Madhe municipality, 211 (88.3%) resulted in Rhesus positive, while 28 (11.7%) resulted in Rhesus negative. In the municipality of Vau Dejes out of 707 individuals, 635 individuals (89.8%) had Rhesus positive, while 72 (10.2%) had Rhesus negative. There is no statistically significant difference in the distribution of the Rhesus blood groups according to the three municipalities for values of  $\chi^2 = 0.443$  and  $p > 0.05$  ( $p = 0.801$ ).

Similar conclusions are found in the study conducted by Balci et al. (2010) which compares the distribution data of ABO and Rhesus blood groups for different regions of Turkey.

In the study conducted by Torun et al. (2012) was analyzed the distribution of ABO and Rhesus blood groups in the area of the city of Kayseri and then these data were compared with the results of several other cities in Turkey. The findings of this study showed that despite the differences that may be between cities, the trend is similar to that at the national level.

Table 2 presents the distributions of ABO and Rhesus blood groups combinations according to the three municipalities taken in the study, Shkodra, Malesi e Madhe and Vau Dejes.

Table 2. Distribution of ABO and Rhesus blood group combinations by municipalities.

Blood Groups	Shkoder Number (%)	Malesi e Madhe Number (%)	Vau Dejes Number (%)	$\chi^2$	P
A (+)	1360 (32.9)	83 (34.7)	241 (34.1)	10.417	0.731
A (-)	160 (3.9)	11 (4.6)	25 (3.5)		
B (+)	524 (12.7)	26 (10.9)	103 (14.6)		
B (-)	65 (1.6)	3 (1.3)	15 (2.1)		
O (+)	1640 (39.7)	93 (38.9)	253 (35.8)		
O (-)	194 (4.7)	13 (5.4)	30 (4.2)		
AB (+)	170 (4.1)	9 (3.8)	38 (5.4)		
AB (-)	18 (0.4)	1 (0.4)	2 (0.3)		
Total	4131 (100)	239 (100)	707 (100)		

Analyzing the data in the table, it is noticed that the highest percentages of groups A (+) and A (-) for the three municipalities taken under review resulted in the municipality of Malësia e Madhe with (34.7%) and (4.6%) respectively. As for groups B (+) and B (-) the highest percentages were observed in the municipality of Vau Dejes with (14.6%) and (2.1%) respectively. Regarding groups O (+) and O (-) the highest percentages resulted respectively in the municipality of Shkodra with (39.7%) and in the municipality of Malesi e Madhe with (5.4%). For group AB (+) the highest percentage resulted in the municipality of Vau Dejes while group AB (-) resulted in the same percentage in the municipalities of Shkoder and Malesi e Madhe with (0.4%).

The analysis of the frequency distribution of the ABO blood group and the Rhesus between three municipalities showed the following results:

Shkoder O (+) > A (+) > B (+) > O (-) > AB (+) > A (-) > B (-) > AB (-)

Malesi e Madhe O (+) > A (+) > B (+) > O (-) > A (-) > AB (+) > B (-) > AB (-)

Vau Dejes O (+) > A (+) > B (+) > AB (+) > O (-) > A (-) > B (-) > AB (-)

As can be seen, the blood group with the highest percentage in the three municipalities was the group O (+), while the group with the lowest percentage was AB (-). Such a trend of frequency of groups O (+) and AB (-) is also confirmed nationally (Internet 1). Regarding the comparison with the distribution of blood groups in the countries of the region, it is found that even in these countries the highest frequencies are those of the O (+) and A (+) groups. Thus, Italy and Greece have the highest frequencies of group O (+), respectively 39% and 37.8%. While in other countries of the region, the predominant group is A (+) with values respectively Croatia 36%, Bulgaria 37.4%, Bosnia and Herzegovina 36%, Romania 37% and Serbia 35.28% (Internet 1). For all countries in the region, as in our study, the lowest frequency has the group AB (-). Blood group AB (-) is the rarest group as it requires the simultaneous presence of both antigens A and B.

The allelic frequencies of the ABO and Rhesus for the three municipalities: Shkoder, Malesi e Madhe, Vau Dejes are presented in the following table (Table 3). The calculation of allelic frequencies was performed based on the Hardy-Weinberg equation. Based on the data, it is noticed that in the municipality of Malesia e Madhe the frequency of allele I<sup>A</sup> (0.2486) results in the highest value compared to the other two municipalities. But we must emphasize that the differences between the two municipalities Malesi e Madhe and Vau Dejes in terms of frequency of the I<sup>A</sup> allele are very small.

Regarding the frequency of the I<sup>B</sup> allele between the three municipalities, it results that its highest value was in the municipality of Shkodra (0.2348), while the lowest value was in the municipality of Malesia e Madhe (0.0854). The frequencies of the i<sup>0</sup> allele in the municipality of Shkodra and the municipality of Malesi e Madhe represent the same value (0.6663), while in the municipality of Vau Dejes it resulted in the value 0.6325.

Table 3. Allelic frequencies of blood groups for the three municipalities.

		Allelic frequencies		
<i>ABO system</i>	Alleles	Shkoder	Malesi e Madhe	Vau Dejes
	I <sup>A</sup>	0.1032	0.2486	0.2484
	I <sup>B</sup>	0.2348	0.0854	0.1205
	i <sup>0</sup>	0.6663	0.6663	0.6325
<i>Rh system</i>				
	D	0.6747	0.6578	0.6809
	d	0.3253	0.3422	0.3191

As can be seen in the table, there are significant differences within the values of allele frequencies IA and IB between municipalities, going up to over 200%.

A similar study was conducted by Todorov et al. (2012) in which were studied the

allelic frequencies of four Bulgarian cities. Comparison of the data in this study showed that two cities, Srednja Mizija and Trojan, had significant variations in allele frequency values, respectively  $I^A$  0.43 and 0.164,  $I^B$  0.185 and 0.256,  $i^0$  0.385 and 0.580. Although significant changes result in allelic frequencies, they can be accepted as reasonable if we take into account that a number of factors can have an impact on the composition of a municipality's population. As mentioned in this article, the main factors influencing these changes in the case of cities in Bulgaria are the ethnicity of the population linked to the demographic movements of recent decades.

Therefore, even in the case of our study, it is necessary that based on the results of allelic frequency distribution, to undertake further studies in historical and social aspects which can compare with these results in order to extract the possible factors that have led to these differences.

In terms of allelic frequency of the Rhesus blood group the conclusions reached show approximate values for the three municipalities. Thus, it results that D allele highest value (0.6809) is found in the municipality of Vau Dejes, while the lowest one (0.6578) in the municipality of Malesi e Madhe. While for d allele, the values range from the maximum 0.3422 in the municipality of Malesi e Madhe, to the minimum 0.3191 in the municipality of Vau Dejes.

### Conclusions

This paper provides important information on the distribution of phenotypic and allelic frequencies of ABO and Rhesus blood groups by comparison the three municipalities, Shkodra, Malesi e Madhe and Vau Dejes with each other.

From the obtained data, it is concluded that group O is presented with the highest frequency in the three municipalities, while group AB with the lowest frequency.

From the comparison of data for the three municipalities, it results that groups B and AB have higher values in the municipality of Vau Dejes compared to the other two municipalities.

No significant differences were observed between municipalities regarding the frequency distribution of the Rhesus blood group.

The distribution of blood group combinations for both systems is approximate in all three municipalities, where the highest values of the combinations are O (+) and A (+) while the lowest values of AB (-). These values are similar with the trend at the national level.

It is found that for each municipality there are significant differences within the frequency values for each allele  $I^A$  and  $I^B$ .

This data will serve to better understand the situation of the distribution of blood groups in each of these three municipalities as well as taking measures by health institutions to ensure reserves in the blood banks that they have.

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# Assessment of sodium benzoate content in some samples of yoghurt and cheese of Tirana market

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## Abstract

Benzoic acid is widely used as a preservative in food due to its antimicrobial activity against yeast bacteria or various fungi which contaminate food products. The level of their content in the different food is determined by international organizations. Our study aimed to assess the content of sodium benzoate and its salts in some market dairy products (yoghurt and cheese) as well as their compliance with the standards of EU Legislation. For this purpose, the content of sodium benzoate was analyzed for 12 samples of yoghurt and 6 cheese samples from Tirana market using UV-VIS spectrophotometry (Specord 40, Analytik Jena) according to the official method (AOAC 960.38). From 12 yoghurt samples taken for analyses, in 10 of them the sodium benzoate content turned out to be within the norm of 300 mg/kg set by European legislation, and only 2 of them coming from an uncontrolled market turned out to have sodium benzoate content of 1.5 - 3.5 times higher than the normative. Regarding cheese samples, the benzoate content varies from 302 mg/kg for sample X6 to 706 mg/kg for sample X5. On three of six cheese samples taken for analysis, the content of sodium benzoate resulted to be slightly above the allowed norm. The sodium benzoate content for samples X1, X3, X5 turns out to be significantly higher than the norm despite the threshold of 50 mg/kg benzoic acid produced naturally during the fermentation or metabolic processes. Our study highlights the fact that the main problem on the correct use of food additives comes from the uncontrolled market. From what we said above, we advise the state institutions to carry out more controls related to the declaration of food additives content on the product label as well as the continuous monitoring of food additives in the market products.

**Keywords:** Food additives, benzoates, yoghurt, cheese, UV-Vis spectrophotometry.

## Introduction

Benzoic acid is widely used in the food industry as a preservative in acid foods, under code number E210, owing to its antimicrobial activity against various bacteria, yeasts and fungi involved in food poisoning and food spoilage, such as *Escherichia coli*, *Listeria monocytogenes*, *Aspergillus sp.* and *Penicillium sp.*[1]

Benzoic acid is found naturally in various foods, such as fruits, vegetables, spices and nuts [2,3,4] and also in milk, especially dairy products, in low concentrations. During fermentation, benzoic acid is produced from hippuric acid, a natural milk ingredient present in concentrations up to 50 mg/kg. However, in mature cheese, high concentrations of benzoic acid are often measured both on the surface and inside the cheese. A second metabolic pathway is proposed: during maturation, an additional amount of benzoic acid comes from the degradation of phenylalanines, with  $\beta$ -phenyl-propionic (hydrocinnamic) acid and cinnamic acid, as intermediates. Acetophenone is a byproduct of this transformation, which is found mostly on the surface of cheese. The presence of these intermediate products and their concentration gradient, the concentration of benzoic acid and its formation during

the baking of cheese as well as the simultaneous production of ammonia support the existence of this second metabolic pathway. A third way might be the auto-oxidation of benzaldehyde, produced by some species of lactic acid bacteria. In addition to hippuric acid transformation, these two sources (phenylalanine degradation, auto-oxidation of benzaldehyde) supply cheese with benzoic acid [5].

Precisely because of the natural content of benzoic acid in most foods, whether as a natural ingredient of the raw material, or as a product of metabolic processes occurring during processing, the evaluation and determination of its additives becomes extremely difficult. The Joint FAO/WHO expert committee on food additives [6] has evaluated ascorbic acid and its salt several times and found them to be acceptable for use in foods [7].

This material is a modest attempt to comparatively determine the overall content in dairy products.

### **Materials and Methods**

Dairy products samples were taken from local market: Yoghurt (gjirofarma, lufra, erzeni, soal, mireli, extra, natyral, klegen, village yoghurt); cheese (gjirofarma, mireli, klegen, erzeni, home cheese). Samples were coded and analyzed for benzoates content.

### **Analyses**

Determination of sodium benzoate content was performed with Specord 40 UV-VIS spectrometer, Analytic Jena.

Five gram of yoghurt and cheese samples were taken for analysis. Samples were diluted in such a way that the amount of sodium benzoate in these samples is in the measurement range within the calibration curve of 5 - 20  $\mu\text{g} / \text{ml}$  solution, based on the sodium benzoate absorption curve. For each series of measurements, the blank test and the standard 10  $\mu\text{g} / \text{ml}$  were performed in order to evaluate the calibration curve and the performance of the photometer, these values were within the allowed variability limits. Measurements were performed in three parallels for each analyzed sample.[8]

#### ***Preparation of standard calibration curve:***

The stock sodium benzoate solution was prepared at 1000 mg / L with distilled water, then the 100 mg / L working solution was prepared. A series of standard solution within range 0-20  $\mu\text{l/ml}$  were prepared from working solution. Volumes of 0, 5, 10, 15, and 20 ml were added to volumetric flasks and made up to 100 ml with distilled water. In these standard solutions of sodium benzoate the absorbance was measured at 225 nm. From plotted the obtained data of standardization, were found the correlation between sodium benzoate concentration and signal  $y = 0.058 C + 0.00$ . The amount of benzoate in the samples taken in the study was calculated on this basis.

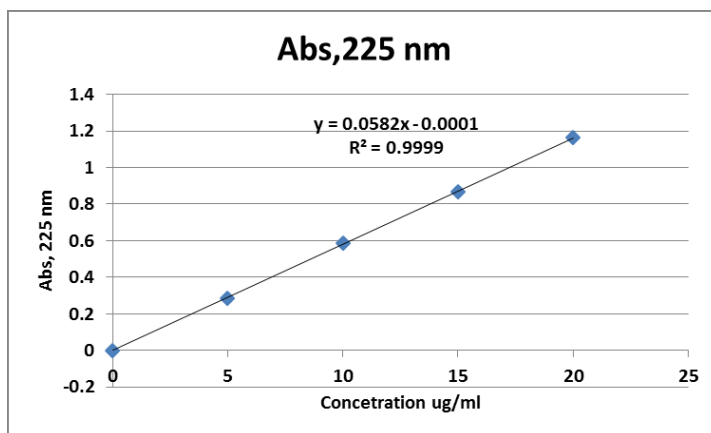


Figure. 1 Calibration curve of Na benzoate in aqueous solution.

### UV spectrophotometer performance control:

Photometric accuracy control is done in the UV zone with standard 0.006% weight / volume potassium dichromate solution  $K_2Cr_2O_7$  in 0.005 molar  $H_2SO_4$  sulfuric acid solution. The control is done for 6 parallels (measurements from the same solution) in wavelength:

- 235 nm
- 257 nm
- 313 nm
- 350 nm

Where the standard deviation (RSD) for each wavelength must be less than 0.5% and the Abs tolerance (1%) within the limits shown in the table.

$\lambda$	Abs	Abs (1%/1 cm)	Toleranca
235 nm	0.7447	124.11	122.9-126.2
257 nm	0.8759	145.98	142.4-145.7
313 nm	0.2948	49.13	47.0-50.3
350 nm	0.6489	108.15	104.9-108.2

After this control test, the standard concentration solution is prepared, with concentration: 20%, 40%, 60%, 80%, 100%. The calibration curve is checked where the relation coefficient should be 0.9999.

## Results and Discussion

### Sodium benzoate content in market yogurt samples

Table 1 provides the results for sodium benzoate content for 12 market yogurt samples taken for analysis.

The data show that the total sodium benzoate content varies from 103 mg / kg for sample X13 to 710 mg / kg for sample X2 declared as village yoghurt. There is also

a somewhat higher value of the total concentration of sodium benzoate for products which have not been declared.

However 10 out of 12 samples taken for analysis result in sodium benzoate content within the norms set by the EU, and only 2 of them coming from an uncontrolled market turned out to have sodium benzoate content 1.5 - 3.5 times higher as normative. Despite the natural origin of benzoic acid in fermented milk products going up to 50 mg / Kg the measured values are higher than normative, confirming the necessity of a continuous market control.

**Table 1. Sodium benzoate content in the samples of dairy products (sour cream, \* declared prod.)**

No	Code	Sample Weight (gr)	Sodium benzoate mg/kg	Limits according to EU Regulation (EC) No 1333/2008
1	X1	5 gr	<b>483</b>	<b>300 mg/kg</b>
2	X2	5 gr	<b>710</b>	
3	X3	5 gr	196	
4	X4	5 gr	228	
5	X5	5 gr	248	
6	X7	5 gr	115	
7	X8	5 gr	106	
8	X9	5 gr	134	
9	X10	5 gr	125	
10	X11*	5 gr	115	
11	X12*	5 gr	107	
12	X13*	5 gr	103	

### **Sodium benzoate content in market cheese samples**

Table 2 provides data on the content of sodium benzoate in 6 market cheese samples taken for analysis.

The data show that the benzoate content ranges from 302 mg / kg for sample X6 to 706 mg / kg for sample X5. Three of the samples taken for analysis turn out to be slightly above the limit set by the EU. While for samples X1, X3 and X5 the content of sodium benzoate turns out to be significantly higher than the norm despite the threshold of 50 mg / kg benzoic acid produced during the maturation of cheese through metabolic processes, according to the literature.[5]

From figure 2 it is clearly seen that the content of sodium benzoate in cheese turns out to be twice of its content in yoghurt (probably because it is a product which is stored for a longer time than yoghurt), but it is also significant above the norm. All cheese products taken for analysis are declared as products made from pasteurized fresh milk, the quantities of preservatives used were not declared.

**Table 2. Sodium benzoate content in product samples of dairy (cheese)**

No	Code	Sample Weight (gr)	Sodium benzoate mg/kg	Limits according to EU Regulation (EC) No 1333/2008
1	X1	5 gr	500	300 mg/kg
2	X2	5 gr	364	
3	X3	5 gr	459	
4	X4	5 gr	362	
5	X5	5 gr	706	
6	X6	5 gr	302	

**Figure 2 Comparison of average values of Na benzoate content for yoghurt and cheese products with the normative.**

### Conclusion

Because of the natural content of benzoic acid in most foods, whether as a natural component of the raw material, or as a product of metabolic processes occurring during processing, the evaluation and determination of its additives becomes extremely difficult. From 12 samples of market yoghurt taken for analysis, 10 of them result in sodium benzoate content within the norms set by the EU, and only 2 of them coming from an uncontrolled market turned out to have benzoate content of sodium 1.5 - 3.5 times higher than the norm.

The benzoate content cheese samples varies from 302 mg / kg for sample X6 to 706 mg / kg for sample X5. From 6 samples of cheese taken for analysis, 3 of them turn out to be slightly above the limit set by the EU. While for samples X1, X3 and X5 the content of sodium benzoate turns out to be significantly higher than the norm despite the threshold of 50 mg / kg benzoic acid produced during the cheese ripening through metabolic processes.

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# Improving the legal infrastructure in the advocacy sector, a step forward for Albania's EU integration

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## Abstract

The reform that pervaded the entire justice system in Albania could not leave untouched the advocacy service, considered as one of the most important links of the justice system that directly affects the guarantee of fundamental human rights and freedoms, recognized by law and sanctioned in constitutions and international legal acts, as the cornerstone of the rule of law and democracy. The need to achieve European standards in the advocacy service within the process of integration of Albania in European structures, dictated the need to design and implement a radical reform in the Albanian advocacy system, based on the best legal practices applied in EU countries, and in compliance with the strategic documents of the Council of Bars and Legal Associations of Europe (CCBE).

Taking into account the Council of Europe Recommendations, in 2018 the Albanian legislator approved the new law on the profession of advocate, with the objective of ending all the problems identified earlier in the advocacy service, as well as to guarantee the increase of the performance of advocates and the quality of advocacy service.

Considering the latest changes that occur in the legal infrastructure of the advocacy sector, this paper aims to shed light on the Albanian advocacy legislation, analyzing at the same time its impact in terms of strengthening and consolidating the Albanian justice system, as a conditional indicator regarding Albania's EU integration.

**Keywords:** advocates (lawyers), law on the profession of advocate, advocacy service, advocacy institution.

## 1. Introduction

The profession of advocate has its roots deep in the darkness of centuries and it is almost impossible to determine an exact date of its appearance in human history. The function roots of this profession date back to early antiquity, but, depending on the region, they have different origins and manifestations (Sinani, 2007, 9).

The earliest people who approached the today's advocates are the orators of Ancient Athens, but the lack of organization of advocacy in a real and legalized profession, made the Athenian orators to extend themselves as ordinary citizens who offered voluntary legal aid to their relatives and friends, without having the right to demand monetary reward. Consequently, the function of representation in the trial was not related to a specific professional activity, and the relationship between the interested party in the process and its representative could be justified based on other sources, such as family, friends, or direction of works of commercial character (Ricciardi, 1990, 5).

In this context, if we narrow down the definition of advocates only to those persons who could practice this profession openly and legally, then we conclude that the orators of Ancient Rome are the direct ancestors of today's advocates (Curi, 2006, 16). The Roman emperor Claudius owes the legalization of advocacy as a profession through the "Lex Cinzia" law, which he passed in 204 BC, allowing Roman orators

trained in rhetoric, to become the first advocates to practice the profession legally. This law defined the figure of the advocate as an advisor and defense counsel in front of the judge and prohibited the remuneration for defense at trial.

In the imperial period, with the development of trade relations in Ancient Rome, the profession of advocate also developed. Advocacy gained the form of an organized and stratified legal profession, and advocates became true professionals who provide legal aid and defend various citizen cases in front of the court. Around the IV century Roman jurists left behind the rhetoric to dedicate themselves to the study of law, while in the VI century they had to complete a 4-year legal studies course before gaining the right to practice law. A clear evidence of the development of advocacy in this period can be found in the summary "*Corpus Iuris Civilis*", the provisions of which include a series of norms that served to discipline the practice of this legal profession and its organization in the consortium of advocates,<sup>1</sup> which can be considered as the forerunner of the modern professional order of today's advocates.

With the fall of the western empire and the arrival of the dark period of the Middle Ages, the legal profession temporarily loses its role throughout the European continent (Hajdari, 2014, 14), causing the legal practices and theories developed in the golden years to be forgotten, and advocacy functions to be distorted. The role and dignity of the advocate were restored, triumphing again only in the XIII century, when the profession of advocate took a clearer form and recognized a complete legal regulation regarding its organization and functioning. During this period, the form of organization of advocates in special corporations was spread, in order to exercise control over the entire category of advocates, giving the right to practice the profession only to advocates who were members.

The Renaissance period marks the resurgence of the legal profession throughout the European continent. France can be considered the cradle of modern European advocacy, as starting from the XVI century, there was developed and consolidated the tradition of prestige and culture of the legal profession, and where for the first time, groups of advocates who had the right to practice this profession were called the "order of advocates" (Ricciardi, 1990, 8). The order of advocates did not simply mean a corporation that aimed to protect the economic and professional interests of advocates in the face of state influence, but qualified above all for the dignity of the members and the cultural and moral prestige they had gained, characteristics that also stood out more thanks to the autonomy and self-governing power that advocates had secured, staying away from any external influence or pressure (Ricciardi, 1990, 8-9). After the shock that the order of advocates took during the French Revolution, it returned with Napoleon's decree in 1810, but this time not just to protect the interests of the group, but to discipline and place it under state control.<sup>2</sup> Considered as a necessary activity for the collectivity, the need to regulate the professional activity of advocate by state norms, spread from France towards other European countries. But despite its regulation by state norms, it should be noted that the advocacy institution, even after this moment, continued to maintain its function as a reference center for the interests of the group it represents and its nature as a subject of special legal

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1 Based on the norms set out in the constitution "*Constitutio de postulando*" of the *Corpus Iuris Civilis*, in the year 442 e.s. Emperors Valentinian III and Valentine, regulated the "*Consortium advocatorum*" - whose task was defined as "*tam magnum, tam necessarium et tam sanctum*" - so great, so necessary and so sacred.

See further: Ricciardi, E. (1990). *Lineamenti dell'ordinamento professionale forense*. Milano: Giuffrè editore, p. 6.

<sup>2</sup> State control went as far as the power to appoint representatives of the advocates' order and to take disciplinary measures against members.

regulation, due to its public importance of the activity exercised by advocates. The further development of this profession led to the division of advocates into two large groups, based on the legal system where they practiced the profession, *civil law* or *common law*. But despite this division, the nature of the advocate's activity remains essentially the same, consisting of legal aid and legal representation of natural and legal persons, in cases of different nature. However, it can not be denied that the role of the advocate in the *common law* system has an added value compared to that of the advocate in the *civil law* system, due to the wider competencies granted to him by law.<sup>3</sup> Also, in the *common law* system there is generally a rule according to which, in order to be appointed as a judge you are required to have worked for several years in the profession of advocate, unlike the *civil law* system where it is almost impossible for advocates to change careers to be appointed as a judge, with a few exceptions<sup>4</sup> in various legislations (Hajdari, 2014, 14).

Even in the Albanian legal system, as part of the civil law tradition, the profession of advocate has obtained the same role as that enjoyed by his counterparts in Continental Europe, due to the important functions he performs within the competencies regulated by the law. Today, advocacy in Albania is presented and organized as a free, independent, self-regulated and self-directed profession.

## 2. History of Advocacy in Albania

The figure of the advocate as a defender of law has accompanied the historical development of Albania for centuries. Initially, the defense and representation in court was realized by each person chosen by the interested parties, but starting from the second half of the XIX century with the reform for the reorganization of the justice system undertaken by the Ottoman Empire<sup>5</sup>, the profession of advocate was regulated by a special law, giving the right to practice the profession only to graduate advocates. During this period, in the main cities of Albania, the first Albanian advocates began to practice their profession; they were characterized by low level of education and lack of professional experience, which enabled them to offer mostly verbal and not evidence-based defence (Sinani, 2007, 16-17).

The history of Albanian advocacy based on written documents, dates back to the creation of the independent Albanian state in 1912. In order to replace the outdated Ottoman practices with the models of developed western countries, in the documents drafted by the then Minister of Justice, a special attention is paid to the organization of the Albanian advocacy. The legal profession was significantly developed in the city of Shkodra, the only relatively free city that was designated as the center of Albanian administration. Although under the administration of international forces, the General Directorate of Justice in Shkodra made efforts to organize the judiciary on a legal basis, paying special attention to the institution of advocacy. The first efforts for the evaluation of this institution date back to 1917 with the drafting of the document entitled "Zaadhanje", which defined the rules and criteria for practicing

<sup>3</sup> Advocates belonging to the *common law* system also perform some typical notarial services, which in the *civil law* system are performed by a notary of Latin type.

<sup>4</sup> We find such an exceptional case precisely in the Albanian legislation. The Constitution of the Republic of Albania, in its article 125, sanctions the right of advocates to be possible candidates for judges in the High Court and the Constitutional Court, but not in the Court of First Instance and the Court of Appeal.

<sup>5</sup> Known as the "Tanzimat", these reforms aimed at adapting the state organization to the socio-economic transformations associated with the birth of capitalism. Part of the reforms was the law "On the organization of ordinary state courts" which led to the creation of the "Nizamije" courts, as well as the law "On advocacy" which ended the practice of the profession of advocate by unscrupulous persons.

the profession of advocate. The approval of this draft regulation in 1918, played an important role serving as a legislative basis for the organization of the legal profession in Albania, but its jurisdiction limited to the city of Shkodra, paved the way for the drafting and approval of two more complete regulations<sup>6</sup> on the organization and functioning of advocacy in early 1921.

It took a full decade after the declaration of the independent Albanian state in 1912, for the Albanians to be able to produce their own law in this field of law. Thanks to the important contribution provided by the most prominent Albanian jurists and advocates of the time, in December 1922, the first Albanian law for the profession of advocate was adopted, which served to orient Albanian advocacy towards developed European countries, which for a century had a legislation based on the capitalist political system and where advocacy functioned as a free and independent activity, comprehensively regulated by special law. Titled "Laws for Advocates", this law would properly define the rules and criteria for practicing the free profession of advocate, a good part of which continue to be of current importance today.<sup>7</sup>

With the establishment of the monarchical regime in the country, due to the new legal relations created after the adoption and entry into force of the Civil Code, Criminal Code and Code of Civil Procedure in 1929, the drafting of a new law on advocacy emerged as a necessity in order to reflect the changes in the field of defense and representation, both in civil and criminal matters. The new law of 1929 was conceived as one of the conditions for the best administration of the Albanian justice, which presupposed good advocates with rare moral and professional qualities, to act as close collaborators of justice. Advocacy in this law was conceived as an institution that with its attitudes enlightened the courts and prepared them for a better trial (Sinani, 2007, 84). With its western spirit, this law led to the further development of the free profession of advocate and especially to the organization of the legal institution, both in national and international relations<sup>8</sup>, marking a step forward in reforming the advocacy system in Albania. This law<sup>9</sup> continued to be implemented even during the years of fascist occupation of Albania.

In the later stages of the Albanian state history, there is a regress in the field of advocacy. Significant problems are found during the period of almost half a century of the totalitarian regime, which brought radical changes in the institution of advocacy, unfairly violating the functioning way of the advocacy activity. The profession of advocate lost its essential features as a free and independent profession that aims to protect the interests of individuals, placing itself in the service and full control of the state power of the time. The rights and freedoms of the individual began to be violated by denying to the advocate the right to defend cases considered unfair, despite the fact that every individual enjoys the right to defense based on the principle of presumption of innocence until the decision moment by the court.<sup>10</sup>

<sup>6</sup> In 1921, two regulations were adopted one after the other for the profession of advocate, entitled: "Special regulation for advocates" and "Submission of the law for advocates in Albania".

<sup>7</sup> See further: Curri P. (2006). E drejta avokatore shqiptare. Tirane: Dita 2000, p. 327-336.

<sup>8</sup> During this period, Albanian advocates established contacts with advocates outside the country in order to gain more advanced professional experience in the conditions of great changes that the country was going through due to the reform of the justice system.

<sup>9</sup> Titled "Law of Advocates", this law entered into force on 15.06.1931, by decree of King Ahmet Zog.

<sup>10</sup> Conclusion based on article 10 of law no. 217 dated 20.11.1946 "On Advocates", which explicitly stated that: "The advocate, assisting the authorities in the performance of their duties, is especially obliged to cooperate with these bodies for the fair resolution of the case, both in fact and in law. The advocate is especially obliged not to defend unfair and illegal cases, not to use incorrect protection means, not to prolong the proceedings and to maintain the proper respect towards judges and other bodies of state power".

Advocates were denied the right to practice the profession individually, forcing them to organize work in groups, which led to the loss of legal and economic independence of advocates, since only the head of the collective of advocates had the right to enter into contracts with clients, and always based on the principle of socialist legitimacy.<sup>11</sup> In such a political system, which aimed to end the legal independence of the legal profession and at the same time the protection of fundamental human rights, advocacy gradually turned into a public activity. The final shock to the legal profession came with the 1967 decree "On the establishment of legal aid offices", a decree which replaced advocates with legal advisers appointed in these offices with the status of public servant, thus leading to the complete abolition of the institution of advocacy. This abnormal legal system was justified by the politics of the time with the fact that every citizen was aware of the law and its legal protection was not necessary, since it was guaranteed by the communist system itself (Curi, 2006, 30). However, the opening of court files for hundreds of political prisoners in the context of political processes initiated after 1990, clearly proved that this system did not guarantee even the minimum protection for citizens, and not the protection of fundamental human rights and freedoms, which could not even be imagined to be guaranteed in that period, despite their formal sanctioning in the constitutional acts of the time.

With the change of the political system and the aspiration for the implementation of a democratic system according to the western European models, the pluralist Albanian parliament undertook a series of legal initiatives, which served to restore the private nature of the advocacy institution. After a dark period of 23 years of complete oblivion, the adoption of the organic law on advocacy in 1990 marked a positive turning point for the Albanian advocacy. From this moment on, advocacy is again considered an activity that is exercised freely and independently, which aims to protect the legitimate interests of individuals, through legal aid and legal representation that it provides. But this law, although considered a great achievement for the time, continued to leave some unaddressed issues in its structure and content, dictated by contemporary reforms in the field of advocacy. This situation dictated the need of the Albanian legislator to intervene again in the legislation of advocacy, adopting new laws in order to approximate the Albanian advocacy with European standards in this field. A decisive moment in this journey was marked by the adoption of the Albanian Constitution in 1998, in the spirit of which, the figure of the advocate was considered a necessity for the realization of justice and the guarantee of fundamental human rights and freedoms, as a cornerstone of the rule of law and democracy. Also, the establishment of the National Chamber of Advocacy as the highest governing and representative structure of the advocacy institution, as well as the approval of the Advocate's Code of Ethics in 2005, marked another positive achievement in terms of development of the Albanian advocate profession at the level of his colleagues in the most advanced western countries (Gjoleka, 2008, 9). Not to forget the important contribution in this direction given by the legal reforms that included the entire Albanian justice system, in order to improve the administration of justice and the creation of a modern regulatory framework for the free legal professions, where the profession of advocacy occupies an important place.

In their entirety, the legal reforms<sup>12</sup> undertaken in the field of advocacy after 1990,

<sup>11</sup> In support of this view, we can cite Article 1 of the 1950 decree "On Advocacy", which stated that: "With the entry into force of this decree, advocates can not practice their profession without being organized in collective".

<sup>12</sup> According to the chronological order, the legal acts approved by the Albanian parliament in this period are: Law no. 7382 dated 8.05.1990 "On advocacy in the Socialist People's Republic of Albania", Law no. 7541 dated 18.12.1991 "For advocacy in the Republic of

aimed primarily to guarantee a better protection of the legal interests of citizens, and to increase the degree of professionalism of advocates in performing material and procedural legal actions.

### 3. The new law on advocacy in the perspective of Albania's EU membership

The need to achieve European standards in the advocacy service, dictated the need to design and implement a radical reform in the field of advocacy. After an extensive public consultation with the participation of local and foreign actors, in 2018 the Albanian legislator approved the new law on the profession of advocate, achieving compliance with the recommendations of the Council of Europe for the advocacy profession. Based on the best legal practices applied in EU countries and the strategic documents of the Council of Bars and Legal Associations of Europe (CCBE)<sup>13</sup>, this law aims to put an end to all the problems identified earlier in the Albanian advocacy sector, guaranteeing the increase of the performance of advocates and the quality of the public advocacy service.

At the center of the motive of the legal reform initiated in 2012 with the changes made to the previous law of advocacy and reflected more extensively in the law of 2018, was the increase of the legal criteria for entry and continuation in the profession of advocate. In addition to the previous legal criteria, candidates for advocate now have the obligation to attend a one-year initial training before earning the right to take the exam to obtain the title of advocate, while incumbent advocates have the obligation to attend continuous training in order to update them with developments in legislation and international practices in the advocacy service. Inclusion of compulsory legal continuing education in the advocate profession arose as a result of the effort to guarantee sustainable professional and ethical standards in the practice of this profession, as well as to increase the quality of legal services provided to the public. In addition to increasing professional competence, creating a habit of learning as a lifestyle helps advocates develop the practical and professional skills they need to better navigate the changing structural environment in which the law is exercised (Nurja, 2013, 127).

The National School of Advocacy, conceived as a special body of the Albanian Chamber of Advocacy (ACA), is the body responsible for providing initial and continuing training in the field of advocacy, engaging maximally in fulfilling all obligations that derive from the legal framework, the statute of the ACA and the Internal Regulation on the basis of which it carries out its activity. The functioning of this school has directly contributed to the increase of the professional qualification of the candidates for advocates, as well as to the improvement of the performance of the advocates in function, positively affecting the public image of this legal profession. As Albania", Law no. 7827 dated 31.05.1994 "On the profession of advocate in the Republic of Albania", Law no. 9109 dated 17.07.2003 "On the profession of advocate in the Republic of Albania" amended, and Law no. 55 of 2018 "On the profession of advocate in the Republic of Albania" currently in force.

<sup>13</sup> The Council of Bars and Law Societies of Europe (CCBE), founded in 1960, is an international non-profit association which has been, since its creation, at the forefront of advancing the views of European lawyers and defending the legal principles upon which democracy and the rule of law are based. The Albanian Bar Association, in the quality of Observer Member of the CCBE, has the task of regulating and directing the profession of advocate in accordance with the legal instruments of the CCBE, among which, a special place occupies the Code of Conduct for European Lawyers, approved in the plenary session of CCBE of 28.10.1998, amended.

a public profession that is under constant public scrutiny, improving this perception is in line with the interest of advocates to maintain the self-regulatory system, as well as to improve the rule of law in the country, as a primary responsibility of the ACA in (Nurja, 2013, 128).

In a society founded on respect for the rule of law, the advocate has a special role, that of serving the interests of justice and the protection of fundamental human rights and freedoms. In Albania, the right to be defended by an advocate is a constitutional but also a legal right, which is defined and guaranteed in detail in civil, criminal, and administrative procedural laws. In this context, to guarantee equal access of individuals to the justice system and specifically in the legal advocacy service, another innovation brought by the law of 2018 is the inclusion in the duties of advocates to provide services to persons receiving legal aid guaranteed by the state (Article 8/d). This humane aspect of advocacy law, in a broader context, means that, when in a criminal case the defendant is not financially able to afford the costs of an advocate of his choice, it is the duty of the state to appoint an advocate primarily and at his own expense, for analogy even in civil or administrative cases, the court may decide that the party who does not have the financial means to cover the advocate's expenses, may benefit from the state budget. Based on the provisions of the law "On legal aid guaranteed by the state"<sup>14</sup>, only advocates who practice the profession freely and independently through prior licensing by the ACA, have the power to provide legal services classified as 'secondary legal aid', which include the drafting of acts necessary to set the court in motion, as well as counseling, representation and protection in front of the court in administrative, civil and criminal cases, for which the mandatory protection according to the Code of Criminal Procedure does not apply. The provision of secondary legal aid is carried out by advocates who are included in the list approved by ACA every year, which is designed considering the principle of rotation of advocates, the inclusion of advocates of all specialties and levels, and the principle of gender equality.<sup>15</sup>

In order to strengthen the regulatory structures of the advocacy institution and to improve the disciplinary process against advocates who commit professional and ethical violations when practicing the profession, the Albanian legislator undertook several important legal reforms that began with changes in the previous law on the profession of advocate and continued to be further perfected in the advocacy law in force. Interference in disciplinary parameters, whether in structure or content, was a necessity dictated by the evidence in practice of many negative phenomena, which directly or indirectly, dilute the professional level of defense representation by advocates and demonstrate a non-dignified image for their figure while practicing the profession (Haxhia, 2012, 12). To put an end to such disturbing phenomena, the new legal basis brought a new concept of the structures responsible for the disciplinary proceedings of the advocate, as well as the way of understanding and functioning of the disciplinary process (Hajdari, 2014, 43). The new structures responsible for the disciplinary procedure focused on the ACA are respectively, the Complaints Commissioner as the individual body that is responsible for initiating disciplinary proceedings through the review and investigation of the complaint,

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<sup>14</sup> Free legal aid is regulated by Law no. 111/2017 "On legal aid guaranteed by the state", which comprehensively defines the forms, procedure and rules for the organization and administration of legal aid guaranteed by the state, in order to protect the fundamental rights of individuals and their legitimate interests. Also, through this law it is intended to create an efficient system of providing free legal aid to individuals, to ensure equal access of individuals to the justice system.

<sup>15</sup> Regulated by the joint instruction of the Ministry of Justice and the Chamber of Advocacy of Albania, no 17, dated 05.08.2020.

and the Disciplinary Committee<sup>16</sup> as the collegial body *ad hoc*<sup>17</sup> who is competent to lead the disciplinary procedure and to finally decide on the disciplinary measure. In order to guarantee an effective disciplinary process and to eradicate the culture of impunity of advocates, the legislator has taken care to set short deadlines for the duration of the disciplinary procedure, and to expand the circle of legitimate subjects to file a complaint against the advocate (Article 40)<sup>18</sup>. Furthermore, the reasons for initiating a disciplinary proceeding have been increased, including in addition to the unprofessional conduct of the advocate, inadequate professional services and non-provision of legal aid guaranteed by the state (Article 39).

As part of the improvements made to the provisions of the advocacy law in 2018, the appropriate legal basis was drafted to create a favorable environment that allows advocates to move and practice their profession in the EU<sup>19</sup>, recognizing the right of foreign advocates to practice their profession in Albania, which synchronizes the CCBE platform in this regard. According to the definitions of the advocacy law, the term 'foreign advocate' means any Albanian or foreign citizen who has acquired the title of advocate in one of the countries of the European Union and has signed a cooperation contract with a law firm that operates in Albania in accordance with the advocacy law and the statute of the ACA (Article 23). After having regularly practiced the profession of advocate for a period of three years at a law firm in Albania, the foreign advocate has the right to request to practice the profession individually in an independent way.<sup>20</sup>

## Conclusions

In summary, it can be concluded that Advocacy is a genuine legal science, which has been developed continuously by advocates, from ancient times to the present day. In order to practice this profession as well as possible, advocates are required to have a general legal culture, to be well acquainted with the legal system where they practice their activity, and to be up to date with the developments of domestic legislation and international law.

Despite the historical events that have taken place in Albania in different decades, they have had some impact on the evolution of the advocacy institution. In general,

<sup>16</sup> The Disciplinary Committee represents a body supported by the ACA from the administrative point of view, which exercises its activity independently based on the provisions of the law of advocacy, and as far as possible applies the rules of the Code of Administrative Procedure during disciplinary proceedings.

<sup>17</sup> The Disciplinary Committee has 11 members elected for a 4-year term and with the right of reappointment only once. Specifically, it consists of 7 advocates selected by the General Council of ACA, 2 representatives appointed by the High Council of the Prosecution and the High Judicial Council, 1 representative elected by the Ministry of Justice, as well as 1 representative elected by the civil society or the academic world in the field of justice.

<sup>18</sup> The right to appeal is now reserved to the governing bodies of the chambers of advocacy, the Ministry of Justice, judges and prosecutors or any other state body provided by law.

<sup>19</sup> Based on the directive 98/5/ EEC 16 February 1998 to facilitate practice of the profession of advocate on a permanent basis in a Member State other than that in which the qualification was obtained.

<sup>20</sup> The request of a foreign advocate to practice the profession of advocate in Albania is addressed to the Leading Committee of the Chamber of Advocates, accompanied by the relevant documentation proving the legal status of the advocate and the reasons why he seeks to practice the profession in Albania. The Steering Committee decides within two months from the submission of the request based on the agreements between the respective states.

the laws adopted by the Albanian state from the moment of its creation in 1912 until today, list Albania in the countries with advanced and modern legislation. As everywhere in the world, in Albania, at the top of every law that has served to organize and regulate the relations of the advocacy institution, are reflected the basic principles of practicing the profession and the main conditions to become an advocate, giving a special importance of higher legal education, professional skills and pure ethical-moral figure of candidates for advocate.

Recent improvements in the legislation for the profession of advocate, as an integral part of the reform of the Albanian justice system, have marked important steps forward in the further development of this profession, giving a significant contribution towards the improvement and discipline of advocates through compulsory and continuing legal education; modernization and strengthening of the disciplinary structures of advocacy, and at the same time the efficiency of the disciplinary procedure; the achievement of European standards regarding the guarantee and protection of the professional rights of advocates. The approximation of European legislation in the field of advocacy, the increase of quality in the public advocacy service, as well as the strengthening of professionalism and responsibility in the practice of advocacy, are an undeniable proof of Albania's commitment to continue further on the path of consolidation of the justice system and that of membership in EU structures.

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# Imputation methods for missing data in Non-Stationary Real data time series

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## Abstract

Missing values are unanswered questions or unobserved variables. They are encountered in almost every study conducted and analysts should consider them. Even a small percentage of missing data can cause serious problems in various analyses and this can lead to incorrect conclusions. Most statistical procedures automatically eliminate all cases with missing data, which means that when these data are in large numbers then we may not have enough data to perform the analysis in the end. When these values occupy a large part of the data, such that they represent a group that applies to the problem, because of their importance, compared to others, we must necessarily consider them.

In this paper, we deal with missing data encountered in non-stationary time series with real data and we are interested in comparing the performance of different methods by imputing these missing data. We study two non-stationary time series with real data and apply methods for missing data in an appropriate percentage in one of the series, and the other time series has missing data. We use six algorithms for imputing the missing values, *na\_interpolation*, *na\_kalman*, *na\_locf*, *na\_ma*, *na\_seadec*, and *na\_seasplit*. Then we compare the results obtained for mean absolute percentage error (MAPE) and root mean squared error (RMSE) in estimating the seasonal means before and after imputing the missing data. We use *perARMA* and *imputeTS* packages from the R programming language. The results obtained show the good performance in the case of using proposed imputation methods for imputing the data compared with the original time series.

**Keywords:** Missing data, non-stationary time series, imputation, R.

## Introduction

Data may be missing for a variety of reasons. Missing values are unanswered questions or unobserved variables. They are encountered in almost every study conducted and analysts should consider them. Even a small percentage of data missing can cause serious problems in various analyzes and this can lead to erroneous conclusions. It is often difficult to predict when lost values are problematic because it happens that sometimes they affect your results and sometimes not. Only a thorough analysis of the missing values can determine if these values are problematic in a study conducted. Most statistical procedures automatically eliminate all cases with missing data, which means that when these data are in large numbers then in the end we may not have enough data to perform the analysis. We will study the missing values in time series with real data. Time series analysis is a very important area of statistics. Because, in this case, the data are records taken through time, the presence of missing observations in time series data is very common. We will use two time series with real data where one has missing data and the other does not. In the series with full data,

we will lose values under the MCAR mechanism in different percentages to compare the performance of the proposed methods for their completion. In this paper, we are focused on the performance of six methods from *imputeTS* from R in calculating seasonal means in the case of imputing the missing data using imputations methods. Then we compare the results obtained for mean absolute percentage error (MAPE) and root mean squared error (RMSE) in estimating the seasonal means before and after imputing the missing data.

## Material and methods

### Missing value mechanisms

Three important cases to distinguish for the responsible generating processes behind missing values (see Rubin (1987) [4], Rubin and Little (2002) [3]).

Specify  $X = (x_{ij}), 1 \leq i \leq n, 1 \leq j \leq p$

denote the data, where  $n$  is the number of observations and  $p$  the number of observed variables, and let

$$R = (R_{ij}), 1 \leq i \leq n, 1 \leq j \leq p$$

be an indicator whether an observation is missing

$$R_{ij} = 1 \text{ or not } R_{ij} = 0.$$

The missing data mechanism is characterized by conditional data distribution of  $R$  given  $X$ , denoted by  $p(R/X, \varphi)$ , where  $\varphi$  indicates unknown parameters.

First, the missing values are Missing At Random (MAR) if it holds for the probability of missingness that

$$p(R/X, \varphi) = p(R/X_{obs}, \varphi) \quad (1)$$

Here  $X = (X_{obs}, X_{miss})$  denotes the complete data, where  $X_{obs}$  and  $X_{miss}$  are the observed and missing parts, respectively. The missing data are said to be MAR when the probability of missing is equal only within groups defined in the observed data.

If in addition, the distribution of missingness does not depend on the observed part  $X_{obs}$ , the mechanism called Missing Completely At Random (MCAR) is obtained, given by

$$p(R/X, \varphi) = p(R, \varphi) \quad (2)$$

The missing data are said to be MCAR when the probability of missing is equal for all cases.

When the probability of missingness depends on  $X_{miss}$ , the missing values are said to be Missing Not At Random (MNAR). This relates to the equation

$$p(R / X, \varphi) = p(R / (X_{obs}, X_{miss}), \varphi) \quad (3)$$

### Imputation methods used in this study

Many methods are used to impute missing data in time series. (See [11],[12]) In this paper, we will use *imputeTS* and *perARMA* packages in the R language to impute and handle the missing data. (For more see [1] and [10]) We use six algorithms for imputing the missing data, *na\_interpolation*, *na\_kalman*, *na\_locf*, *na\_ma*, *na\_seadec*, and *na\_seasplit*.

The first package is *perARMA*, [1] which provides procedures for periodic time series analysis. In this paper, we used *perмест* function, which assuming that the period T is known, procedure *perмест* plots and returns the estimated periodic mean as a function of season.

The other package *imputeTS* (see [10]) is a collection of algorithms and tools for univariate time series imputation. This package specializes in time series imputation. It offers several different imputation algorithms implementations. In our paper, we used *na\_interpolation*, *na\_kalman*, *na\_locf*, *na\_ma*, *na\_seadec*, and *na\_seasplit* functions to impute missing data. These six methods used in this study are as below:

1. *na\_interpolation* is a method from *imputeTS* package that impute missing values by interpolation. (For more see [9])
2. *na\_kalman* is a method from *imputeTS* that impute missing value by Kalman smoothing
3. *na\_locf* replace each missing value with the most recent present value before it. This is a method that imputes the missing value by the last observation carried forward.
4. *na\_ma* is a method from *imputeTS* with which missing values are completed by weighted moving average.
5. *na\_seadec* is a method that replaces the missing values using seasonally decomposed
6. *na\_seasplit* is an algorithm from *imputeTS* that imputes the missing values based on seasonally splitted.

### The real data set used in this study

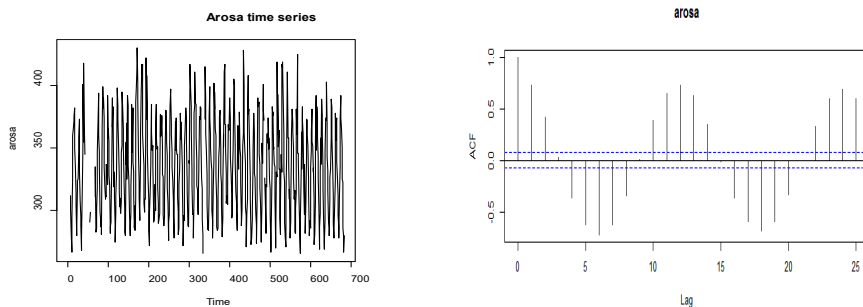
Many time series encountered in the real-world exhibit non-stationary and nonlinear properties. It has been found that many meteorological variables such as rainfall and global temperature are nonstationary (see [2], [6], [7]). A separate class of nonstationary time series is defined by Gladyshev [5], called periodically correlated time series. These time series are nonstationary but have periodic means and covariance. They have been known to be very useful in describing many time series.

In this study, we used two real time series data to handle the missing values. To concretize the proposed methods we will use two series of real data in which one has missing values and the other does not. Both time series taken in the study are periodic. We used the *perARMA* package and the *pgram* function, which performs the period estimation based on the spectral analysis. From further analysis, both time series have periods 12. The first is the time series which shows the ozone level in Arosa, Switzerland. To get the real data named «arosa» we will use the *perARMA* package in the programming language R.(see [8]) The data cover a period of 50 years, so there are a total of 684 data where about 5.2% of them are missing values.

After a detailed analysis using the *perARMA* package results that this time series is a periodically correlated time series with period 12. Using the *perARMA* package in the R environment as well as the «*permest*» function we will calculate the seasonal means and we will compare the results obtained with the seasonal means obtained after imputing the missing values with the help of the six proposed methods from *imputeTS* packages.

And secondly, we are examining a situation with real data from our country, which was obtained from the monthly meteorological records, recorded on the rainfall in the Pogradec area for a period of 40 years. In total we have 480 data. This time series does not have any missing values, but to compare the proposed methods, we will create 5% and 10% of missing data using the MCAR mechanism. In this series, we know the seasonal means of the original series.

It is clear in Figure 1 that arosa time series has missing values. To create an idea about the arosa time series we consider the autocorrelation function presented in the figure below. We note that arosa series has seasonality.



**Figure1:** Left is graph of arosa data with missing values and right is the autocorrelation graph

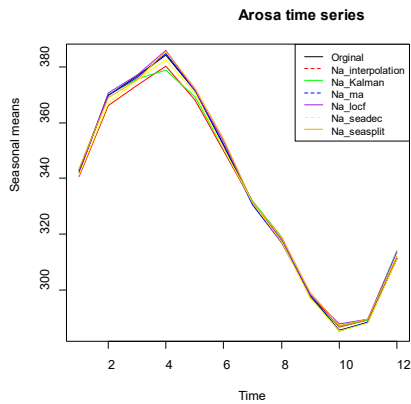
Our goal is to impute missing values. It is the reason we will use from the *imputeTS* package the six proposed methods. To compare the performance of each method we will calculate the seasonal means before and after imputing the missing values. The performance of the methods is evaluated by comparing the MAPE and RMSE accuracy measures calculated from the results of seasonal means obtained before and after the imputation of the missing values. The obtained results are given in the following table. (See Table 1)

**Table1:** Seasonal mean for arosa time series using six proposed methods

	Seasonal mean	Seasonal mean after na_interpolation	Seasonal mean after na_kalman	Seasonal mean after na_ma	Seasonal mean after na_locf	Seasonal mean after na_seadec	Seasonal mean after na_seasplit
1	342.8113	340.7092	343.0245	342.4737	341.8113	341.2244	343.4737
2	369.7170	366.1407	370.0346	369.8772	370.717	367.1108	369.0772
3	377.0000	373.3968	375.8650	376.4035	377.2234	375.6121	375.4038
4	384.2222	380.1835	379.0042	384.8246	386.0210	382.6691	385.8241
5	371.5000	368.0756	369,1908	371.4211	371.5000	370.5431	372.4215
6	352.4151	350.0144	350.9786	352.1316	353.5151	350.9553	354.1312
7	331.3148	331.2839	332,0030	330.4211	331.3148	331.2011	331.4219

8	317.2143	317.5560	319.0003	316.8596	318.0143	317.1461	318.8506
9	297.6545	298.3077	296.9783	298.1404	298.3340	297.1975	299.1403
10	285.5636	286.5857	287.0094	285.2105	287.7001	285.1298	287.2100
11	288.3636	289.2321	289.0580	288.1579	289.5632	288.0432	289.3579
12	311.3148	310.9970	314.0102	311.1053	313.4145	310.9430	312.0053
MAPE		0.005276888	0.004548907	<b>0.001138812</b>	0.003087364	<b>0.002680907</b>	0.003432486
RMSE		2.352961	2.041576	<b>0.4393581</b>	1.225076	<b>1.202466</b>	1.252625

In this table, we can see all seasonal means of arosa series. The performance of the proposed methods was based on MAPE (mean absolute percentage error) and RMSE (root mean squared error) values. The lower metric's value is the better imputation methods performance. From the result obtain in Table 1 we notice that na\_ma and na\_seadec imputation methods from *imputeTS* package in R have a better performance for arosa data. But also, other proposed methods have a good performance. For a clearer presentation of the results see the figure below (Figure 2)



**Figure 2:** Seasonal means for arosa series using six methods

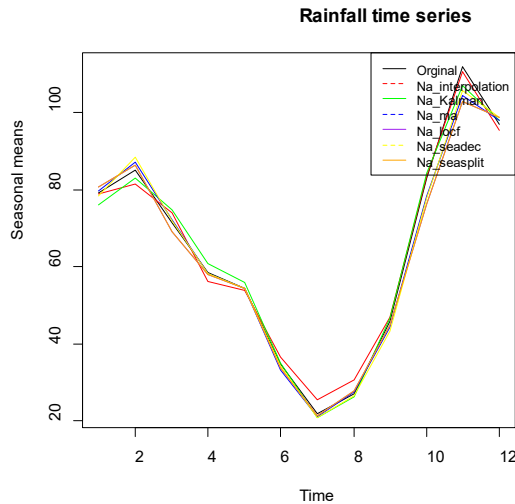
The same analysis will be done with the second series. The rainfall series has no lost values. To compare the proposed methods for imputed the missing values, we will create 5% and 10% of missing data using the MCAR mechanism. In both cases, the performance of the methods used to impute the missing values is the same. Below we will present the results obtained in the case when the rainfall series has 5% missing values. For more see Table 2.

**Table 2:** Seasonal mean for series of precipitation using six proposed methods

	Seasonal mean	Seasonal mean after na_interpolation	Seasonal mean after na_kalman	Seasonal mean after na_ma	Seasonal mean after na_locf	Seasonal mean after na_seadec	Seasonal mean after na_seasplit
1	79.0925	78.95083	76.16026	79.73514	80.80125	78.34087	80.80125
2	85.1775	81.48708	82.99069	87.19487	86.30250	88.45208	86.30250
3	71.4425	74.08792	74.75129	72.10811	69.21875	71.93464	69.21875
4	58.4500	56.28750	60.90753	58.35128	58.00375	58.25962	58.00375
5	54.4275	53.98750	55.99615	54.42750	54.42750	54.42750	54.42750
6	34.8900	36.75375	35.11976	33.23056	33.88750	34.28210	33.88750
7	22.0250	25.65000	21.02293	21.15789	21.29125	20.77900	21.29125
8	27.1900	30.69167	26.38076	27.52353	27.79125	26.46292	27.79125

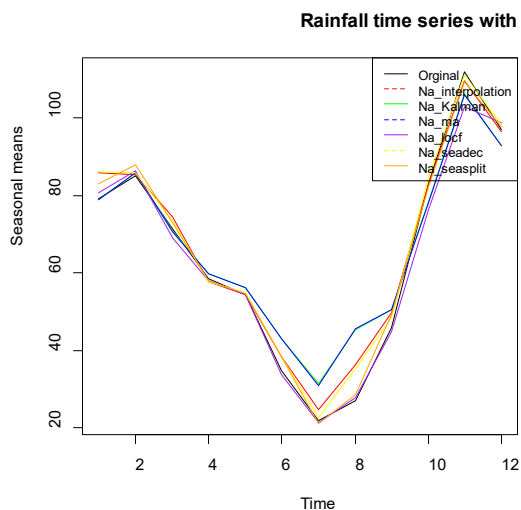
9	45.9400	46.90833	46.65393	44.32432	44.87000	43.41869	44.87000
10	82.9625	83.64375	84.24531	78.52222	76.22750	77.79212	76.22750
11	111.8825	110.58625	106.97225	104.34865	102.99125	105.68356	102.99125
12	96.8775	95.35792	97.91054	98.12703	98.87125	98.66874	98.87125
MAPE		0.04099413	<b>0.02911191</b>	<b>0.02692405</b>	0.03153159	0.03027001	0.03153159
RMSE		2.231863	2.210705	2.206401	3.425019	2.719409	3.425019
Results for MAPE and RMSE for rainfall time series with 10% missing data							
MAPE		0.05735926	0.1009392	0.1006404	0.05153159	<b>0.04881644</b>	<b>0.03396261</b>
RMSE		3.838508	6.982226	7.006059	3.725019	3.498996	2.275704

In Table 2 (results for rainfall time series with 5% missing data) we can see all seasonal means of rainfall series. In the first column are seasonal means of original data. And other columns we can see seasonal means after impute missing data with proposed methods. We can notice a similar performance of the six methods used in calculating the seasonal means in the case of rainfall time series. From the results obtained for MAPE and RMSE in the case when we have 5% missing values better performance for impute the missing data have na\_kalman and na\_ma compared to other methods. With the increase of the missing data (in the case when we have 10% missing values) we notice that the methods of na\_seadec and na\_seasplit have a better approximation in the estimation of seasonal means. (See Figures below)



**Figure 3:** Seasonal means for rainfall time series using six methods.

We can notice a similar performance of the six methods used in calculating the seasonal means in the case of rainfall time series with 10% missing data. (See Figure 4)



**Figure 4:** Results for the seasonal means of rainfall data using six methods

## Conclusions

In this paper, we studied two non-stationary time series with real data. In the rainfall series that has no missing data and we know the seasonal means, we used the MCAR mechanism to create 5% and 10% of missing data. Then we imputed the data using functions `na_interpolation`, `na_kalman`, `na_locf`, `na_ma`, `na_seadec`, and `na_seasplit` from packages *impute TS*. From the results obtained in both cases, we noticed that all six proposed methods had a very good performance. The results in Table 2, in the case with 5% missing data indicate better MAPE and RMSE values for the `na_ma`, and `na_Kalman` methods calculated relative to the other four methods. In cases with 10% missing data in rainfall series indicate better MAPE and RMSE values for `na_seadec` and `na_seasplit` methods.

We used the same idea in the series with missing values and we noticed that the performance of these methods was very good. We have used the *perARMA* package in the R environment as well as the "*permet*" function and will calculate the seasonal means and compare the results obtained with the seasonal means obtained after imputation of the missing values with the help of the six methods proposed by the *imputeTS* packages.

In this case from the results obtained, we notice that all these methods have a good performance. After this, we compare the results obtained for mean absolute percentage error (MAPE) and root mean squared error (RMSE) in estimating the seasonal means before and after imputing the missing data. We notice that based on these results `na_ma` and `na_seadec` imputation methods have a better performance compared to other methods. All data processing is done in the R programming language where the scripts were built and adapted.

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# Using mixed approaches for a comparative study of the properties of the Exchange Rate for Albanian Lek to Euro during the 2020-2022 Economic crunch

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## Abstract

Herein we analyse the exchange rate of Albanian national currency against EURO during the 2020-2022 period that corresponds to the economic crunch. By analysing the distribution of the return, we obtained those corresponding states are nonstationary. From multifractal analysis we have identified the trend of the regimes, the advances of heterogeneity, local singularities, and the balance between large and low fluctuation of the FX. To understand the role of each economy, despite the EU economic dynamics, we have considered the distribution and the multifractal analysis for the FX Bid-Ask magnitudes.

**Keywords:** exchange rates, distribution, multifractal analysis, time series.

## 1. Introduction

The exchange rate of national currency is an important indicator of a country's economic health. It is strongly correlated with other economic indicators including inflation, balance of payments, purchasing power, interest rate etc, see (Hamilton, 2018), (Li et al, 2021), (Betts et al, 2000), (Siregar, 2007), (Mohsin et al, 1987). (Bila et al, 2016). Under the equilibrium approach, the logarithmic nominal exchange rate between national currency and a foreign currency (f) is given by the formula

$$e_t = (m_t - m_t^f) - a_1(y_t - y_t^f) - a_2(i_t - i_t^f) + a_3(p_t - p_t^f) + \varepsilon_t$$

where  $m_t$  assigns money supplies,  $i_t$  interest rate,  $y_t$  is GDP or alternative income measure and p represents purchasing power. The term  $\varepsilon_t$  counts for stochastic effects and is usually assumed proportional to a Wiener process  $\varepsilon_t \sim sdw$ . However, the equilibrium assumption is usually broken and parameters appearing in the formula (1) can be time-dependent, therefore this formula constitutes a hard simplification of the reality. So, dynamical models can be more descriptive. In this framework and based on the Dornbusch model, the dynamics of FX is typically associated with a saddle-point instability in the (x, p) plane, (Miller et al, 1990), where p is again the price index. It is proved theoretically in (Miller et al, 1990), that, if the system is initially in the stable manifold, the saddle will push it way to the unstable region, hence the process becomes stationary, and the equation (1) is no more applicable. By assigning

$$i = i^* + X$$

$$X' = E; M = P + a_1 Y + a_2 R \quad a_1 > 0, a_2 < 0; P' = \rho(b_0 + (b_1 - 1)Y + b_2 + b_3(E - P)) \quad 0 < b_1 < 1, b_2 < 0, b_3 > 0, \rho > 0$$

the Dornbusch dynamics is described by following matrix linear equation

$$\begin{bmatrix} \frac{dx}{dt} \\ \frac{dp}{dt} \end{bmatrix} = \begin{bmatrix} \gamma & -\frac{1}{a_2} \\ \rho b_3 & -\rho(b_3 + \frac{b_2}{a_2}) \end{bmatrix} \begin{bmatrix} x \\ p \end{bmatrix} + \begin{bmatrix} \frac{1}{a_2} \\ \rho \frac{b_2}{a_2} \end{bmatrix} m$$

(2)

where  $X$  denotes the expected rate of FX depreciations,  $E$  is the logarithm of exchange rate,  $M$  is that logarithm of domestic nominal money supply,  $P$  is the logarithm of domestic price level and  $Y$ =logarithm of the GDP. Herein,  $i^*$  is the foreign interest rate and the final variables are the deviances by  $x = E - \underline{E}, p = P - \underline{P}, m = M - \underline{M}$  if  $X = \gamma(E - \underline{E})$  and  $Y = GDP$ . The dynamics 1.2 can be analysed in the framework of nonlinear dynamics where in principle can acknowledge the nature of the fixed points, behaviour near the saddle etc., given that parameters are known. Equation (1) and (2) can be used in the backward sense, to calculate those parameters by a fitting procedure. Next, a qualitative behaviour of the nominal exchange rate can be realised by transforming (2) to a second order nonlinear equation

$$\frac{d^2 x}{dt^2} + \frac{1}{\sigma^2}(\alpha p + \beta x) \frac{dx}{dt} - \theta p + \rho x = 0$$

(3)

The final form is considered in (Miller et al, 1990) after some adjustment of the variables, which we are skipping herein, because we will describe below that for our cases study those models do not reproduce the data. Now we also note that (3) cannot be integrated in closed form. However, it can be analysed easily in the framework of stability analysis. It resulted that if the phase point  $(x, p)$  jumped out of equilibrium (walking away from the stable eigenvector), it would be driven definitively in the unstable region from the saddle point to. In this case, to bring the state under "control" one must take it back forcefully and not dynamically (in a continuous way). In practice, this procedure is realised by changing parameters such as money supply, interest rates or both. A particular such a stabilisation procedure is analysed by the Krugman model known as target zone, (Lera et al, 2015). Note that in the target zone model the evolution of the logarithm of exchange rate  $x = \log(X)$  is given by Langevin equation  $\frac{dx}{dt} = f(x, t) + g(x, t)\mu(t)$  wherein the drift term  $f(x, t)$  can be assumed as the trend, whereas the product of the volatility  $g(x, t)$  times the Gaussian noise  $\mu$  would be the decoration. Therefore, further simplifications are needed to model the dynamics and that may lose information. In practice, more shortcomings would be present, and analysing FX time series becomes more methodological than analytical. So, if we consider for reference the exchange rate of Albanian currency toward Euro, many of the modelling assumptions are not fulfilled. In principle, combination of the methods and using empirical ones can result efficiently enough for those analyses. The key argument is that empirical methods do not need a detailed theoretical basis, and usually can be considered as data driven techniques. Therefore, many properties that

resulted hidden in the above analytics models, can be uncovered by statistical tools and descriptive consideration. We will describe the idea in the following paragraph.

### **A descriptive view for a specific FX system -the daily FX exchange rates of ALL to Euro**

The daily exchange rates consist of sparse data. The differential operators used above should refer to the inner time-step of the system, that is too short compared to the day reference. However, for the case of the exchange rate of Albanian Lek toward other currencies, the data recorded and published refers to opening and closing day values. Herein we will discuss specifically the behaviour during the 2020-2022 economic drawback. This system has been considered recently in (Prenga et al, 2016), where specific behaviour and particularities have been observed. Considering by naked eye the time series of the FX rates ALL to Euro during 2020-2022, it resulted in a tendency to keep the averaged FX rate constant, but market type fluctuations have been observed during a day trade reference. It is very likely that in this case the target zone model has been used. Even so, there was no such a statement from the authorities that are responsible for monetary policy in the country, but we can pose a study question if such a model has been used efficiently. In the first sight it is observed that the economy has crunched significantly (at -8%) whereas the national currency has kept the old rate on average. It is expected that in such circumstances, bubble events might develop like in other financial indexes, so the measures are indispensable to protect the financial system from deteriorating after Covid-19 closure that directly hampered the economies and finances of many countries. Adding into this account the destruction of the earthquake of 2019 that hit Albania, a worsened scenario in the financial situation was realistic. A severe financial crisis at 30% devaluation of the national currency has occurred years before (1997), (Prenga et al, 2013), (Prenga et al, 2016), (Gjana and Kovaçi, 2021). Accordingly, rigorous financial policies have been applied since then, but this is not enough to explain the comportment of the currency during the last crisis. We note also, the national currency (ALL) is still not tradable, and no formal active financial trade exists in the country. It is worth mentioning that the role of the foreign currency is particularly important for the economy as seen in the significant figures of remittances 9.63% those last year (Miller, 2013) and tourism inputs at around 2 billion USD annually (Gray et al, 1979). Despite this, it resulted that the financial system has resisted this last crisis. Herein we propose a descriptive approach to understand typical features and key factors related to its behaviour. Also, a comparative view of the FX for other Balkan Countries has been considered. Note that the GDP per Capita in the Balkan countries is among the lowest in Europe, so the sensitivity of the FX of their national currency to Euro is expected to be noticeable for all of them.

### **Data and method**

The use of regression analysis based on equilibrium formula (1) and dynamical equation (2), is not adequate because some cause factors are not based on tiny time records as needed for calculation. Note that if neglecting this defect and applying ODE in equation (2) the reproduction of the data has resulted unacceptable and the smoothest form (1) was not satisfactory. We followed the analysis by contemplating carefully the statistical analysis considering a very important issue for measurement-the distribution. Following our orders addressed in this issue we have considered the q-Gaussian distribution to measure specifically the grade of the stationary, which is contemplated as a performance indicator of the FX rate behaviour. The q-gaussian

have the form

$$G_{q(x)} = \sqrt{\frac{1}{3-q}} \sigma_q \frac{1}{Z_q} \left( 1 - (1-q) \left( \frac{x - \mu_q}{2\sigma_q} \right)^2 \right)^{\frac{1}{1-q}}$$

and according to (Tsallis, 2011), (Umarov et al, 2008) measures the distance from the stable distribution. Note that the distribution is stationary if  $q_{fit} < \frac{5}{3}$ , (Tsallis, 2011), (Umarov et al, 2008).  $Z_q$  is the partition function that in reference is calculated in closed form, parameters  $\mu_q$  and  $\sigma_q$  in (4) might represent an estimation of measurable quantities if the distribution is stable. Therefore, by obtaining the best pdf fit, we can assess an estimated mean and its deviation and report it. Considering that

econometrics acknowledged the return  $r_t = dif(ln) \cong \frac{q_{t+1} - q_t}{q_t}$  as the characteristic variable for the FX, we have reported the distribution for this quantity, but note that econometric scholars assume their distribution to be a lognormal distribution. In (Borland, 2002) it is stated that a more realistic form is the q-lognormal shape given by the function  $\rho(x) \sim \frac{1}{x^q} e^{-\frac{|x-\mu|^2}{2\sigma^2}}$  called q-lognormal where  $x = \frac{x^{1-q} - 1}{1-q}$  There in it is

argued that the volatility  $\omega$  for a financial index follows the q-Gaussian distribution  $Pdf = A(1 - (1-q)\beta\omega^2)^{\frac{1}{1-q}}$ , and returns of the FX behave the same way. Note that theoretical q-Gaussian is too physical and hard to fit. In (Prenga et al, 2016). Without providing further theoretical proof, if the fit does not reproduce the constant

$\sqrt{\frac{1}{3-q}} \sigma_q \frac{1}{Z_q}$  with the physical value  $Z_q$  in (Prenga et al, 2021) has been used a reduced form which does not directly involve the partition function  $Z_q$ . This form is

$$g_{q(x)} = A_q \left( 1 - (1-q) \left( \frac{x - \mu_q}{2\sigma_q} \right)^2 \right)^{\frac{1}{1-q}} \tag{4}$$

In this framework we have measured all parameters of the fitted q-gaussian distribution and reported them in the timeline corresponding to the economic crunch 2020-2022. Stationarity information is very important to analyse the overall comportment of the quantity under scrutiny and for an exterior assessment of the monetary policy efficiency. Another source of the information is embodied in dynamical behaviour. Self-similarities and scaling properties, persistence and intermitences can be revealed from multifractal analysis. So, the local properties of the series fulfilling the scaling law

$$X(at, \omega) \sim a^H \cdot X(t, \omega), a > 0, t \geq 0,$$

known as having fractal structure, can be known directly from the H exponent known as the Hurst exponent (Pavlos et al, 2013), (Morales et al, 2012), (Mateo, 2012). Accordingly, if  $H = 0.5$ , the up and down increments are equiprobable; if  $H > 0.5$ , the series are persistent and for univariate series the probability for a similar increment is high. For  $H < 0.5$ , the series is anti-persistent, and therefore the next move is expected to be the opposite of the last one. From the equation (1) it resulted that any change a

in time scale correspond to  $a^H$  in space. The scaling properties in (1) can be assessed through the R/S analyses. In short, the N-term series X is seen as n-length time series  $X_1, X_2, \dots, X_n$  with  $n = N, \frac{N}{2}, \frac{N}{4}, \dots$ . One calculates the terms

$$R_n = \left[ \sup_{\{i < t < i+1\}} \sum_{k=1}^t (X_k - \underline{X}_{(i,\tau)}) - \inf_{\{i < t < i+1\}} \sum_{k=1}^t (X_k - \underline{X}_{(i,\tau)}) \right]$$

$$S(n) = \sqrt{\frac{1}{n} \sum_{i=1}^n (X_i - \underline{X}_{(i,\tau)})^2}$$

So, from by liner regression of  $\log \left( \frac{R_n}{S(n)} \right) \sim H \log(n) + a$ , the Hurst exponent is essay evaluated. Note that is related to the fractal dimension. Next, according to Mateo, (2012) and (Pavlos et al, 2013) the series with stationary increments can be analysed through the structure  $|X(t + dt) - X(t)| \sim C_t (dt)^{\alpha(t)}$  where  $\alpha(t)$  is called local Holder exponent. Now, the X(t) is analysed through by interpolating auxiliary series  $X_n$  and considering the non-constant Hurst version of the above

$$K_q = \langle |X_{n+\tau} - X_n|^q \rangle \sim \tau^{qH_q} \quad (5)$$

where  $\tau$  is the time lag,  $q > 0$ , and the average  $\langle \dots \rangle$  is realised for all time steps n Mateo, (2012), (Pavlos et al, 2013), etc. The exponent  $H_q$  is called generalised Hurst exponent or singularity exponent and describes the degree of singularity around the point t. For multifractal structures with continuous scaling, it is a concave function. We underline this first property to estimate multifractal structure properties. Next the multifractal spectrum  $f(\alpha) = q(\alpha - H(q)) + 1$  where  $\alpha = H(q) - qH'(q)$  measures the abundance of the Holder exponent. If  $[\alpha_{max}, \alpha_{min}] = \text{arg}(f(\alpha)=0)$  the width of the multifractal spectrum given by

$$\Delta\alpha = \alpha_{max} - \alpha_{min} \quad (6)$$

reports the complexity measure and can be considered as an indirect measure of mono-fractality. Larger width of multifractal spectrum structures indicates dominant multicasting, and smaller width correspond to mono-fractal structure or unique scaling. Also, the weight of smooth or abrupt local fluctuations can be read from the multifractal skewness

$$skew = \frac{\alpha_{max} - \alpha_0}{\alpha_0 - \alpha_{min}}$$

Left-skewed multifractals (skews < 1) have more fine-structures in large fluctuations. Right-skewed multifractals have more fine structures in small fluctuations. An finest quantity for estimation of the multi-fractal skewness is the asymmetry index given by

$$A = \frac{\Delta_{Left} - \Delta_{right}}{\Delta_{Left} + \Delta_{right}} \quad (7)$$

where  $\Delta_{left} = a_0 - a_{min}$  and  $\Delta_{right} = a_{max} - a_0$ . It measures the disproportion on the weight of higher and lower exponents. Detailed interpretation and their physical meaning can be found in reference (Pavlos et al, 2015), (Antoniadesa et al, 2012) and in

### Statistical properties of the relative change of daily exchange rate

In this part of the study, we have considered two main quantities related to the overall conduct of the FX ALL-Euro. The first indicator is the stationarity measure. It indicates the overall behaviour, global conduct and displays the long-term efficiency of the monetary policy. If the stationarity has worsened, the situation is less predictable, returns on the investment and particularly for the foreign one becomes less forecasted and in final, the risk has heightened. Another quantity is the mean value of absolute return or exchange. Smaller it is healthier the currency has performed. Now it is important to discriminate between mathematical approaches and purely financial terms and categories. We remark herein mathematical description of the facts based on the data, and within our expertise, provide some conclusions. Those last are very limited from the scope of the work. Our focus herein is how to deal better with sparse data and heterogenous series, and econometric or final conclusions become of a less priority. So, for example, we should have considered FX as not a market like Stock Exchanges because it refers to the intermediary activities hosted by banks,

interplayed by state agencies etc. For a financial index, the quantity  $r = \frac{x(t+1) - x(t)}{x(t)}$  is sufficient for the analyses, whereas in FX exchange we should consider the contextual objectives. However, we do not go into those details herein. So, we will use herein the spot exchange rate and follow for this element only. In this case the formula of the return is the simplest one used above. Herein we propose to measure the stationarity level of the rate of return (RoR)

$$r(t) = \frac{E_{t+1} - E_t}{E_t},$$

for the whole time series, the series including the economic crisis period, and this series of the period 2020-2022. The starting time is taken by random in January 2017. This parameter can represent the performance in financial terms including the stability of the national currency as well. Nota that a white noise in the financial values is considered healthy. So, we start the analysis by the identification of the q-Gaussian distribution underlying the empirical histogram of  $r(t)$ . In this stage, by a simple descriptive analysis we observed that series of RoR  $r(t)$  are highly nonlinear. Therefore, the optimal histogram of the empirical distribution is obtained accordingly to this feature, respectively by using Freedmen Djaconic rule. Next, we checked for possible fit all standard distributions included in the all fitdist MATLAB algorithm. After those preliminary remarks, let's see the most important findings. Note that initially, by exploration on the try-distributions fit, we obtained that the standard distribution has generally the best BIC for "tlocationscale" distribution which is of the q-Gaussian nature. In this case however, the standardised MATLAB allfitdist shows poor statistical fit. The proposed q-gaussian (4) has fitted better, Figure 1. Herein, the optimization of the bin size is performed via Freedman Djaconic rules. Though the fit is not satisfactory enough for quantitative analysis, we can discuss the stationarity issue.

Period		ALL	MKD	SRD*	TRY	RON	HKR
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	q	1.931	2.4901	1.7584	1.642	1.7564	1.7569
2017-end of 2021	q-mean	0.031	0.0232	0.0186	0.1508	0.0126	0.0087
	q	1.9697	1.6194	1.9357	1.4945	1.6621	1.6195
2020-end of 2021	q-mean	0.016	0.0229	0.0067	0.1309	0.0057	0.0087
	q	1.8959	2.3987	1.2938	1.7631	1.5108	1.8725
2017- end of 2019	q-mean	0.031	0.0202	0.0186	0.1507	0.0126	0.0091

We observe that for all cases, the state of the return is far from stationary as  $\frac{5}{3}$ . Therefore, We observe that for all cases, the state of the return is far from stationary as  $\frac{5}{3}$ . Therefore, the parameters of q-Gaussians e.g.,  $\mu_q, \sigma_q$  do not represent measurable observables. The q-value of the Euro/ALL FX distribution is in the limit of the infinite variance (1.9~2). The mean of the FX-return (and q-mean) for all currencies fall in the positive zones, indicating long-term depreciation of the national currencies. ALL has the highest depreciation in the period 2017-2021. It resulted that q-parameter keeps its value for different time windows chosen, that indicates a consistency on the non-stationarity level. Note that the stationarity measure q for the period before COVID-time economic crisis (1.896) is slightly smaller than during this period (1.96). As noticed above, for comparative purposes, we have also considered the FX series of the exchange rates for the currencies of following Balkan countries: Turkey Lira (TRY), Serbian Dinar (RSD), Macedonian Denar (MKD), Romanian Leu (RON) and Croatian Kuna (HRK). Initially, the best fitted standard distribution has been identified the "tlocation scale distribution" that is of the q-Gaussian nature. Stationary measures q and q-mean are displayed in the Table1. The graph of fitted distribution to the empirical histograms are displayed in the Figure 1. In all cases, the statistics of the fit by using standard functions has resulted poor, it was fair but not satisfactory enough for the fit of (4) and the best regression is gotten for equation (5). Nevertheless, the return of SRD has not fitted well and is not displayed in the figure.

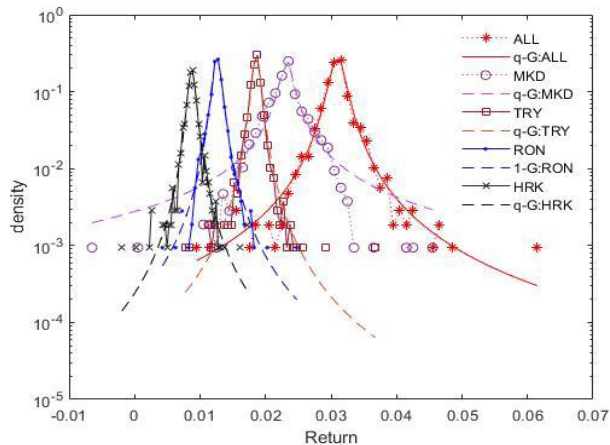


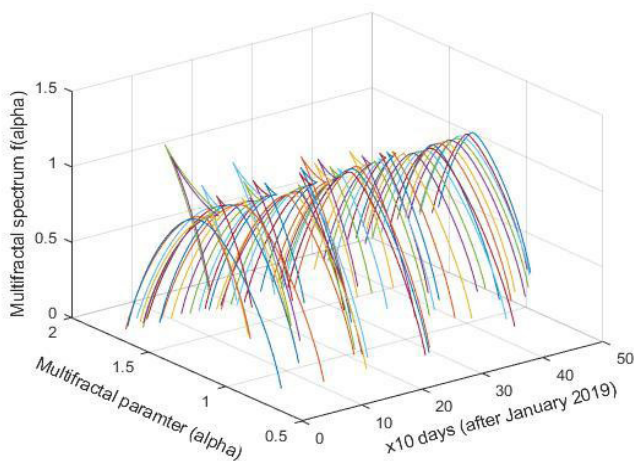
Figure 1. Distribution of the return (SRD not shown)

Also, the q-mean has almost the same value for both periods, the full range [2017-end of 2021] and the one not comprising COVID period, [2017, end of 2019]. Interestingly, which indicates that the un-stationarity parameter takes high value mostly from the disturbances caused by the high magnitude returns. Indeed, when we considered the

central part of the histogram, the  $q$  values obtained falls below the limit. This factum supports the idea that the observed high non-stationarity has its origin on the local critical behavior of the ALL-FX time series. From the fact that series that spanned pandemic period have a higher non-stationary level, it resulted that the dynamical behavior of those processes has been modified significantly in the period [2019, 2021]. Similar conclusions can be evidenced from other FX returns considered herein. In particular, the behavior of the TRY is comparable with the ALL, whereas for others, remarkable differences were observed. We concluded that the exchange rate has not shifted remarkably its historical trend during the economic crisis caused from the lockdown. We suggest that the ability of the country to keep the FX rate balanced can be explained partially by the considerable size of the informal economy that operate with euro directly. Also, informal economy acts as disponible reserve for the foreign currency. The performance of the regulatory agencies is not excluded too. However, the helpful effect of the informal economy on the maintaining FX rate of ALL-Euro statistically balanced has the price of keeping the national currency depreciation among the highest in the region. Other conclusions can be on the framework of expert financial analysis which buy nature out of the scope of this work

### **Dynamical properties of the daily exchange rates**

The heterogeneity and nonlinearity in data series make their study difficult. Under such circumstances, measurement processes would fail, modelling is not possible, and prediction also is not applicable in their rigid sense. On the other side, heterogeneity in the series might reflect complicated behavior and significant departure from a standard process. Also, for sparse data, it is more difficult to identify regularity in practice, and we can have fake alarms of the heterogeneity. In those cases, acknowledgment of the dynamical properties is a very valuable information. So, the smoothness of the multifractal spectrum confirms a regular multifractal structure, whereas an intersected line testify for heterogeneity. It may originate usually from abrupt change of regimes due to the exterior factors, so the evolution of the multifractal curves would report the level of the heterogeneity and irregular scaling. Physically it is related to the phase transition and technically non-smoothness of the multifractal spectrum indicate regime changes.



*Figure 2. intensification of the multifractal structure for ALL-Euro during 2020-2021 economic crunch*

From every point of consideration, the non-smoothness of the fractal spectrum identifies the loss of the multifractal property or scaling regularity. Also, it should be considered that finite size effects may affect seriously multifractal analysis, therefore in this work we consider a descriptive and qualitative analysis. We can also consider the linkage from the literature and mathematical interpretation of multifractality, and multifractal spectrum strength  $\Delta\alpha$ . It is correlated to the fluctuation of the values and within the same regime, it can be used as prediction of the margins of future fluctuations, etc. Herein, we have used the multifractal detrended fluctuation analysis based on the reference (Morales et al, 2012), (Jiang et al 2018), following remarks of [32]. For this analysis we used subseries starting from January 2017 and ending at the time January 2019+n\*10 days (every two-week working day). In figure 2 are displayed the curves of the multifractal spectrum for series of the FX ending at successive next 10 days. The multifractal spectrum smoothness has restored completely toward the end of the period. Heterogeneous structure for series ending at the beginning of the economic crisis related to the pandemic closure is inherited from the previous regime. For a more detailed view we considered the multi-fractal strength and multifractal spectrum asymmetry, Figure 3..

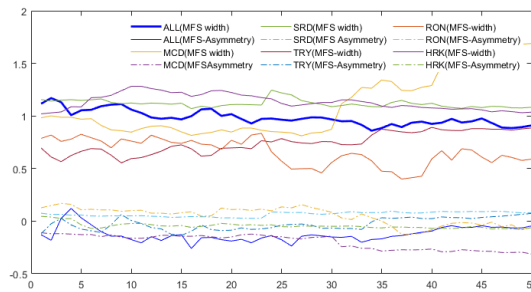


Figure 3. Multifractal Spectrum Width and Asymmetry for the time series of six regional currencies exchange rates toward EURO for the periods (2017, January 2019+10\*x). Blu lines, ALL-Euro FX

We observed that parameter  $\Delta\alpha$  for multifractal spectrum of the series of ALL-Euro exchange rate has speckled by a near to the oscillatory dynamics and its amplitude has decreased by the time. This indicates that scaling properties of the series have altered periodically in short intervals at around four months during the time span, going from large spectrum to the tiny one periodically. This oscillatory behavior was not observed on other currencies FX multifractal spectrum, Figure 2. Another interesting dynamical property is observed for the asymmetry of multifractal spectrum. This parameter has been considerable high for series ending at the beginning of 2019. The rude change and rapid decrease of the asymmetry indicate cumulative result of the shifting between high and low fluctuation. We observed that the asymmetry index has decreased significantly, testifying that the initial dominance of the high versus the low fluctuations has weakened by the time. The ending point value (series ending in December 2021) has the values around 0.25-0.3, which indicate that for the moment, the small magnitude fluctuation dominates the dynamics. In the first insight this is optimistic close of the crisis-time, but we should learn more about the trend for a more conclusive report. For a comparative view we have also displayed the corresponding

behaviour of the FX of their currencies for six countries of Balkan respectively, Turkey (TRY), Croatia (HRK), Romani (RON), that are EU countries and keeps national currencies, Serbia (SRD) and North Macedonia (MKD). We observe that time data series for the exchange rate of TRY-Euro exhibit a comparable multifractal spectrum width amplitude for the period of the analysis, but evidently it showed different behaviour. The amplitude of the heterogeneity measure has decreased, and the mono-fractal structure is emphasized by the time. For other currencies we observed remarkable increase of the multifractal width indicating the increase of the weight of heterogenous phenomena in the processes related to the FX value formation. The FX of exchange SRD-Euro has kept a manageable multifractal width for all the range. Series for other FX currencies considered, are characterized by remarkable increase of the multifractal width indicating increasing weight of the heterogenous phenomena in the series. The most significant one is seen in the Romanian currency exchange where abrupt changes on both multifractal strength and asymmetric have been observed. This behaviour should be analysed in the framework of specifics of the country economy and the specifics of the monetary policies. Up here, we can underline that heterogeneity of the series shows a cyclic behaviour of a period 4-month, that suggest the presence of a regulatory effect and the attenuation of the multifractality at the end of economic crisis. Also, it is observed a reduction of the discrepancies between low and harsh fluctuations by the end of the economic crisis related to the pandemic closure 2020-2022. In a first view the FX ALL-Euro has exhibited a behaviour that does not reflect the fragility of the country's economy. The behaviour of the daily changes or increments can be analysed by exploring Hurst exponent. In theory, differences of a series are likely to be based on browning processes and therefore its structure is mostly nonfractal. We can check this aspect by estimating Hurst exponent. So, for series of days exchange rates the calculation of the Hurst exponent based on the formula we obtained  $H > 1$  that indicate that mono fractal structure does not exist (no uniform scaling). By employing this formula for daily changes, it resulted that  $H < 1$  for all series, Figure 4, and therefore we can analyse the behaviour based on the above remarks. In this analysis we have considered series ending at the date January 2019+n\*10 days.

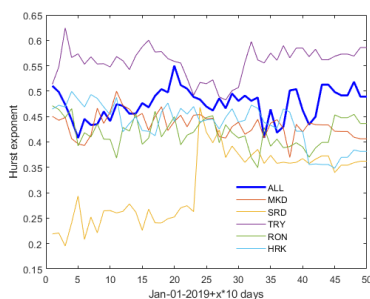


Figure 4. Evolution of the monofractality by time during the period ;2020-2022

The Hurst exponent for the increments of ALL-Euro daily exchange rates has been in average around 0.5 indicating a random walk process dominance. However, it looks that a full regime has started at the end of 2019 and completed round the middle of 2021 (350 working days after January 2019). In the first stage series of the increments have been slightly anti-persistent, and this feature has diminished to a fully disappearance for a short time at the coordinate 200 working days (around

October 2020) and remain antiappeasement. After coordinate 35 (350 days) rapid shift on the nature of preces have occurred as seen in Figure 4. The complementary behaviour is observed for series of daily changes on FX rate for TRY-Euro. In this case series are usually persistent. Other four series are generally anti persistent as hurst exponents are smaller than 0.5. As of January 2022, the hurst exponent for FX ALL-Euro dailyincrementis stabilised around 0.5. It is interesting this nearly ideal behaviour of the FX under consideration.

### Properties of the ultra-short-term effect on the exchange rates

The above findings have identified the general features of the behaviour of the monetary system and national currency that behaves as a system under strong factors. The daily exchange rate value is a product of many processes and factors, so more information about the effect of the factors that mostly contribute during the day work can be analysed by studying the behaviour of the bid ask values.

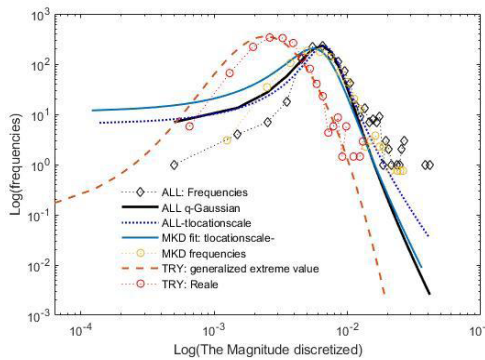


Figure 5.. Distributions of the BID-Ask amplitudes (left). GEV fitted to the empirical distribution of the magnitude of BID-ASK (right)

We observed that among many standard distributions the best fitted PDF for the frequencies of the categories was Generalized Extreme Values as by BIC criteria (Bayesian Information Criteria). However, from the loglog presentation, we observed that the fitted GEV exhibit significant deviance from the real points. A better alternative is a qualitative q-Gaussian of the form (7).

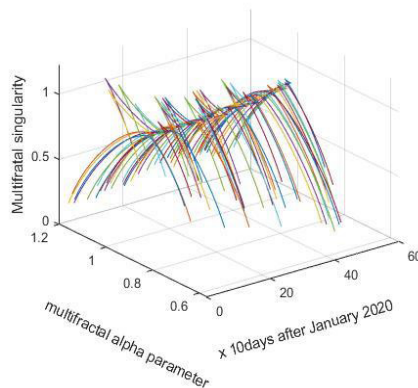


Figure 6. Multifractal spectrum of subsequent ALL-EURO Bid-Ask subseries by a time lag of two weeks (10 working days)

We observe that only central points of the empirical distributions for ALL fits well with q-gaussians. It can be regarded as a pressure from the regulatory forces to keep the exchange rates under control whereas the deviances for high part of the values indicates the departure from it.

It resulted that those small magnitudes of Bid-Ask values lie out of the fitted distribution, that is highlighted in Figure 4 by loglog presentation. It should be marked that empiric histograms of the Bid-Ask series for other FX currencies have fitted better with the distribution than ALL-Euro. It might represent real significance of the free market in the formation of FX exchange values. Next, by multifractal analysis for this case, we obtained that the multifractal spectrum exhibits a non-monotonic curve with intersection, that indicate the presence of the heterogeneity on series. As seen from the figure 4., the heterogeneity of the Bid-Ask has decreased by the end of the period suggesting that the local oscillation the demand and offer of converted currencies has been stabilised by the time. It signifies that the effect of the trade and market in the exchange rate has succeeded toward a monotonic scaling for all periods. One of the factors is the regaining of the optimism by the economic activities, but here are many others. Also, our approach that EURO can be considered as a thermostat (very large system) needs for further adjustment but when talking roughly for the ALL system, this approach is correct and the herein conclusions remain reliable due to the very modest GDP of the country as compared to the very large EU economy.

## Conclusions

By analysing the distribution of the return of the exchange rates of the Albanian and other Balkan currency to Euro, we obtained that during the 2020-2021 period have been highly nonstationary. The level of the nonstationary of the return for ALL to EURO FX has not changed significantly. It resulted that factor directly affecting the exchange rates have varied in the same direction letting the balance unchanged. Other FX shows development but non-significant. From the multifractal analysis we obtained that the dynamics of the FX values has been much more intensive for all Balkan currencies. ALL shows specific oscillatory behaviour of the heterogeneity measure and an identifiable decreasing trend of the disbalances between high and low fluctuations assessed by the multifractal asymmetry. This behaviour indicates that national currency has overcome the anxious moments observed in the first month of the pandemic outbreak and as of 2021 has entered a more stable regime. Significant changes of this kind have characterised all other FX currencies except SRD. However, the FX for this currency has a large return boundary caused by high magnitudes. It resulted that ALL FX BID-ASK magnitudes belong to a highly nonstationary distribution that has the q-Gaussian form in the central part but high deviances for the edges have been observed. Also, other currencies FX BID-ASK magnitude belongs to the non-stationary distribution. It indicates that respective economies have been subject of intensive dynamics that pulled the processes far from the stationarity. For ALL FX Bid-Ask magnitude we observed that the multifractal width has decreased by time and the global scaling regularity is present. The heterogeneity has diminished by time in this variable. It testifies that the system has relaxed enough, and the interior factor is very influential on the overall unchanged level of the stationarity for the FX of the ALL.

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# Ownership of copyright in works created within the scope of employment - The Albanian perspective

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## Abstract

Copyright protects creative works of the human mind.<sup>1</sup> Authors can create copyrighted works independently, but they can also create works in different legal relations such as, under service agreements, commission contracts, publication agreements as well as in the course of employment.

Nowadays lots of copyrighted works are created during employment relations around the world. However, in a legal path different countries provide for different ruling in their domestic laws regarding the ownership of such works, while in European level the connection between copyright and employment appears only in some EU Directives and is not generally harmonized.

In this context, this paper presents several considerations regarding some aspects of works created within the scope of employment. Furthermore, it aims to analyze the Albanian legislation perspective about authorship, ownership and transfer of rights in works produced in the course of employment taking into account several issues that can arise in practice and interpreting possible solutions.

**Keywords:** copyright law, contract, ownership, authorship, employment.

## 1. Introduction

It frequently occurs that during employment the employee creates works as part of his employment activity. In many cases, the employees are hired precisely with the intention of creating original works that are protected by copyright. Such works produced in the frame of an employment agreement incite discussions on the authorship, ownership, and transfer of rights. Different legal orders embrace different solutions concerning authorship and ownership of works created under an employment contract, being far from a unified result in this regard.

Thus in a broad context, it may be said that, Civil law countries generally start from the premise that copyright on works created in the course of employment vests in the employee-author, rather than in the employer, so that a transfer from the employee will be required for the employer to obtain copyright.<sup>2</sup> Whereas, Common law countries generally provide that absent an express agreement to the contrary, copyright in works created in the course of employment initially vests in the employer rather than the employee.<sup>3</sup>

In this regard, the paper aims to explore some interpretations, but also to provide an analysis of the Albanian legislation framework concerning several questions that may arise in practice such as: Who owns the original work of authorship created in the course of employment? When is an original work considered as created in the course of employment? What rights does the employer have and what are the rights

of employees? Which rights are transferred? To what extent are the rights transferred and are there limitations on their transfer? In order to answer these questions, at first some general considerations about authorship and ownership should be discussed.

## 2. General considerations on the author, authorship and ownership of the works protected by copyright

Authors are the heart of copyright.<sup>4</sup> The Berne Convention,<sup>5</sup> (hereinafter referred as BC) one of the most important multilateral copyright treaties, does not define the “author” of a work, leaving this to the contracting parties. Since “author” is not defined in the BC, Stewart has argued that “the law of the state where protection is claimed decides who is an ‘author’.” He continues: “The reason for this lack of definition is that the national laws of member states differ greatly on this point. French law and many systems derived from French law or influenced by it recognize only physical person as authors (writers, composers, painters, sculptors etc.). Anglo-Saxon legislations and others influenced by them recognize legal entities, e.g. film producers, record producers, broadcasting organizations as authors or original right owners”.<sup>6</sup> So, various legal systems hold different positions.<sup>7</sup>

However, according to Professor Ricketson, the Convention’s text and historical context strongly suggest that “author” and “authorship” for purposes of the Convention are to be interpreted as pertaining to the natural person who created the work.<sup>8</sup> “Author” in the BC implies a person who applies his or her personal creativity to produce a literary or artistic work.<sup>9</sup>

The Albanian copyright and related rights act,<sup>10</sup> provides for the authorship at the second chapter. Referring to the ACL, “copyright belongs by nature, to a natural person who has created a work”.<sup>11</sup> So, the central figure of subjects of copyright is the author, the human creator of the work. The ACL also provides the definition of the author in the following, “the author shall be any physical person or a group of natural persons that create the literary, artistic, scientific work, original intellectual product, materialized work, regardless of shape or form of expression”.<sup>12</sup> In this vein, in the words of Prof Semini, “the author is the person who uses his/her knowledge

<sup>4</sup> Ginsburg C., J., *The Concept of Authorship in Comparative Copyright Law*, 52 DePaul L. Rev. 1063 (2003), p.1064. see at: <https://via.library.depaul.edu/law-review/vol52/iss4/3>.

<sup>5</sup> Republic of Albania acceded to the Bern Convention by decree no. 487, dated 9.03.1993. On the accession of the Republic of Albania to the Berne Convention “On the protection of literary and artistic works”, Official Bulletin 4, March 1993, p. 271.

<sup>6</sup> Vaver D., *Principles of Copyright, Cases and Materials*, WIPO (2002) p.106, see also Vaver D., “*Copyright in Foreign Works: Canada’s International Obligations*” (1987) 66 Canadian Bar Review p. 76, 101-104

<sup>7</sup> Garon M., J., Ziff D., E., *The Work Made for Hire Doctrine Revisited: Startup and Technology Employees and the Use of Contracts in a Hiring Relationship*, (2011) 12 Minn JL Sci & Tech, p. 489. See also: U.S. Copyright Act, Art. 201(b).

<sup>8</sup> Goldstein P., Hugenholz B., P., *op. cit.*, p. 245. See also: Ricketson S., *People or Machines*, Columbia-VLA Journal of Law & the Arts, Vol. 16:1, 8, 11.

<sup>9</sup> Vaver D., *op.cit.* p.107.

<sup>10</sup> Law no 35/2016 “On copyright and related rights, (amended recently by Law No. 37/2022, on some additions and amendments to Law No. 35/2016), hereinafter the acronym ACL will be used.

<sup>11</sup> Article 3 (1) of ACL.

<sup>12</sup> Article 13 and 14 of ACL.

and skills and contributes to create a work as an individual intellectual creation".<sup>13</sup> Additionally, the ACL provides that, "in the absence of evidence to the contrary, an author is presumed to be each individual or group of persons, whose name appear on the work, whatever the mode of display".<sup>14</sup> Prof Semini holds that, any relationship that the author establishes with his/her work should be called authorship. Authorship is the legal relationship that is established between the natural person who created the work and materialized it in a certain form and the work itself, that is the product of his/her work. Authorship arises at the moment the work is created.<sup>15</sup> Authorship usually gives rise to exclusive rights, but should be distinguished from ownership.<sup>16</sup> Authors create works; they have economic rights which they can keep, license, enforce or transfer; they have moral rights; they are the first owner of the copyright and of the moral rights.<sup>17</sup>

With regard to the ownership of the work, the main beneficiary of copyright law is the author or creator of a work because, as a general principle, the author is the first owner of the rights on a particular work.<sup>18</sup> However, the author does not have to be the holder of all copyrights on that work. Transferable copyrights may be assigned to other natural or juridical persons. In this view, a commentator states that, "the author- owner may be followed by other owners, transferring the ownership over the copyrighted work in legal forms. Consequently, the main difference between these two important concepts is that the author and the work are inseparable concepts and cannot stand on their own, whereas in the case of ownership, the owner is not always the one who produces creative works and materializes them in a certain form".<sup>19</sup> The most common form used to transfer the ownership or other rights of use from the author to the user is the contract.<sup>20</sup> Apart from the BC, the European Union regulated the concept of author and of ownership in some directives, which can serve as a stronghold.<sup>21</sup>

While regarding legal persons, as a general rule, the legal person cannot be an author, but can hold the copyright of a work when it is the producer or owner of the work and this occurs when the work comes out under its name.<sup>22</sup> Hence, the holder of copyrights can also be a legal person.<sup>23</sup> Therefore, the ACL also provides protection

<sup>13</sup> Semini M., *E Drejta e autorit në Shqipëri*, Skanderbeg Books, 2009, p. 28.

<sup>14</sup> Art. 16 (1) ACL. See also the exceptions in the second paragraph of art 16 of ACL about pseudonymous, anonymous or unknown authors.

<sup>15</sup> Semini M., *op.cit.*, p. 28. See also Art.17 of ACL which provides for automatic protection of copyright, without any formalities.

<sup>16</sup> It should also be distinguished the relations between copyright and ownership of physical object provided by art. 19 of ACL.

<sup>17</sup> Vaver D., *op.cit.*, p.106.

<sup>18</sup> Semini-Tutulani M., *Hetimi dhe ndjekja e veprave penale që lidhen me pronësinë intelektuale në Shqipëri*, (Training Manual for Prosecutors, Judges and other Law-Enforcement Agencies), WIPO, 2020, pp. 43. See: <http://dppi.gov.al/wp-content/uploads/2020/11/IP-Crime-Training-Materials-AL.pdf>.

<sup>19</sup> Torremas P., Tutulani M., Dedi M., *Pronësia Intelektuale*, Magistrate School, Tirana 2005, p 93

<sup>20</sup> Semini M., *op.cit*, p 29.

<sup>21</sup> Legeza D., *Employer as copyright owner from a European perspective*, (2015) Conference: SERCI Annual Congress 2015 At: Glasgow, p.7. Available at:

[https://www.researchgate.net/publication/323587061\\_Employer\\_as\\_Copyright\\_Owner\\_from\\_a\\_European\\_Perspective](https://www.researchgate.net/publication/323587061_Employer_as_Copyright_Owner_from_a_European_Perspective). See Art. 2(1); 2(3) of Software Directive; Recital 29 of the Database Directive

<sup>22</sup> Semini M., *op.cit.*, p 28.

<sup>23</sup> Article 3 (3) of ACL provides that, the right holder of related rights may be any natural or legal

for legal persons. In the words of the article 2 (1), “this law shall apply to natural, legal persons, national or foreign, that exercise creative, commercial, production or any other activity of assessment, exploitation, use or alienation of literary, artistic or scientific works in the territory of the Republic of Albania”.<sup>24</sup>

### 3. Works created in an employment relationship according to the Albanian legislation

While the general rule is that the author is also the first owner of all the copyrights, works created in the course of employment, are an exception to this rule. As one scholar has contented, despite that at first sight it seems that the economic rights of a work belong to its creator, i.e. the author of the work since its creation, this is not always true. The legislation of different countries, including the Albanian one, provide that when a work is created by an author employed for the purposes of its creation, then the employer and not the author of the work is the holder of the economic rights during the time limits set by the contract between the parties. In such a case, the author of the work holds only the moral rights.<sup>25</sup> So, it is important to note that, unlike economic rights, an employer cannot be the holder of moral rights.<sup>26</sup> The moral rights cannot be transferred through employment contract as they are non-transferable and remain with the author.<sup>27</sup>

Before introducing the analysis of the holder of copyrights of works created in the course of employment from the ACL perspective, it is necessary to present the concept of employment relationship. The definition of the individual employment contract is included in Article 12 of the Labour Code.<sup>28</sup> In the sense of this provision, Prof. Çela, paraphrases that, “in an individual employment contract, the subordinate employee undertakes, with remuneration in exchange for the services, to offer his/her work or services for a fixed or indefinite period of time, within management and receiving

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person, unless otherwise provided by the law. See also Art. 15 (1), 96(3), 104, 112, 116, 119 (2) of ACL.

<sup>24</sup> Article 2 of ACL provide for the subjects and the scope of application of the Act.

<sup>25</sup> Dega F., *Pronwsia Intelektuale*, Publishing house Morava, VI- re-edited publishing, 2019, p. 61.

<sup>26</sup> Pursuant to article 20(1) of ACL “Copyright shall include and protect the author’s moral rights, ensuring respect for the intellectual and personal qualities of his work and the property rights of the authors in relation to their economic interests. The moral rights included in Section 1 of Chapter III of the ACL articles 21-24 includes: The right of divulgation; right of paternity; right of integrity and the right of withdrawal.

<sup>27</sup> Article 24(7) of ACL “Moral rights are not subject of waiver, they are untransferable, in licensable, inalienable and perpetual. Article 45 (5) of ACL, moral rights of the author shall not be transferable to other people. They exist regardless of the property rights of the author and they are retained by the author even after the transfer of property rights to other persons. Article 40 of ACL moral rights are protected with no time limit. After the author’s death, the protection of these rights shall be taken over by the legal heir/s, and in their absence, they are ruled by the Civil Code; Article 45(1) of ACL The author or holder of copyright may transfer by a contract provided by this law and provisions of civil code, only the property rights to other persons.

<sup>28</sup> Article 12 of the Labour Code, defines labour contract as: an agreement between the employee and the employer, which governs the employment relationship and contains the rights and obligations of the parties. In the employment contract, the employee undertakes to offer his work or service for a fixed or indefinite period of time, in the framework of the organization and orders of another person, called employer, who undertakes to pay a certain remuneration....

orders from the employer”.<sup>29</sup>

So, one of the main characteristics of an employment contract is the subordination element. Even in the course of service contracts provided under Civil Code, there are orders given to the person providing the services, but the autonomy of the services provider is broader than that in an employment contract. According to the ACL, for works created in the course of employment and those created under a commission contract different provisions applies.<sup>30</sup> So, if the work is created during a commission contract, the author shall enjoy the economic rights, unless otherwise provided by the contract. The author undertakes to create a certain work and deliver a copy of such work to the person commissioning the work, while the latter commits to pay the author a stipulated remuneration as agreed by contract ...<sup>31</sup>

Whereas article 69 (1) of the ACL, stipulates that: “when works are created by an employee, within the terms of the contract of employment and during the execution of the duties and instructions given by the employer, it should be considered that the property rights and other author’s rights on this work were assigned exclusively to the employer, for a period of 3 (three) years, from the date the work was submitted to the employer, except when otherwise provided by the contract”.

This suggests that, a written employment contract between the employee (author) and the employer should exist.<sup>32</sup> The work should be created by the employee in the course of employment, within the terms of the contract, pursuant to the instructions of the employer and the tasks agreed upon to be performed by the employee. If the work is created under such circumstances, the property rights, which by nature should belong to the author, in this case will be transferred to the employer who has organized and issued instructions for the creation of the work, coordinated performance as well as provided financial and operational means for the intellectual creation.

In such a situation, the ACL provides a 3-years<sup>33</sup> validity of assignment of rights from the day the work was submitted to the employer, unless otherwise provided by the contract. The law doesn’t exclude the possibility that the parties may agree to a shorter or longer term than 3 years. Moreover, in a broader interpretation of the provision, one may argue that there should be no legal restriction even if the rights remain with the author, if this is set out in the contract concluded between parties. Upon the expiration of the 3-years period, the property rights of the work are returned to the employee, however, the employer may claim a new contract for the transfer of exclusive property rights of the work of the employee author, in exchange of a fair remuneration.<sup>34</sup> This opportunity given by law to the employer indicates that even in this case the will of the parties prevails.

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<sup>29</sup> Çela K., *E Drejta e Punës*, Publishing XIV, ILAR Tirana 2012, pp. 59; 64.

<sup>30</sup> Contract of Commission is governed by article 67 of ACL, whereas the works created in the course of employment are provided by article 69 of ACL.

<sup>31</sup> Article 67 (1) of ACL. See also: articles 913-934 of the Civil Code.

<sup>32</sup> Article 21 of Labour Code, also Article 48 (2) of ACL.

<sup>33</sup> The 3-year term was also included in the previous law. See article 33 of the law No. 9380, dated 28.04.2005, “On the copyright and related rights”. But it was not included in the preceding law No.7564, dated 19.5.1992 “On copyright” which held a different approach compared to the following laws.

<sup>34</sup> Article 69 (5) of ACL

In a legal dispute filed in the Albanian courts, a television operator had broadcasted in a TV spot in 2007, a 10-second sequence of a videogram created by F.C in 1991. F.C in that time was employed as operator by Albanian Radio-Television. He seeks a remuneration of 15% of the amount acquired from the transmission of his work without his prior authorization as author.

The Court of First Instance and then the Court of Appeals, argued that... F.C created the work in the course of employment as an operator at Albanian Radio Television. As the parties didn't include a specific term for passing of rights, upon the expiration of the 3-years period the property rights of the work should be returned to the employee and consequently he should enjoy the protection provided by the ACL in force ... While, the Administrative College of the High Court, unlike the Court of First Instance and the Court of Appeal held that... it is necessary for the court to investigate and clarify the legal relationship between the parties regarding copyright for works created in the course of employment. Was there any specific cause in the employment contract or any other documents that governed the employment relations on such issue ... how was the relationship of the employee with the Albanian Radio Television; what was the role of the Albanian Radio Television in this activity and who holds the authorship of this work. Is this videogram created in 1991 a copyrighted work and who is the author, Albanian Radio Television or F.C... The investigation and the eventual answers on such issues are determinant in resolving the conflict between the parties...<sup>35</sup>

While, as it was analyzed above, the property rights of the work that is created by the employee in the course of employment, within the terms of the contract, pursuant to the instructions of the employer and the tasks agreed upon to be performed by the employee, are transferred to the employer. One may also argue that if the employee creates the intellectual work in his/her spare time or beyond instructions and tasks, the rights over the work will be retained to the employee (author). Furthermore, according to the doctrine, if a natural person creates a work in his/her spare time, which does not imply any breach of the legal terms provided by the employment contract with the legal person (usually employer), then the author of this work should be the natural person.<sup>36</sup> The Albanian jurisprudence followed a similar approach, in the case R.SH vs Encyclopedic Publications society.<sup>37</sup> In another case, the court also ruled that a work created by a cameraman employed by a television company for a film not commissioned/tasked by the Television under his employment contract, should have the cameraman as owner and not the relevant television.<sup>38</sup> In this regard, the authorship and ownership over the copyrighted work will be determined depending

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<sup>35</sup> Decision of the Administrative College of the High Court no. 519 dated 16.10.2014, ruled the return of the case for retrial to the Administrative Court of Appeal of Tirana.

<sup>36</sup> Torremas P., Tutulani M., Dedi M., *op.cit.*, p. 94.

<sup>37</sup> Tirana Court of First Instance, Decision no. 1030, dated 23.03.2001. The court recognized the ownership rights of the translator over the two books translated into Albanian language, regardless the existence of the employment relationship between the concerned parties, the translation was neither an initiative of the employer nor a fulfilment of the employer's orders, but was carried out privately as plaintiff's personal work. In this case the court has imposed the obligation of the defendant to enter into a legal contract with the plaintiff in order to transfer the rights.

<sup>38</sup> Tirana Court of First Instance, Decision, no. 394, dated 10.01.2002.

on the content of the contract and the rights and obligations assumed by the parties.<sup>39</sup> So, according to a view, in order to determine a work of authorship under employment, three criteria must be met: that the author is employed; that the work is created during the course of the employment; and that the parties have not made any agreement to the contrary.<sup>40</sup>

ACL also provides for a limitation relating to the use of the work of the employed author. So, when the author creates a work in the course of employment, the transfer of his/her rights to the employer refers only to the use of the work within the scope of its economic activity. Thus, the employer may exploit the work without the prior consent of the employee (author) only within the area of its activity, area which should be provided by the terms of the employment contract. In other cases, if the work will be exploited outside the scope of its activity, a written consent of the employee (author) is required, the latter holds the right to a fair compensation. This approach may also be interpreted by article 136 (1) of the Labor Code.<sup>41</sup>

Furthermore, as ACL provides, “the employer may not authorize, the assignment of property rights of the work to the third parties, for profit purposes, if this transfer of rights is not explicitly defined under the employment agreement with the employee author.<sup>42</sup> While, in the case when the employer, pursuant to the employment contract with the employee author, transfers the rights or authorizes third parties to use/exploit the work for profit purposes, the employee author is entitled to receive a remuneration of a fair proportion to the acquired profit by the authorization / transfer of rights to the third parties.<sup>43</sup>

So, one may argue that, the employer may transfer economic rights to third parties for profit purposes if such rights have been assigned to him/her by the author. In such a case, the author enjoys the right to a remuneration, in addition to the actual salary, of fair proportion of the profit acquired from the authorization / transfer of rights to third parties.

However, the author of a work created under an individual employment contract will retain the exclusive right to use the work as part of his/her whole creation.

In addition, the general provision of LDA governing works created in employment relationship, is also applied with the due amendments, for the rights of performers and / executors which are part of the related rights, in this case the economic rights,<sup>44</sup> may be transferred to the employer, provided that each transfer is explicitly defined the individual employment contract.<sup>45</sup> Whereas, with regard to the computer programs created within the employment terms, the ACL provides that, “if a computer program is created by an employee in the execution of his/her duties or by following the instructions given by his/her employer, the employer is exclusively entitled to exercise all economic rights for the created program, unless otherwise provided by

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<sup>39</sup> Semini M., *op.cit.*, p 209.

<sup>40</sup> Colston C., Galloway J., *Modern Intellectual Property Law*, Third Edition, Routledge (2010), p. 341.

<sup>41</sup> Article 136(1) of the Labor Code states that: ‘When the employee creates a work during the performance of his/her activity and in compliance with his/her contractual obligations, protected or not, the employer may use it to the extent that the purpose of the contract allows for.

<sup>42</sup> Article 69 (3) of ACL.

<sup>43</sup> Article 69 (4) ACL.

<sup>44</sup> Article 109 (1) of ACL.

<sup>45</sup> Article 111 of ACL.

the contract.<sup>46</sup>

Regarding to the applicable law, as we presented above, in the case of works created in employment relationships, two different areas of rights may be involved. In fact, both Labour Code and ACL provide provisions that govern this relationship.<sup>47</sup> So although it does not appear that there is a conflict between provisions of Labour Code and ACL, discussions about which law should apply may arise if such a conflict appears in the future. In this case one may argue that if a conflict appears between Labour Code and ACL provisions, the ruling of Labour Code should prevail.<sup>48</sup> However, the international trend follows the approach to govern the ownership of the copyright in works created in course of employment by Intellectual Property Laws rather than Labor Laws.<sup>49</sup>

#### 4. Conclusions

Nowadays a lot of intellectual works are produced in the course of employment. Such works, if meet the legal requirements, may enjoy protection by copyright and related rights legislation. However, in everyday practice, disputes regarding authorship and ownership may arise. In this regard in order to avoid disputes or at last to minimize them and to better protect the interest of the parties it is advisable for the concerned parties to correctly define each term that they want to include in their employment agreement, like job description, tasks and services to be performed by the employee, the agreed benefits, clearly specify the passing of rights as well as the term these rights should be assigned. In absence of such elements, the ACL will govern the transfer of the property rights exclusively to the employer but limited in content and time.

It should also be noted that although the ACL includes several provisions for works created in the course of employment, it does not encompass any legal provision governing the transfer of rights on protected works that may be created by civil servants. In this case the prevailing opinion in the doctrine is to use analogically the provisions governing the works created in the course of employment.<sup>50</sup> However, this approach would lead to discussions in the case of works created by researchers

<sup>46</sup> Article 89 of ACL, see: the relation of this provision with E.C. Software Directive Art. 2(3).

<sup>47</sup> Article 136 (1) of the Labour Code and Article 69 of ACL.

<sup>48</sup> Constitutional Court Decision No. 2, dated 03.02.2010, in which the court held that... The Constitution grants reinforced laws special legal effect compared to the ordinary acts of the legislator. For this reason, in the hierarchy of acts, they are ranked before the ordinary laws of the Assembly. Respecting the hierarchy of norms is an obligation deriving from the rule of law principle and of coherence in the legal system. Consequently, in cases of conflicts between norms with different legal force, the norm of higher power prevails over the other norm (*lex superior derogat inferiori*). The principles, that the specific norm takes precedence over the general norm (*lex specialis derogat generali*) and that the norm which entered into force later takes precedence over the previous norm, do not apply in such cases...

<sup>49</sup> For example Spanish Intellectual Property Law derogated previous labor law rules and provided an answer to the ownership of the copyright in employment relationships. See: Herrera Diaz R., J., *Ownership of copyright in works created in employment relationships: Comparative Study of the Laws of Columbia, Germany and United States of America*. (2010), Revista La Propiedad Inmaterial, p. 95. Electronic copy available at: <http://ssrn.com/abstract=1705516>.

<sup>50</sup> Spiro O., Dissertation for the protection of the scientific degree "Doctor", Elements of copyright in the digital environment (2016), p. 99.

or professors employed at universities. Therefore, it would be advisable to include in ACL a special regulatory provision on this issue.

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# Doctor liability and medical malpractice An Albanian experience

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## Abstract

As much as healthcare practitioners like to be recognized for the hard work they do to provide health care to the ones in need, history has shown that this is not always the case. Many times doctors, nurses, dentists, midwives, psychologists and other healthcare providers have been at the center of claims, accusations and even subject to court decisions on voluntary malpractice and/or medical negligence. While unhappy clients and their lawyers do the utmost to bring justice in such cases, as they rightfully should, such proceedings impact and influence health care providers' work and image. Such burden becomes even more difficult when faced with clients who perhaps do not have the necessary financial means to go through the necessary steps to find out the cause of their health problems, such as p.ex. to run several medical tests, to treat the disease and/or pay for the cure. In low income countries or those faced with social and economic difficulties, the job of the healthcare provider becomes harder. The scope of this article is to provide an overview of medical malpractice cases in Albania and the problems facing the country in this regard.

**Keywords:** medical, malpractice, liability, patient, physician, rights.

## Introduction

At the heart of the work of healthcare providers lie the fundamental principles recognized since the times of Hippocrates, such as the principle of beneficence, do no harm, autonomy of patient and confidentiality. Such important moral values became the center stone of the ethical principles in medical practice, but not only. Courts, civil society, media, scholars, medical experts and many others have indeed stressed the importance of such principles in today's ever-changing society. Nevertheless, the world has seen and heard of many cases of medical malpractice, whether intentional resulting in the death of one patient or several patients, or unintentional, due to medical negligence, resulting however in serious consequences. While many cases have remained a mystery for many years, others have been adjudicated and the courts have given their verdicts. However, not every action of a medical healthcare provider, that leaves a patient unhappy with the result, constitutes medical malpractice. Patients file malpractice lawsuits because of a variety of factors, including poor relationships with their doctors that antedate the alleged malpractice, medical advice to seek a legal remedy, and media advertising (Gregg J. Gitter, 1996).

The fear of being faced with disciplinary measures or a lawsuit makes the job of the healthcare provider quite difficult, even in cases when, contrary to healthcare

provider's personal moral beliefs, he has to follow certain procedures and rules in order to protect him/herself or the hospital/practice from such disciplinary actions or the lawsuit. In financially strong economic countries such as Norway, the Netherlands, Austria, the United Kingdom, Germany, etc. (Euronews, 23.08.2021) the job of the healthcare providers seems easier in this aspect. Nonetheless, other financially strong countries, such as the United States of America often find themselves faced with the largest number of lawsuits (Commonwealth Fund, n.d.). On the other hand, in financially unstable countries, such as Albania, many medical malpractice cases will go unnoticed, untried and unpunished, mainly due to lack of patient's financial means to send the case to court to claim civil damages or pay for lawyer's expenses or due to lack of confidence in the Albanian prosecuting authorities or the judiciary. While Albanian patients are becoming more aware of their rights in medical settings, there is still more to be done with regard to medical malpractice disciplinary actions or legal consequences facing such actions.

### **I. Medical malpractice**

While in theory the concept of medical malpractice seems easily understandable, the cases dealt with in practice are not always easy to identify them as such. In general medical malpractice is identified by lawyers in general terms, leaving to courts the duty to interpret the law in case by case settings and, as we know, medical malpractice and tort law are interconnected.

The duty of care in negligence claims has been characterized as a hypothetical standard by which the court judges the conduct of the defendant to determine whether he or she had an obligation to act differently. In the hospital setting, physicians have a duty to provide care with the same skill and diligence as a reasonably competent physician in the same specialty or field of practice would under similar circumstances. Failure to meet this standard constitutes a breach of the physician's duty of care. In most cases, for this duty to exist, a physician-patient relationship must have been established (McKean S.C.).

According to lawyers, a medical malpractice claim may arise when a hospital, doctor or other health care professional, through an error or omission in diagnosis, treatment, aftercare or health management, causes an injury to a patient. The definition of error or omission is based upon the deviation of the doctor or medical professional from a generally accepted standard of care. Examples of medical malpractice include: failure to diagnose or misdiagnosis, misreading or ignoring laboratory results, unnecessary surgery, surgical errors or wrong site surgery, improper medication or dosage, poor follow-up or aftercare, premature discharge, disregarding or not taking appropriate patient history, failure to order proper testing, failure to recognize symptoms (Attorneys).

According to courts, researchers, or even healthcare providers, apart from lack of due care and negligence, elements of medical malpractice are also considered failure to get patient's informed consent, which can even result in battery charges, as well as abandonment, in the form of discontinuance of treatment by the physician, without the patient-physician relationship being mutually terminated (Gregg J. Gitter, 1996). Apart from the above mentioned cases, lawsuits have been filed for medical malpractice even due to physician's bad attitude towards his patient, leaving a

question mark whether such action should be considered as bad bedside manner or medical malpractice (Richard P. Console).

## II. Medical malpractice cases

Medical malpractice, both intentional, in the form of medical battery, as well as unintentional, in the form of negligence, has been encountered in different medical settings, whether by doctors, nurses, dentists, and many other physicians. Some have gone as far as being accused of killing patients for enjoyment (Dyer, 1999), while others for helping dying patients to put an end to their lives.

Medical malpractice cases have been adjudicated by courts all over the world. P.ex. in *Vo v. France*, [GCç, Application no 53924/00, The European Court of Human Rights discussed the issue of whether or not a fetus could be considered an unborn child. The case ended up in the European Court of Human Rights due to claims of medical malpractice. Abortion still raises a big issue worldwide even nowadays, showing a big gap and very different points of view between the legislator and the medical practitioners on the subjects. At the contrary, euthanasia which was previously unaccepted in medical practice, is being now accepted and legalized by several countries (Bara S., 2021).

Many medical malpractice cases have been encountered even in dental settings and issues of concern were raised even in dentistry. Some deontologists have been accused of removing healthy teeth from their patients (News, 2016), others for leaving the patient bleed to death (News B. , 2019), failure to diagnose and treat cancerous cells (Colbourne v. United States, 16-CV-5606 (SN) (S.D.N.Y. Aug. 1, 2019), delayed diagnosis, lack of proper treatment of follow up, injuries during dental interventions, amnesia complications, and many other cases. Some dental cases ended up in large settlement amounts in court. In one case the patient, a 38-year-old divorced father of two young children, was initially seen by the oral surgeon for an abscessed tooth, which had resulted in severe pain, swelling of the face and neck, and inability fully to open his mouth. Given the severity of his symptoms, the oral surgeon should have ordered a CT scan to assess the magnitude of the problem, and further, should have admitted him to the hospital for institution of I.V. antibiotics and close monitoring given the potential for compromise of his airway. Instead, he was advised merely to return in a week for extraction of the affected tooth. Patient's condition worsened quickly, including also fever and chills for which he presented to the hospital's emergency services. The physician who saw him also failed to order or have performed a CT scan and, instead, merely admitted him to the hospital under the care of a hospitalist. The hospitalist, suffering from a significant lack of knowledge, experience, and training with regard to severe soft tissue infections of the face and neck secondary to a dental abscess, also failed to order or perform a CT, failed to appreciate the risk of respiratory compromise, and failed to admit the patient to a monitored floor for that reason. Instead, the following afternoon, on a routine nursing check, the patient was discovered blue and not breathing. Despite resuscitation, he suffered severe hypoxic injury to his brain requiring two years of hospitalization, rehabilitation, and nursing home care, and resulting in permanent spastic quadriplegia requiring him largely to be confined to a wheelchair and with significant difficulties with speech and activities of daily living. The case was settled for the sum of \$ 4.5 million (FeldmanShepherd,

n.d.).

While many private hospitals or medical practices prefer to settle the claims by paying the requested amount and expenses, other ones, especially small practices end up in trial. While the trial and trial expenses put a heavy burden on the physician, the court verdicts help to better understand what will be considered medical malpractice.

### **III. Medical malpractice in Albania**

While the right to healthcare is guaranteed by article 55 of the Constitution of Albania, which provides that citizens enjoy equally the right to healthcare from the state, and everyone is entitled to healthcare insurance, medical malpractice in Albania is not something new. Nevertheless, the number of medical malpractice cases remains low. This can be due to many reasons such as inability of patient to resort to civil suits due to lack of financial means, lack of confidence in the prosecuting and judicial authorities, lack of knowledge and understanding of the law in force or patient's rights, etc. While no cases have been discussed by the Albanian courts on intentional killing of patients, or intentional malpractice, many cases have been filed for medical negligence, mainly against doctors. P.ex. some recent cases concern the inability of hospital staff to take due care of Covid-19 patients who ended their lives by jumping off hospital's balcony. While such cases are difficult to be decided upon by courts, as the extend of the effects of Covid-19 remains still unknown and the courts need the medical expertise to decide on the case, improved patient safety, quality of care and safeguarding of patient's rights should be the focus of medical practitioners.

Medical malpractice is difficult to be established even by the courts. Judges rely on medical expertise to conduct the search for the truth and the opinion of medical experts themselves is not always the same when it comes to medical issues. While both parties, prosecution and defendant enjoy the right to call their own witnesses and experts, it is up to the judges, based on their beliefs and sometime moral values as well, to decide on the guilt or innocence of the physician.

Many Albanian authors have highlighted the need for enhanced protection of both patient's rights (J., 2019), as well as doctor's duty to provide health care in accordance with clear and well defined rules, regulations and legal provisions (Demneri, 2014). According to their findings (R., 2015), in the practice of the courts, the criminal offense of medical malpractice, as provided by Albanian legislation, should take into account and include all negligent acts or omissions of the physician or medical staff in the process of prevention, diagnosis and treatment of patients. They shall be excluded from responsibility, if it's objectively impossible to predict and avoid risks. The courts have the duty to assess the doctor's professionalism. He/she shall be criminally liable in cases where medical malpractice is a result of his/her negligent acts and/or omissions, inaccurate diagnosis or treatment contrary to professional medical practice; wrongdoing has resulted in the death of the patient or serious consequences to his life and limb.

### **Conclusions**

Medical malpractice first and foremost brings about disciplinary measures. Financial and criminal liability are other aspects of it. In order to avoid dealing with a medical malpractice suit, medical practitioners need to build strategies that reduce

the possibility of dealing with such cases. Proper identification of potential risks, evaluation of different medical factors, assessment of the possibility of adverse effects of treatment, due diligence to not delay treatment, building doctor-patient trust, as well as shared decision making are some of the key components to avoid such claims. Nowadays hospitals and healthcare organizations, whether public or private, are adopting standardized measures to improve healthcare and patient safety in hospitals.

In many similar cases in Albania, in order to help a suffering patient, doctors decide to intervene without having full information on patient's medical parameters, which can sometimes result in serious consequences. Thus, in order to save lives, standard medical rules and procedures must become part of physician's everyday routine. Such rules must be prioritized and made know to both physicians and patients, in order for them to work in unity, to the benefit of society as a whole.

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# The history, present and future of coaching in education

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## Abstract

The first questions that comes to mind when we hear the word coaching are: what is it and why is it considered so important? Why are there coaches in every field so to speak: sports, education, individual programs, project coaches and many more? To put it in the simplest and generic terms, a coach is someone who sparks you the desire for improvement, pushes you toward your potential to improve your performance, but above all, a coach is someone who makes you feel empowered and motivated to pursue your goals. A good coach is someone who finds ways to communicate with others to help them understand themselves and acknowledge what is going on around them; someone who leads you to your own path of self-awareness, where you fundamentally help yourself find solutions to your own problems.

A coach can also serve as a booster for ideas from the clients. At the same time, he is able to see the light of the client and is able to provide support for his clients who need motivation in order to bring out the best of them. So, the relationship, which is established during the sessions between a coach and the coachee, can be complex and varied. Coaching is an essential component of any performance improvement strategy as well as the development of a successful team and environment.

**Keywords:** coach, coach-client relationship, TGROW Model, Core dynamics, FUEL Model.

## Introduction

Contrary to what may be widely believed, coaching has been practiced for a long time. It has evolved from its primordial state and is practiced by licensed practitioners all around the world. The term “coach” was originally used to designate a horse-drawn vehicle, but it was most likely coined in the 1830-s at Oxford University as a colloquial term for a teacher who was “coaching” a student through an exam. In the nineteenth century it was first used in athletic circles and later it referred to someone who helped an athlete improve and succeed<sup>1</sup>.

When looking into a famous philosophers’ work, it can be seen that the origins of coaching were rooted in these ideologies. Aristotle, one of the most prominent philosophers, stated in his metaphysics that there must be a separate and unchanging being that is the source of all

other beings<sup>2</sup>. In his work *The Nicomachean Ethics* he argues that it is only by becoming excellent that one could achieve *eudaimonia*- happiness that constitutes the best kind of human life. To reach, or to come close to this state of consciousness, one must communicate effectively and learn how to help others and themselves. This is where coaching comes in. To achieve this *eudaimonia*, you must be in total peace and relaxation with your inner core, and when individuals find themselves in a pickle, it is safe to say that they will always turn to an alternative being. As times evolved, people realized the importance of this self-awareness, hence the different jobs including Coaching that are available nowadays<sup>3</sup>.

<sup>3</sup> <https://plato.stanford.edu/entries/aristotle-ethics/>.

People began to realize in the 1970s that the coaching style utilized in sports could be applied to everyday life. Tim Gallwey, a successful American tennis player, published his best-selling book *The Inner Game of Tennis: The Ultimate Guide to the Mental Side of Peak Performance* in 1975. This book was one of the first to focus on the “fight within ourselves as we try to achieve our goals,” rather than merely on fitness. He was quickly in high demand from both corporate professionals and athletes in the United States<sup>4</sup>.

Coaches have been functioning under the same framework for years. It is like one of the fishes in the tank is coaching another while both assume the glass divider is still there. In the past, this shortcoming in comprehending the essence of human existence had a significant restricting influence on the effectiveness of coaching.<sup>5</sup>

### **Coaching now and the road ahead**

Coaching is a relatively new concept in the professional world that has grown in popularity in recent years due to many reasons. Despite the fact that there are many different definitions, ways to interpret, and categorize coaching practices, all coaching approaches share a common denominator: support the client.

The nature and expression of the changes will vary depending on the coach’s views and approaches, as well as the client’s objections, and can be defined in two ways: perceptual or cognitive and concrete behavioural changes<sup>6</sup>.

Throughout their careers, coaches should train themselves continuously with the new trends and during these training sessions or their daily practices they become aware that it is perfectly fine to experience different shades of emotions such as excitement, anxiety, sadness.

There are currently between 10,000 and 20,000 life coaches offering their services to clients<sup>7</sup>. A growing number of people are interested in becoming life coaches. The majority desire to assist others, but many also believe they can make a lot of money while working from home in their PJs. If only it was that simple! Coaching is a process that requires all dimensions of the human state to be aware, for both the coach and the client. Today’s world of owning a web-based business and everything that it includes has grown extremely sophisticated, and it is also not as cheap in terms of start-up costs. Many instructors fail because you must be able to manage your own schedule when working from home, which all came as a result of technology and evolution. Nevertheless, there are some of us that matched perfectly well with “the new normal” during Covid 19 crises.

### **Methods of good coaching practices**

Currently, there has been a growing interest in the Core dynamics Coaching, which is a relatively new method and involves techniques to encourage personal development in people by overcoming underlying conflicts within the self that hinder them from being the true and best version of themselves. The core dynamics model essentially describes the 12 most common ways that makes people lose the sense of achieving their true potential. These may be due to several reasons such as childhood traumas or other conditions. The dynamics means to resist feelings things fully, it’s when you are being judgmental or looking over yourself when you are not, ignoring your intuition, avoiding the present, limiting self-expression, resisting change, mistaking

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<sup>4</sup> [https://uk.sagepub.com/sites/default/files/upm-assets/42873\\_book\\_item\\_42873.pdf](https://uk.sagepub.com/sites/default/files/upm-assets/42873_book_item_42873.pdf)

<sup>5</sup> <https://courses.aiu.edu/COACHING%20I/10/COACHING%20I%20-%20SESSION%2010.pdf>

<sup>6</sup> Dagley, G. (2010). Exceptional executive coaches: Practices and attributes. Vol. 5 No. 1 International Coaching Psychology Review.

<sup>7</sup> <http://www.leadershipcoachingblog.com/life-coaching-past-present-and-future/>

need for love, trying to force an outcome, excluding other perspectives, overreacting to circumstances, and manufacturing interpretations. This model is being widely read and comprehended by coaches in order to apply the respective techniques in their professional careers<sup>8</sup>.

The Core Dynamics approach introduces new ways for experiencing one's own core nature as entire and complete. These are hands-on activities that anybody can learn and practice and teach. They are intended to restore a sense of wholeness and help fill an empty void that has been haunting some for years. This is not, by the way, psychotherapy, as it is widely mistaken so. It is simple instruction on how to reconnect with the essence of who and what you truly are, as well as how to harness your untapped skills and potential. Furthermore, the exercises assist the client (and the coach) in breaking free from old habits, allowing them to live and appreciate the fullest expression of who they truly are<sup>9</sup>.

To complete an effective coaching session, a good philosophy regarding how the coaching will take place is needed. A coaching philosophy is a foundation upon which a coach works and grows, defined as "a set of ideals by which a coach inspires, educates, and models"<sup>10</sup>. Coaching Philosophy, according to Lyle<sup>11</sup> is "a collection of values, beliefs, assumptions, attitudes, principles, and priorities that drive practice". It helps the coach understand how they would approach their clients keeping in mind the need to tailor their practices according to their psychological state<sup>12</sup>.

**Axiology, Ontology, Epistemology, and Pedagogy** are four essential factors to consider while developing a coaching philosophy.

- **Axiology** is a broad term that refers to morals, values, ethics, and principles that coaches regard differently to compared to other advisors. Axiology is significantly important because your values influence how you do research and what you value in the results<sup>13</sup>.
- **Ontology** refers to a specific hypothesis concerning the nature of existence or the kind of objects that exist and provides an intensive and substantiative method for the development of coaches. Ontology aids researchers in determining how certain they may be about the nature and existence of the items they are studying. When taking ontology into account, coaching takes a different turn, as now the coach has to find the significance in the client's obstacles, or rather aid the client in discovering the significance themselves. It is a question of understanding the problem and coaching the individual into shining their own light on it. From an ontological perspective, coaches observe and work with key aspects of how clients have structured their reality and the nature of their existence, i.e., their perceptions and ways of participating in life<sup>14</sup>. Hence the coaches help the clients build a better reality for themselves so they can look at their way of being in a better perspective to bring about positive and impactful changes in their point of view and, consequently, their life<sup>15</sup>.

<sup>8</sup> <https://courses.aiu.edu/COACHING%20I/10/COACHING%20I%20-%20SESSION%2010.pdf>

<sup>9</sup> <https://courses.aiu.edu/COACHING%20I/10/COACHING%20I%20-%20SESSION%2010.pdf>

<sup>10</sup> Van Mullem, Pete & Brunner, Dave. (2013). Developing a Successful Coaching Philosophy: A Step-by-Step Approach. Strategies. 26. 29-34. 10.1080/08924562.2013.779873.

<sup>11</sup> Lyle, J. (1999) Coaching philosophy and coaching behaviour, in: N. Cross & J. Lyle (Eds) *The coaching process* (Oxford, Butterworth-Heinemann), 25-46.

<sup>12</sup> <https://research.edgehill.ac.uk/ws/portalfiles/portal/20165911/OPEN+ACCESS+-+Cushion+%26+Partington+%282014%29+Coaching+Philosophy.pdf>

<sup>13</sup> <https://www.futurelearn.com/info/courses/research-construction-management/0/steps/75094>

<sup>14</sup> Sieler, Alan & Australia, Newfield. (2003). Ontology: A Theoretical Basis for Professional Coaching.

<sup>15</sup> <https://journals.sagepub.com/doi/10.1177/2158244013517243>

- **Epistemology** is based on the theory of knowledge, particularly its techniques, validity, and breadth, as well as the distinction between justified belief and opinion. Epistemology is understood to be the nature of knowledge in not only how it is acquired or comprehended but also how it is presented by the coach, accentuating a direct link between behavior and practice. When stumbling on a situation in which your client is headstrong on a particular belief that in fact is creating mishaps on their personal journey to enlightenment, you as a coach are advised to help them go down the path of realization regarding that particular belief, recognizing that it is nothing more than an entitled opinion that is most likely influenced by childhood beliefs<sup>16</sup>.
- **Pedagogy** is a teaching technique and practice, notably as an academic discipline or theoretical idea brought on to an individual or group of individuals. Primarily, pedagogy circles around the teaching of art or science, as well as instructional techniques. The use of Howard Gardner's Theory of Multiple Intelligences is an example of pedagogy. It must be noted that pedagogy refers to teaching rather than coaching, but there are still some rules such as starting small and being as concise as possible, so that you do not directly interfere with the client's self-awareness journey<sup>17</sup>.

Another concept of Coaching is **reflective practice**. Reflective Practice is a process in which coaches question how they coach, their ideas, beliefs, and assumptions, or as stated, "thinking about how you coach and developing your coaching practice according to those thoughts"<sup>18</sup>. Reflective practice is a collaborative effort<sup>19</sup>, and it has been proposed that "to become critically reflective, we need to discover some glasses that reflect back to us a sharp and differently emphasized image of who we are, and what we do"<sup>20</sup>. Simply put, reflective practice is a method of studying your experiences to improve the way you work. Ghaye reinforces this belief by stating that the purpose of reflection is to improve our coaching as well as better understand our practice, which then improves the context in which our coaching takes place<sup>21</sup>.

Reflection is the process through which experience is transformed into knowledge. Reflection is defined as a type of problem solving that is used to address difficulties; in practice, this simply means, "why did this occur in my session?" It is the tool that helps the coach understand why and how something occurred. Therefore, reflective practice is used. Coaches can undertake this practice in multiple scenarios. It can occur as a result of peer-to-peer interactions that help them learn something new, it can be a result of a workshop during which a senior made them realize something new about their coaching style, or it can happen in practical implications, while in a session with the client that seem to require similar patterns of coaching. If we do not reflect on our experiences as coaches, we will never develop knowledge and understanding of the whys and how-s of coaching. This is common in coaches who rely on tacit knowledge to create the majority of their understanding; they know how to do something, but they frequently do not comprehend why they are doing it<sup>22</sup>.

With the advancement and normalization of seeing external help regarding your

<sup>16</sup> <https://plato.stanford.edu/entries/epistemology/>

<sup>17</sup> <https://resourced.prometheanworld.com/pedagogy-learning-practices/>

<sup>18</sup> McFarland, L. &. (2009). *Reflective Practice and Self-Evaluation in Learning Positive Guidance: Experiences of Early Childhood Practicum Students*.

<sup>19</sup> Brookfield, S. (1995). *Becoming a critically reflective teacher*, San Francisco : Jossey-Bass Publishers, [1995] ©1995

<sup>20</sup> <https://spielverlagerung.com/2018/03/07/what-is-reflective-practice/>

<sup>21</sup> [https://www.researchgate.net/publication/248969021\\_Exploring\\_the\\_potential\\_of\\_reflective\\_learning\\_in\\_sport](https://www.researchgate.net/publication/248969021_Exploring_the_potential_of_reflective_learning_in_sport)

<sup>22</sup> <https://www.cambridge-community.org.uk/professional-development/gswrp/index.html>

problems and not being viewed as mentally unstable, more and more people have applied as clients and have applied to become coaches, so that in the end, we all get to help each other. However, without a doubt there are many theoretical perspectives regarding the present-day coaching methods.

Some believe that the first step in providing assistance should be to ask the client what their objectives are - this is the 'grow' paradigm founded by John Whitmore in the late 1980s, which has become one of the world's most popular coaching models. Sir John Whitmore's **GROW Model**, perhaps the most well-known coaching framework, offers a four-step approach to developing the coach-client relationship. With its four deceptively simple steps, GROW has proved successful all over the world. It forms the backbone of coaching in many organizations and universities globally due to the outstanding results. It helps people into achieving success personally or as part of a team. The word GROW is an acronym for the four steps G-oals, R-eality, O-ptions and W-ill. The key to this model is to set a challenging, but achievable goal and from there move along the stages until reaching the final stage which measures the success parameters<sup>23</sup>.

To integrate the GROW model into your teaching, first a goal needs to be established by the coach for the client by finding something that needs to be changed and turning that change into a goal. The goal needs to be SMART which means it needs to be Specific, Measurable, Attainable, Realistic and Time-Bound. The second step for the coach is to get a closer look of the current state then provide a solution that aligns with the goal and the current situation. This is a good time for the coach to reflect on some questions such as how is the goal moving towards a solution, are there any conflicting objectives, is the coaching style appropriate for the client, what steps has the coach taken to achieve the goal etc. Then comes the third step which involves understanding your options and comprehending what is the best way to help the client. It is important for the coach to carefully weigh the options here for example understanding what are the benefits and drawbacks of each option, what obstacles stand in the way of each option etc. The last step involves establishing the will to commit to one option to help the client<sup>24</sup>.

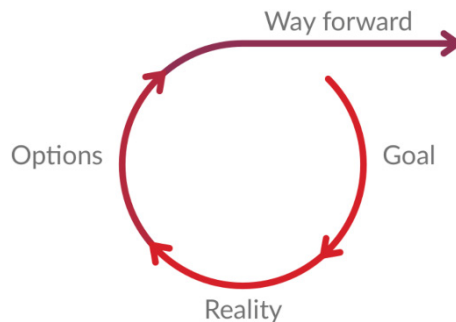


Fig .1<sup>25</sup>

The implications and usage of the GROW model are far-reaching. Due to its simplicity and effectiveness, it has been used all over the world in organizations for coaching in the workplace. Many multinational organizations incorporate the GROW model

<sup>23</sup> <https://positivepsychology.com/coaching-skills-techniques/>

<sup>24</sup> <https://positivepsychology.com/coaching-skills-techniques/>

<sup>25</sup> [https://compassiontolead.net/demo/wp-content/uploads/2019/05/Compassion\\_toolcard\\_06.pdf](https://compassiontolead.net/demo/wp-content/uploads/2019/05/Compassion_toolcard_06.pdf)

in coaching their employees and in their leadership styles<sup>26</sup> to increase productivity as well as empower the employees. It has proven to be quite useful in coaching and has even produced substantial results in these cases to improve employee morale, efficiency and produce greater results for the organization<sup>27</sup>.

Other views include believing that expressing one's narrative and imagining one's chosen future assists the individual in order to achieve a meaningful objective, as in the skilled helper model Gerard Egan in 2010<sup>28</sup>. The most frequently used method circles mainly around the clients' needs rather than a set-in stone dialogue. Depending on the problem your client is facing, you enhance their learning patterns and strengths and try to recognize their weaknesses<sup>29</sup>.

Egan's skilled helper model is used a lot in counselling or coaching situations where the object is to achieve lasting change and to empower people to manage their own problems more effectively and develop unused opportunities more fully. This model has three primary stages. The first stage is **understanding** what are the needs of the client, which can be as easy as asking them and then comprehending what kind of coaching they require. It is important to engage in active listening at this point and pay close attention to understand what the client wants. Here, it is imperative to keep personal views or judgment away because that can cloud your understanding as a coach. This stage is crucial because it provides a starting point for the coach<sup>30</sup>.

The second step in this model is the **challenging phase** in which the coach encourages the coachee to think about the problem, what is another way to look at it? How would it appear from another person's perspective? Other similar questions that enable the coach to understand the problem better can also be asked. This step is very crucial and volatile because the problem needs to be assessed by the coach without making the coachee feel judged or misunderstood. The coach's purpose is to understand and analyze the problem to be able to move on to the next step and that is what the client should feel as well. Therefore, this is something the coach needs to keep in mind<sup>31</sup>.

The third step in this model is the **action planning**, which means the coach moves forward to make a decision with all the knowledge acquired by the client and here questions such as what is the best possible way to move forward, which choice of solution is the best etc., can be helpful in developing an understanding for the client to move towards a set target or goals. Again, it needs to be kept in mind that in this model the goals need to be challenging, so they can empower the client, however it is important to note that the goals should be achievable<sup>32</sup>.

There is a tendency to discuss coaching as a means of transformation, while the actual transformation occurs in the individuals' own reality. It is the individual who must change in order to have a good impact on the company. The transformational coaching methodology developed by Hawkins and Smiths<sup>33</sup> puts this theory to the test. They define the transformation as a fundamental alteration in the individuals' intellectual capability, feelings, and behavior.

They think that the emphasis should be on the here and now so that the individual is ready and motivated to alter problems "out there." As a result, when things become

<sup>26</sup> [https://www.mindtools.com/pages/article/newLDR\\_89.htm](https://www.mindtools.com/pages/article/newLDR_89.htm)

<sup>27</sup> <https://positivepsychology.com/coaching-skills-techniques/>

<sup>28</sup> *Egan's Skilled Helper Model*. (n.d.). Retrieved 2021, from [https://www.gla.ac.uk/media/Media\\_414500\\_smxx.pdf](https://www.gla.ac.uk/media/Media_414500_smxx.pdf)

<sup>29</sup> [https://compassiontolead.net/demo/wp-content/uploads/2019/05/Compassion\\_toolcard\\_06.pdf](https://compassiontolead.net/demo/wp-content/uploads/2019/05/Compassion_toolcard_06.pdf)

<sup>30</sup> [https://www.gla.ac.uk/media/Media\\_414500\\_smxx.pdf](https://www.gla.ac.uk/media/Media_414500_smxx.pdf)

<sup>31</sup> [https://www.gla.ac.uk/media/Media\\_414500\\_smxx.pdf](https://www.gla.ac.uk/media/Media_414500_smxx.pdf)

<sup>32</sup> [https://www.gla.ac.uk/media/Media\\_414500\\_smxx.pdf](https://www.gla.ac.uk/media/Media_414500_smxx.pdf)

<sup>33</sup> Hawkins and Smiths. (2011). *Coaching, Mentoring and Organizational Consultancy: Supervision and Development*.

stuck, these principles allow us to be bold in confronting ourselves and other people, to help them fix and move past their inconsistencies<sup>34</sup>.

In the present, different coaching methods are used based on what the coach reinforces. GROW and Kolb's<sup>35</sup> Experiential Learning Model are examples of quadrant models. Circular models, such as the ITO (Input, Throughput, Output) model, are examples of circular models. Nested Models, such as Weiss and colleagues'<sup>36</sup> original 3-level model and its variations; and the U-Process Model, which refers to one specific change and learning framework developed by Scharmer in 2005<sup>37</sup>.

A framework may help you retain a solution-focused outcome and manage the path ahead with some structure, whether you are a life coach or an organizational leader. Because there are so many distinct models in use, we may classify them into at least a few broad groups<sup>38</sup>.

The **FUEL model**, developed by Zenger and Stinnett<sup>39</sup>, provides a series of coaching routes to guide the process. It contains four important features, similar to the GROW model<sup>40</sup>.

In the FUEL's coaching model, there is an open-ended discussion, which involves the coach and the client. The coach does not ask specific questions or give advice as to what the client should do, instead with the help of several questions, lets the client decide what they want to do. In such a case, the individual has a sense of involvement in the decision reaching process and feels connected to the solution and accountable for it.<sup>41</sup>

To talk in greater detail about the four steps of the FUEL model, the first step is "**Outlining the goal** of the coaching and the procedure," which includes conversations about evaluation, feedback, and framing the coaching dialogue. This is a good starting point because it sets the tone for the conversation<sup>42</sup>.

The next step involves **Understanding** the client's current condition, including their viewpoints, beliefs, and any thinking patterns that are active. This stage allows the coach to be able to assess what the client's perspective is and what may be some of the patterns conditioning their behavior. When we speak of this stage, it is important to put forward an objective view of the situation in order to enable the coach and the coachee move forward in a smooth process. To understand the coachee's perspective, it may be a good idea for the coach to ask questions such as: How does the coachee view the situation? What do they think is happening? How do they think the situation would look from another person's perspective? What would be the effects if the current situation continues to persist and what can be the long-term implications of not bringing change. Then the coach can move on to provide an alternate perspective for the client and put forward their understanding of the situation for the client<sup>43</sup>.

The third stage of the FUEL model is to **explore** the desired state in which the coach

<sup>34</sup> [https://cdn.ymaws.com/www.associationforcoaching.com/resource/resmgr/Gass\\_and\\_Stockdale\\_-\\_How\\_tra.pdf](https://cdn.ymaws.com/www.associationforcoaching.com/resource/resmgr/Gass_and_Stockdale_-_How_tra.pdf)

<sup>35</sup> Kolb, D. A. (1984). *The Experiential Learning Theory of Growth and Development*.

<sup>36</sup> <https://www.pdf.net/assets/uploads/publications/Business%20Coaching%20Ch5.pdf>

<sup>37</sup> <https://positivepsychology.com/coaching-skills-techniques/>

<sup>38</sup> Sunny Stout-Rostron & Gordon Spence. (2019). *Exploring the delayed effects of leadership coaching: a pilot study*.

<sup>39</sup> John Zenger and Kathleen Stinnett's. (2010). *FUEL Model of Coaching*.

<sup>40</sup> Group, T. C. (2015). *FUEL vs GROW – Key Differences and Features*.

<sup>41</sup> [https://shynagill.com/wp-content/uploads/2019/06/The-Fuel-Model-of-Coaching\\_Shyna-Gill.pdf](https://shynagill.com/wp-content/uploads/2019/06/The-Fuel-Model-of-Coaching_Shyna-Gill.pdf)

<sup>42</sup> <https://thepeakperformancecenter.com/development-series/skill-builder/interpersonal/coaching-for-performance/coaching-model/fuel-coaching-model/>

<sup>43</sup> <https://thepeakperformancecenter.com/development-series/skill-builder/interpersonal/coaching-for-performance/coaching-model/fuel-coaching-model/>

helps the client see possibilities for the future from what they comprehended of the situation. This stage is important to help the client realize what they desire, what change they want, so to speak.

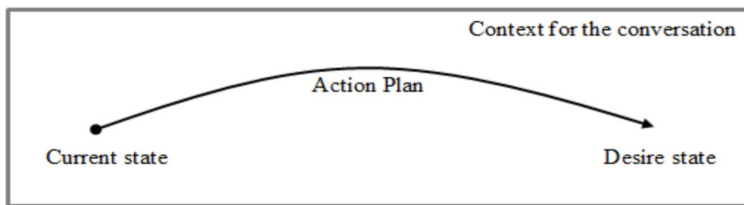
Once this has been done, the coach can move forward with the desired state of the client. The vision for what the client desires can be understood by the coach by asking what it looks like for the coachee, goals and performance expectations can be put forward and built by asking or

suggesting the client, better alternatives can be explored by the coach and see what options the client finds feasible and appealing. Some of the problems that may occur if a certain course of action is taken can also be discussed to make sure that the client fully understands the solutions and what needs to be done into achieve the goals <sup>44</sup>.

The final stage in the FUEL model is for the coach to **layout a successful tangible plan** for the client. This can be done by setting milestones, so the client can feel a sense of progress when they achieve it, no matter how small. Solutions to the problems that may arise are also a very important part of the stage, a collaborative effort leading to a particular course of action through emotional engagement <sup>45</sup>.

Similar, to the GROW framework – and, to be fair, with all frameworks – a good result is highly dependent on the individual coach’s expertise and ability to develop a trusting connection with the client. Zenger and Stinnett further contend that it is more adaptable than GROW, with more possible workplace applications and a higher probability of remaining on course due to the Understanding stage<sup>46</sup>.

Visualization of the FUEL model:



**The third model** consists of the three **P's: Purpose, Perspectives, Process**. It first identifies, for the coach, the purpose of working with the client or what is it that the client wants, the current stage of the client; where they want to go and how you can coach them to get there. Here the Coach can ask some important “why” questions that help them understand where the client is right now and what they hope to achieve with the coach’s help.<sup>47</sup>

The second part of this model involves the realization and comprehension of the client’s as well as the coach’s perspective of the situation. It would be a good idea to align the two perspectives or at least understand the other’s so there is no conflict of thought when a decision is being reached. The third step in this model is about how the goal can be reached and focuses on its ‘process’. During this stage, the coach and the coachee need to build a framework with mutual engagement and agreement to move forward.<sup>48</sup>

I am a little bit perplexed about my coaching model. Would it be based only on one

<sup>44</sup> <https://thepeakperformancecenter.com/development-series/skill-builder/interpersonal/coaching-for-performance/coaching-model/fuel-coaching-model/>

<sup>45</sup> <https://thepeakperformancecenter.com/development-series/skill-builder/interpersonal/coaching-for-performance/coaching-model/fuel-coaching-model/>

<sup>46</sup> <https://www.performanceconsultants.com/grow-model>

<sup>47</sup> <https://positivepsychology.com/coaching-skills-techniques/>

<sup>48</sup> <https://positivepsychology.com/coaching-skills-techniques/>

model? Would it be a mixture of the models I have been reading and practicing during my studies? What do I want to offer? How am I going to organize my session so my clients would mostly benefit?

While reading and searching for books related to good coaching practices, I noticed a model called **SEAT** created by Wendy Yaniv<sup>49</sup>:

**S**- See beyond the past

**E** – Explore the present

**A** - Adopt a new perspective

**T**- Transition to a better future

I have realized that most of the clients should make a healthy closure with their past, clear their past issues in order to think of their present and future. As a result, the coaching sessions would be successful ones.

I should serve as a navigator for my client so he can find his own “compass” who will lead him in finding the right path in the future. Thinking of my own path I admit that I have gone through SEAT myself. I came to coaching after an extensive experience as a trainer, mentor and professor and yet I had so many questions in my mind that required answers, which I realized once I started to read materials provided by Noble Manhattan. I have evolved into a more powerful version of myself, I have matured and learned from the experience of my coaching mentors, Residence experience and study buddy groups.

What I value most is being human, a good human being. There are cases that one spends his entire life being a good professional but lacks the ability of being a good human being who shows empathy and connects with others on different levels. I am empathetic toward others not only while coaching but in all different hats that I wear during my day be them that of a professor, trainer, mentor, parent, wife and daughter.

### **What is the future of coaching?**

There seems to be a change coming in the coaching methods being used due to the massive change in mindsets, business models, lifestyles etc. Back in 2019, the estimated market size of the coaching industry in the U.S. was \$15 billion USD<sup>50</sup>. If the predictions are correct, with the average yearly growth rate of 6.7%, the value can grow to \$20 billion USD in just three years.

Throughout the years, the perception of coaching has changed because it is no longer considered to be something that only leaders or senior executives go through, but rather something that is more significant throughout the spectrum of people and in some cases, even a basic need.

There is also an emerging trend for a greater demand of coaches who specialize in specific fields of coaching. Those who capitalize on this information will tend to benefit in the future. This is because people are now much more aware of their needs and mental health in comparison to what they were a couple decades or even years ago. That is why clients demand much more specific services from coaching professionals as well as require game plans that are not general but very specific to their needs. Due to this reason, there has also been a more active assessment on the qualification of coaches and their credibility.

This perspective on coaching emphasizes how it is ideally linked with the goals of educational institutions. We differentiate coaching from mentoring by emphasizing the “self-directed” element of coaching. Coaching is not the same as teaching or

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<sup>49</sup> <https://coachcampus.com/coach-portfolios/coaching-models/wendy-yaniv-seat/>

<sup>50</sup> <https://www.linkedin.com/pulse/coaching-industry-statistics-umesh-venkatesh>

sharing knowledge. It's all about building the finest possible educational experiences for people. The distinctive feature of coaching in education is that coaching has a clear goal: to improve student outcomes. Coaching is adapted to support everyone in the education system, while the focus is on the achievement and well-being of students. We strongly agree that if we are to provide greater learning chances for students, we must ensure the success and well-being of teachers, lecturers, and educational leaders.

Another trend that shows no hints of slowing in the future is coaching in the workplace. There has been a rising trend for coaching and mentor programs in offices. Companies are using professional development to improve employee morale and productivity. Something that has shown substantial improvements. Workplace coaching is a practice that provides numerous learning opportunities within the profession, but not only.

Sometimes people ask themselves several questions such as: What's next for you? ; Have you ever felt like you are at a crossroad and you do not know which road to choose? ; Have you ever felt alone even when being among people? ; Do you want to shake your reality and challenge yourself to get out of your comfort zone? ; Are you perplexed and between two jobs?; Are you attempting to reintroduce yourself to the world? These and other similar questions might find answers in coaching sessions where the coach will serve as a guide, prompter or a motivator. The coach's goal is to assist people in moving forward in their profession and life by creating a strategy that is in line with their unique vision and mission. The number of new professional coaches will continue to grow and at the same time will fill in the gap of less-prepared and less motivated coaches due to tough competition.

There will come a time that coaching will not be considered as a service provided only to rich people, but will be eagerly embraced by everyone in search of finding their inner calls. The shift might focus on technology as it will be widely spread and coaching sessions might be easily provided online due to long distance, lack of time or any other valid reason. Nevertheless, what I personally value is the face-to-face sessions which can give the feeling of human touch and both the client and the coach can establish eye contact and speak nonverbally too.

As per the Coaching fees, I can say that they have always been exorbitant, depending on certain factors such as: private sessions or group ones; experienced coaches or not; time and day of the week required. Clients would be more aware when they will choose their coaches bearing in mind their experience, coach-specific training, certification and/or college degrees.

A dynamic framework has been developed that changes over time to summarize and map out major discoveries. It is a mental model that depicts what inspires and drives individuals in the Western world. It is intended to spark fresh ideas and inspire vision in your profession. So, what is important to people? These four unique mindsets condense coaching approaches appealing to the people of the future:

- According to the Power Coach, greatness is the eventual outcome of always striving to do better.
- For the Creative Coach, the teacher and pupil are housed in the same person.
- The Caring Coach understands that by working together, success will take care of itself.
- A Karma Coach recognizes that happy individuals are more prosperous, healthier, and live longer lives.<sup>51</sup>

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<sup>51</sup> <https://global-influences.com/the-future-of-coaching/>

## Conclusions

In this article I have tried to shed some light on the origin of coaching, current state of different methods that are used during coaching sessions and at the same time provide a panorama of the future of coaching.

What is relevant to emphasize is the **relationship** between the coach and the client, who were mostly envisioned as partners in search of solutions for different issues/agendas of the client. One of the challenges to creating a good rapport is to find ways on how to **build a positive, supportive and trustworthy coach-client relationship**. There are a number of benefits from increased engagement to the self-esteem of establishing a positive coach-client relationship. Regardless of reasons why clients get in touch or need professional advice (or just to open up their hearts), from coaches, as in cases when they want to achieve specific goals, when they want more from their life or even when they want less, clients are in constant need for a **balance** but they need to grow their self-esteem and motivation.

While studying for my Diploma in Coaching unconsciously I evaluated my coaching style and made me think twice about my own style. I realized that it's my job as a coach to find the light in my clients, to trigger their attention and to make them aware of their potential. People are gifted with different talents, but sometimes they spend their whole life in search of their true selves. They are capable of finding answers, solutions to their problems, and not rarely rise from ashes. They are **knowledgeable**, which sometimes lead more to frustration rather than a feeling of fulfillment. As a result, it is up to me as a coach to lead them to the right path and guide them to see their **inner light**.

Businesses, but not only, will embrace the services provided by coaches in order to survive in a world full of competition especially now after ( I hope so) Covid 19 pandemic so they have a good performance, boost the motivation of their employees and at the same time meet the goals and objectives of the company . Employees will definitely ask for coaching sessions first for their mental wellbeing and then to boost their soft or hard skills such as: time management, leadership skills, decision making, relationships between different staff members, creative thinking/ writing, stress management etc.

In our rapidly changing work environment, allowing people to change is becoming particularly crucial. The prevalent view among organizational leaders is that changes in an individual require only information and the right motivation: we therefore need to understand exactly what needs to be changed and then use incentives to inspire individuals to react in different ways.

This is an overly simplistic viewpoint that works well in any linear system. For example if a computer breaks down, the IT technician runs a diagnostic test and then replaces the broken part or fixes the problem. However, in a coaching session if the "broken thing" is coachee's communication it takes and time and effort from both parts to "replace or fix the thing".

We as coaches should show empathy and should inspire and empower clients to reach their potentials and at the same time should try to put ourselves in the shoes of our clients "Think from the outside in and feel from the inside out." Our job as coaches has the potential to influence lives and impact the future. As a conclusion a saying from Gandhi, "Be the change you want to see in the world," says is all.

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# Telecommunications and the role of state institutions in managing the telecommunications market

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## Abstract

Due to the rapid development trend of ICT, the telecommunications sector has also transformed significantly, becoming one of the main driving forces of the global economy.

The world is becoming digital and this trend has led to a greater connection and interaction, transcending old traditional boundaries even within an organization. Today, the former dividing line that existed between telecommunications, ICT and media companies, cannot be distinguished.

In the telecommunications sector, in Albania and in other countries, a considerable number of companies operate and there is a convergence in both technologies: telecommunications and media, where many companies operate as a separate platform in several directions, fixed telephony and mobile, trading of electronic equipment, hardware and software, enabling the execution of financial transactions, for television, etc.

Like other sectors of the economy, the telecommunications sector must obey a set of rules and standards to ensure proper operation, to guarantee competition and to protect consumers.

The Albanian government has built a complete legal framework, and a complete institutional structure to guarantee the proper management of activity in the telecommunications sector. The problem lies in the fact that this legal framework is respected and how many institutions that have a legal duty to manage this sector, interact with each other and take regulatory initiatives in the market.

The purpose of this paper is to address the role played by relevant state institutions that manage the activity in the telecommunications market in Albania.

The importance of this paper lies in the detailed presentation of the structure of the telecommunications market in Albania, the analysis of this sector of the Albanian economy and the management role of regulatory institutions in the management of this market, in order to guarantee quality, lower prices, better services for customers as well as to avoid monopoly positions of the provision of these services by specific operators of this market.

The results obtained from the analysis of the activity in the telecommunications sector and from the data collected from various sources, have served to prepare some recommendations, which I think serve to improve the management role of the institutions that monitor this sector.

**Keywords:** telecommunication, law, ICT, market, digital, provision, customer.

## 1. Introduction

The initiation of the actual telecommunications as we understand the term has a long precedence and history, from the era of fire and smoke signals in the most primitive yet functional format in order to deliver simple messages between two different physical locations. (Penttinen, 2015)

The telecommunications market is without doubt one of the most important at the global level. Both fixed and mobile communications create the base for major part of

the world's population for voice and data services. The importance of data services has been increasing greatly, and the general developmental trend is for usage to be going towards all IP, and towards all-mobile. It is evident that the role of mobile communications has already taken over from fixed line communications in several countries for the last few years. (Penttinen, 2015)

Many people call telecommunication the world's most lucrative industry. In industrialized nations, the telephone is accepted as a way of life. The telephone is connected to the public switched telecommunications network (PSTN) for local, national, and international voice communications. These same telephone connections may also carry data and image information (e.g., television). (Freeman, 2016)

An important problem that regulators, incumbents and entrants are faced with is how the access of the entrants to the incumbent's network should be organized. Regulating access is a critical policy instrument that regulators try to use to ensure that the industry develops in both a sustainable and competitive manner. In most countries, regulation of access takes two main forms. In some cases, the regulatory authority sets access charges directly. In others, the parties are free to negotiate access agreements. If the negotiation is successful, the agreement may need to be approved by the regulator. If negotiations are not successful, the regulator engages in dispute resolution and may end up imposing the terms of access. In most cases, regulator determined access charges are set on the basis of some measure of costs. (Preissl, B. Haucap, J. Curwen, P. 2009)

Alemu (2018) noted that: Traditionally, telecommunications services in Sub-Saharan Africa, and around the world, have been provided through a regulated state-controlled monopoly operator. Regulation has played a pivotal role in bringing about the transition from monopoly to competition. Among the major regulatory concerns are: interconnection, access to spectrum for wireless services, and anti-competitive behavior. With regard to interconnection, a key concern is the high mobile interconnection rates that work in favor of incumbent mobile operators and against new entrants.

The importance of the telecommunications sector is recognized not only because of its fairly rapid development, but also as an undisputed impetus to the development of other economies, in particular the information society.

The European Union has continuously developed the regulatory framework by applying specific rules and standards to encourage and protect the further development of the electronic communications market.

The telecommunications market in Albania at the beginning of this century fully took the appearance of markets of the same industry in many countries around the world. In Albania, there are three licensed operators that provide mobile services throughout the Albanian territory. At the same time, 260 enterprises operate for the provision of services from fixed networks.

From the qualitative point of view of the service in the mobile services market, it can be said that it is completely contemporary since 3G service has been offered by the three mobile service operators since 2011 and that since September 2015 4G / LTE service has been offered. Currently, these operators have set up the necessary infrastructure for the 5G service. The three mobile operators, as well as other fixed service operators important in the market, operate in conditions of real competition, a fact which rarely exists to this extent in other sectors in Albania.

In this paper focused on the telecommunications sector in Albania, I conducted an analysis of the telecommunications market.

The main purpose of market analysis is:

- Evidence of the implementation of the Telecommunications Law, related to the promotion of investment and free competition in the telecommunications market through the creation of legal certainty, defining the transparent framework for market analysis, the definition of providers with significant power.
- Adapt and implement policies aimed at full liberalization and the creation of an open and competitive environment, in order to attract significant investors, improve the quality of services and prevent the abuse of market power by entrepreneurs with significant power.
- Implement solutions that are fully in line with EU provisions, directives, recommendations and regional and international best practices.

The purpose of the study is to analyze the role of state institutions in managing the activity in this sector through the analysis of the telecommunications sector. The audit and supervisory role of the Competition Authority and the Electronic and Postal Communications Authority (AKEP) is specifically addressed, highlighting this role related to the intervention for the observance of the legislation in force that regulates the activity in the telecommunications sector, for guarantee free competition in the sector, consumer protection, provision of better quality and cheaper modern services for consumers.

## **2. Analysis of the telecommunications sector in Albania**

The telecommunications industry has experienced tremendous growth thus leading to increased competition and a more connected world.

It is a fact that the digital divide is being reduced, however there is still a strong dividing line between developed and developing countries. The current era is the era of the communication revolution driven by the growth of the internet, it is the era of Internet-based technologies, it is the era of business models and processes that use new information technology and the Internet.

In general, developing countries face a number of challenges in increasing the level of telecommunications related on the one hand to the incomplete liberalization of this market or limited infrastructure, and on the other hand to the prices of these services that still remain high compared to the average income in these countries.

The market of mobile services in Albania is covered by the services provided by 3 operators that are Vodafone Albania, One Telecommunication and Albtelecom, according to the respective weight presented in the following table (data for 2020):

The fixed services market in Albania is covered by the services provided by 214 enterprises. Most of the alternative operators are small and with very limited network presence in urban or rural areas near urban centers. The ranking of operators with the largest share of the fixed services market for 2020 is as follows:

The market for the provision of broadband services by fixed networks is characterized by a high number of participants and as a result in this market the competitiveness is high. The internet service from the fixed networks had a significant increase in terms of the number of new subscribers and the increase of the speed levels for the provision of this service.

According to AKEP statistical data, the number of authorized operators of fixed

telephony networks that have reported that they had activity during 2020 in fixed telephony is 40, and about 174 operators have provided fixed broadband services. The number of subscribers with fixed broadband access at the end of 2020 for the first time exceeded 500 thousand subscribers, increasing by about 15% compared to 2019. Based on the latest ITU report, the highest internet penetration rate for the population in 2020 has European countries with an average of 32.9%, while Albania is reported above the global average rate which is 15.2%. In the same report, Albania is rated as the country with the fastest internet growth per 100 inhabitants, with 15.9%.

The fixed services market as well as the mobile services market have marked changes in the main indicators during 2020 and during the nine months of 2021. Some of the main data for the third quarter of 2021 compared to the same period of 2020 are:

- The number of mobile service subscribers according to SIM cards at the end of the third quarter of 2021 was about 3,406,461, with an increase of 6.8% compared to the third quarter of 2020,
- The number of active mobile phone users during the third quarter of 2021 reached about 2.66 million, with an increase of 9% compared to the third quarter of 2020,
- The number of active users of broadband Internet access from mobile networks in the third quarter of 2021 was about 2.1 million, with an increase of 17.5% compared to the third quarter of 2020,
- The number of fixed telephony subscribers at the end of the third quarter of 2021 was reported at about 205 thousand, with a decrease of 11.1% compared to the third quarter of 2020,
- The number of subscribers with Broadband Internet access from fixed networks in the third quarter of 2021 reached about 548 thousand, with is an increase of 12.7% compared to the same quarter in 2020,
- The number of fixed network subscribers who have access to integrated services (Telephone/Internet/TV) at the end of the third quarter of 2021 reached about 302 thousand, with an increase of 7.4% compared to the third quarter of 2020.

In recent years, the market of telecommunications services has undergone changes not only in terms of quantity but also in terms of quality. Telecommunication services market operators (mobile and fixed) have offered combined fixed and mobile network services, promoting packages that bring benefits in both markets. The most significant increase in the provision of combined services became more visible in 2013 as a result of the acquisition of Albtelecom and Eagle Mobile, as well as during 2020 as a result of the acquisition of Vodafone Albania with Abcom.

The consumer trend towards integrated service packages, coupled with the changes cited, has led to easier comparisons of one operator's packages and those between different operators, and easier cost control by mobile users.

The tendency of mobile operators in offering packages to prepaid users is to offer them on a daily, weekly and monthly basis (30 days), including in most of them, in addition to phone calls and SMS, also Internet access.

Regarding the market for the provision of services by fixed networks, the collected data show that the fixed telephone service for several years turns out to have taken a secondary role in the services from fixed networks, a situation similar to other countries. The main driver of the development of fixed networks are broadband access services and especially integrated services (duo, triple and quad play).

### **3. The legal basis and the vision of the government**

Albania is a small country with a population of 2.88 million and has a low income compared to other European countries. The European Union (EU) has initiated Electronic South Eastern Europe (eSEE), which aims to prepare the countries of Southeast Europe (SEE) to integrate into the EU. Like other countries in the region, Albania has signed the Stabilization and Association Agreement and is working to achieve its goal. Due to the potential of ICT for stability and integration, the EU offers ICT strategies as well as the development of standards for countries wishing to join the EU. As a result, the development of ICT strategies or standards in Albania is carried out carefully based on EU directives.

One of the priorities of the Albanian government is the development and mass use of ICT, due to the fact that ICT affects the economic growth and meets one of the objectives of the EU.

Major reforms in the telecommunications sector began with the gradual liberalization of the market by allowing the privatization of this sector.

Since 1987, authorities within the EU have implemented liberalization of the electronic communications sector in response to technology developments, which have had an impact worldwide. The EU regulatory framework for this sector requires national authorities to regulate the sector in accordance with general rules. The applicability of these rules is monitored by the European Commission and, if necessary, enforcement measures are taken by national authorities through legal measures before the European Court of Justice.

During the application of the EU regulatory framework in Albania, AKEP has been forced to make choices which may not have been used in other countries. For example, depending on the conditions, the framework empowers AKEP to conclude that regulatory obligations need not be the same throughout the country.

The development of the telecommunications sector is also conditioned by the adaptation of the relevant necessary legislation. A number of important laws in the field of information society have been drafted and adopted in accordance with the commitments made in the Stabilization and Association Agreement.

Completing the legal framework and improving it according to European best practices is one of the ongoing priorities towards the development of the information society. The Stabilization and Association Agreement (SAA), in its articles 102-104, provides for the obligation to approximate domestic legislation with EU legislation and to harmonize it with EU policies.

There is currently a rich legal framework that directly and indirectly regulates the telecommunications sector, ICT and the information society. In analogy with the policies and priorities of the European Union, the development of the telecommunications sector has been part of the program of the Albanian governments. The program looks at the development of ICT, telecommunications and e-services closely related to the economic and social development of the country. The government program stipulates that the government will work in 3 main directions by setting measurable objectives:

1. to increase and promote electronic services for citizens, business and administration, where the priority is to increase transparency and improve services in public administration.
2. the use of ICT in education to bridge the digital divide and to train and orient

young people towards improving and expanding human capacity in order to promote the creation of jobs for young people, who can be employed in the Albanian market, regional and beyond.

3. the consolidation of digital infrastructure throughout the territory of the Republic of Albania, strictly respecting the European principles of free and fair competition. The Digital Agenda approved by the Albanian government includes a section which recognizes the importance of the telecommunications sector and sets out the visions reflected above. Several strategic objectives have been proposed for achieving this vision. They can be divided into measures taken by the state to improve the opportunity for investment by private investors in the telecommunications sector (especially in order to provide services) and actions by the state to increase the use of ICT by state institutions.

The overall approach of the National ICT Strategy is the Albanian equivalent of the EU policy framework (i2020) for the information society and media.

#### **4. Audit role of AKEP and the Competition Authority in management of telecommunication market and consumer protection.**

AKEP operates as a regulatory body in the telecommunications sector according to the definitions provided in the legislation in the Republic of Albania, and the development policies, determined by the Council of Ministers of the Albanian Government. AKEP seeks to achieve a regulatory framework that promotes a favorable environment for investors and offers solutions, price and better quality for all users of telecommunications services in Albania.

AKEP regulatory activity over the years has been characterized by 6 basic principles:

1. Protection of users' interests,
2. Promoting competition,
3. Supervision, audit and monitoring of the activity of telecommunication entrepreneurs
4. Ensuring social integration,
5. Good management of final resources,
6. Ensuring network security.

AKEP activity is guided by the maximum commitment for the implementation and fulfillment of:

- a. Obligations and regulatory objectives defined in the legislation,
- b. Sectoral development policies of the Council of Ministers,
- c. Recommendations of the Albanian Parliament,
- d. Directives of the Commission and the European Parliament,
- e. Acts of BEREC, ERGP and ITU,
- f. Sectoral recommendations of the EC Progress Report on Albania,

AKEP has paid special attention to the review of mobile market analysis documents. As a result of the continuous audit of the telecommunications market in Albania by AKEP and the Competition Authority, there have been continuous developments in this market.

Thus, in March 2011, began the process of merging the fixed services company Albtelecom with the mobile services company Eagle Mobile. The merger of the companies was finalized after a 2-year period of investments in the fixed network and the mobile network.

Based on the regional and global experience regarding analogous mergers of the two companies which offered fixed services and mobile services in the market, the newly established companies can provide synergy. As a result of the merger, the new companies have changed their services and products by improving or expanding their quantity. The convergence of fixed telephony services with mobile telephony has guaranteed benefits for both operators and end consumers.

World practices have shown that in cases where the merger of two operators operating in the telecommunications sector is realized on the standards and rules of the countries in which they operate, on the tendency to change the market structure, the range of products offered in the market, on cost efficiency, then resulted in a success story for the new operator created by the merger of companies.

AKEP's audit and management role was also highlighted during this merger process. In order not to allow discrimination of other operators by the integrated operator but also to avoid anti-competitive behavior by narrowing the profit margin of competitors, the Competition Authority and AKEP followed all the necessary merger practices for transparency. in relation to access or interconnection tariffs by maintaining separate accounts for each product it offers (division of accounts between fixed and mobile telephony).

The managerial role of AKEP and the Competition Authority is to be appreciated in this case, not allowing the concentration of the market and the creation of monopolistic situations, dominant positions, discriminatory positions for other operators. At the same time, the audit, control and monitoring of this merger process by AKEP and the Competition Authority, resulted in an assistance to customers who already had a combination of fixed and mobile services available at lower prices.

Also, in January 2014, the Competition Authority and AKEP, after numerous customer complaints regarding the large difference between tariffs within packages offered by mobile operators and tariffs outside packages, launched a one-year market audit on abuse with the dominant position of Vodafone Albania. Following this audit of the mobile telephony market, the measures taken by AKEP and the Competition Authority brought a balance to the mobile telephony market.

During 2016 and beyond there have been many complaints from consumers and consumer protection associations regarding the change of packages offered by mobile operators. These packages from the duration of 1 month, passed to the duration of 4 weeks.

AKEP and the Competition Authority conducted an investigative procedure at the end of which it estimated that changing the duration of standard packages from 30 days to 28 days causes the customer to be billed about 13 months per year instead of 12 months, causing an annual increase. of about 6.5% of the budget spent by the customer for this service.

This investigation estimated that the practices of changing the duration of standard packages from 30 days to 4 weeks could affect other markets in the field of telecommunications such as. internet, fixed telephony, television packages, etc., which would cause problems in terms of transparency and comparability of information for their subscribers regarding the tariffs applied for services provided by operators in the telecommunications sector.

AKEP made an assessment of the financial effect to the detriment of consumers from the change in the duration of packages. Thus, in the case of applying the 30-day

duration of the service provided through bundle packages (mixed calls, messages, internet) with prepayment, the user is billed about 12.17 periods per year (365/30), while in the case of 28-day billing, users will be billed 13.04 periods per year (365/28), which leads to an increase of the billing period by 7.14%.

AKEP and the Competition Authority, at the end of 2016 decided to open an investigation against three mobile companies in Albania, on charges of abuse of dominant positions in the market, based on complaints filed with the Competition Authority by the "Albanian Consumer" Center, with object "Audit of the mobile telephony market in relation to the emergence of coordinated practices and abuse of a dominant position" for tariff plans they offer to mobile telephony customers. Operators immediately increased the prices of the packages offered. This change was applied immediately by each of these three operators. The cost of the packages was changed along with the minutes, SMS and Megabytes they contained. The 1,000 lek package was removed from the market and the cheapest one that offered convenience in communication and internet browsing that you could buy was 1,100 lek which contained the same number of minutes, SMS and MB of the package which was previously 1,000 lek.

The intervention made by the Competition Authority and AKEP, after the market study, forced these companies to return to the packages with the previous prices, in this case protecting the interests of consumers.

Another situation, similar to the one created in the case of the merger by acquisition between Albtelecom and Eagle Mobile, occurred during 2020 in the case of the merger of Vodafone Albania and Abcom. This transaction led to changes in the structure and competition of telephony services markets and especially broadband from fixed networks where One Communication and Albtelecom operating in both markets are already feeling the strongest competition of Vodafone, both in the mobile services market and even in the fixed services market.

Even in this second case of merger with absorption in the Albanian telecommunications market, the auditing and monitoring role of AKEP and the Competition Authority was very important to not allow once again the concentration of the market and the creation of monopolistic situations, dominant positions, discriminatory positions for other operators, while guaranteeing benefits to customers who already had combined fixed and mobile services available at lower prices.

During 2020, a period associated with physical distancing between citizens due to Covid-19, AKEP paid special attention to traffic monitoring of the use of electronic communications services, which increased significantly. In the first weeks of the sanitary crisis, there was a doubling, and sometimes even tripling, of usage compared to normal, and there was a growing expectation for high-speed internet, in line with the massive use of digital platforms. At the same time, users and public authorities supported the idea of providing services at maximum capacity, and possibly for free, for a few days, a scheme that was being implemented in some European countries. Due to the collapse that quickly gripped systems and networks in these countries, such as Spain, Italy and the United Kingdom, as a result of an irresponsible use of existing capacity, AKEP and key operators developed a more realistic scheme, more reliable, longer-term and more conform to rights and obligations in a sustainable digital environment.

AKEP mediated with mobile operators, at the request of public authorities and the

National Agency for Information Society (NAIS), the provision of enhanced capacities (gateway / webservice) and free SMS messaging interface to more efficiently manage the flow of requests for circulation permits deposited on the E-Albania portal. Even during 2021, AKEP and the Competition Authority have audited and analyzed the mobile telephony market. Following the completion of the public consultation process for Mobile Telephony Market Analysis for Wholesale Markets of Mobile Call Termination, including Termination of International Incoming Calls, AKEP evaluated the opinions of market players, as well as the recommendations of the Competition Authority, and after consulting with international organizations, decided to set the maximum tariff for the termination of national calls on mobile networks and to monitor the wholesale market for the termination of international calls on mobile networks, until the fulfillment of the conditions for undertaking an new analysis. During 2021, another achievement for the subscribers of electronic communications services is the agreement, after encouragement by AKEP and approval by the Competition Authority, to launch some offers intended, during the sanitary crisis, for the categories in need and persons with disabilities. These package offers aim at faster and better access to a range of personalized services for individuals who during the pandemic may be unable to use efficient telephony and mobile internet services. Compared to the basic parameters of the categories in need, these packages have enabled an increased consumption at a fairly low cost.

## **5. Conclusions and recommendations**

The Telecommunication sector is of special importance for Albania, as it has a great impact on social and economic development, for all other sectors of the economy. In this sense, the telecommunications market has created its structure by clearly designing the constituent networks and services, actors and fundamental factors with a direct impact on its development.

The impact of this sector on the national economy is significant in the state budget as a result of the payment of obligations that the operators of this sector have to state institutions, as well as the level of employment of the population.

The analysis of the functioning of the telecommunications sector in Albania concludes that:

- The telecommunications sector has experienced significant developments in recent years as a result of the introduction of new technologies in telephony and internet services.
- Technological progress and innovation have created new products and new markets, allowing new operators to enter the market quickly gaining position and weight.
- Significant increase in the use of broadband access services by fixed and mobile networks;
- Increased use of packages integrated with services in fixed and mobile networks;
- Decrease in the use of fixed telephony services and increase in the use of mobile telephony;
- The telecommunications sector in Albania operates on the basis of laws and rules, under the continuous audit and control of AKEP and the Competition Authority who, in accordance with the principles of competition and based on the current

conditions of the Albanian market, constantly intervene in the market with relevant decisions.

- The telecommunications sector has been the subject of audit and investigative procedures by the Competition Authority and AKEP initiated on the basis of the complaint of the smallest market operators for discrimination with tariffs for calls inside and outside the market.

The monitoring of the telecommunications sector has guaranteed:

- Favorable conditions for investors
- Promoting competition between operators operating in the telecommunications sector and
- Benefits for consumers

However, AKEP did not play properly the role of auditor and regulator when it allowed:

- Changing the tariffs of the packages offered to the consumers where the prices increased and the amount of mobile broadband internet decreased
- Changing the duration of these packages from 30 calendar days to 4 weeks
- Establishment of contracts with a mandatory minimum term of one and two years for the provision of Internet service or IPTV
- The delay of the transfer of Albtelecom under the new ownership, which would have made it possible for the spread of broadband internet in Albania to have started two years earlier.
- Postponement for more than two years of the implementation of the contract signed with Eagle Mobile for entering the market as the third operator in the mobile telephony market, which would have had a faster impact on breaking the duopoly established between the companies AMC and Vodafone Albania.

Based on the analysis of the market and the activity of the institutions which have the task of monitoring the activity in the telecommunications sector, some recommendations can be presented that we think can serve to improve the situation in this sector.

The main recommendation, based on the above analysis, is intended for actors that enable the drafting of sectoral policies, is to consider as very important the adaptation and harmonization of legislation in the field of electronic communications with international legislation, as discrepancies in harmonization and implementation leads to delays, untimely use and lack of benefit of the proper effects enabled by the telecommunications sector.

In the field of consumer protection, we recommend that AKEP publish the disputes resolved in the electronic communications market of the entrepreneur-subscriber level, as it would serve positively not only to unify the precedent for analog cases but also would serve to increase subscribers' awareness. for the possibility of administrative resolution of disputes with the service provider and the role of the field regulator.

Consideration of the subscriber / user of electronic communications services products as a "weak side" and orientation of regulatory attention to it, in order to maximize the benefits of electronic communications services and to continue the competition in the market for service providers.

It is recommended for the two authorities that have influence in the field of telecommunications, AKEP and the Competition Authority, to increase the level

of cooperation between them, despite the fact that this is provided in the existing legislation, to find more effective mechanisms of interaction in “real time” with aim of solutions as soon as possible and as fair as possible. Such a recommendation comes as a result of current experience and results produced for market players due to the lack of coordination of interventions by these two authorities.

It is recommended for the sectoral policy in case of its forecast for the introduction of 5G service in the market, to plan that this right to provide the service be given at the same time for all mobile operators, as based on the principle of “first entry”, the possibility for subsequent entrants to be potential competitors in the market with the first entrant is reduced, which gives effects on competition and consequently on the benefits of the end user (consumer).

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# The connection between terminology - term - concept - context from the point of view of legal translation

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## Abstract

This presentation aims to explain the connection between terminology, term, concept, and context from the point of view of legal translations. Specialized terminology is the core of terminological translation. This also applies to legal translation. In this context, we find it necessary to explain the notion of "terminology" in general. Note that terminology deals with the description of specific terms of one or more fields of knowledge. It represents a multidisciplinary character as it manages to establish a continuous dialogue with other scientific and technical fields. Terminology has as its object of study the "term", which is a sign or a linguistic "definition" of a general concept of a specific field. The value of a term is determined by its relationship to another term within the same conceptual system. As a sign (de Saussure), the term is also bilateral. It has two sides: the sound sequence (signifier) and the concept (meaning). The concept can be defined as an abstract representation composed of the set of common features essential to a group of entities (object or idea) and obtained by deriving the individual characteristics of these entities. But as we said above, the terms, as they relate to a certain context, limit each other in terms of meaning (concept). The context, then, would be the extract of a text (a phrase, a paragraph) in which the term is used (immediate context) and a discourse situation (broader context).

**Keywords:** Terminology, term, concept, context, sign, marker, marked, legal translation.

## Introduction

Specialty terminology is the core of terminological translation. This also applies to legal translation. The polysemy and lexis of law, the complexity of the facts hidden behind the texts of law, as well as the stylistics of legal texts face the translator with considerable difficulties.

*"Identifikimi i një terminologjie si sistem i veçantë mund të bëhet i plotë vetëm kur shihet në rrafshin e funksionimit të termave që e përbëjnë atë si shënues të koncepteve të një fushe të veçantë të dijës. Në vartësi nga një tematikë e përbashkët në një fragment ligjërimor (të shkruar ose gojor) mund të veçohet një grup termash, të cilët në tërësinë e tyre mund të përcaktojnë vlerën stilistike të fragmentit ligjërimor në fjalë. Në qoftë se një grup i caktuar termash të kësaj fushe mbizotëron në mënyrë të ndjeshme në tërësinë e njësisve leksikore të përdorura në tekst, atëherë ky leksik mbizotëruet i jep këtij teksti ngjyrën e një ligjërimit të specializuar, ... / The identification of terminology as a separate system can be complete only when viewed on the plane of functioning of the terms that make it up as markers of concepts of a particular field of knowledge. Depending on a common theme in a discourse fragment (written or oral) a set of terms can be distinguished, which in their entirety can determine the stylistic value of the discourse fragment in question. If a certain set of terms in this field significantly prevails in the entirety of the lexical units used in the text, then this predominant lexicon gives this text the color of specialized discourse, ..."*<sup>1</sup>

Thus e.g. in the following case we can understand from the terminology used what

the specialty is about: "Në të vërtetë, e drejta civile e ndërton përgjegjësinë civile në ato forma fajësie që njihen e zbatohen edhe në degët e tjera të së drejtës. Si rrjedhojë do të vinim në dukje se përgjegjësia civile ka vend kur ekzistojnë dy format kryesore të fajit: dashja dhe pakujdesia. / Indeed, civil law builds civil liability in those forms of guilt that are recognized and applied in other branches of law. As a result, we would point out that civil liability takes place when there are two main forms of guilt: intentionality and negligence." <sup>2</sup>

However according to Duro<sup>3</sup>: if the relationship between terms and *non-terms*<sup>4</sup> is in inverse relation concerning the terms, it means, we have fewer terms than non-term words, then the text cannot be qualified as raised to the level of specialized lecturing. We note that: "Terminologjia është pjesë përbërëse e rëndësishme e fondit leksikor të gjuhës, e sistemit fjalëformues të saj dhe, në marrëdhënie të ndërsjella me gjuhën letrare, është burim pasurimi për të. / Terminology is an important component of the lexical fund of language, of its word-formation system and, in mutual relations with literary language, it is a source of enrichment for it."<sup>5</sup>

## 1. Terminology

The term *terminology* is polysemic and can be defined in the following three ways:

- a) The discipline dealing with special terms;
- b) The practice, i.e., all the principles used to summarize and treat the terms;
- c) All the terms used in a specialized field.

These definitions derive from dictionaries like Duden.

Terminology has always existed regardless of the field it occupies. Without it, there can be no science. Terminology can be defined as a scientific discipline, as a science that studies the structure, formation, development, use, and organization of terms in various fields.

"Terminologjia, [...] si pjesë e gjuhësisë së zbatuar çon përvojën e gjuhësisë në këto degë (të ndryshme të veprimtarisë njerëzore) dhe pasqyron mënyrën sipas së cilës organizohen dhe saktësohen nocionet tekniko-shkencore në gjuhësi. / Terminology, [...] as part of the applied linguistics, brings the experience of linguistics in these different branches (of human activity) and reflects the way how technical-scientific notions in linguistics are organized and specified."<sup>6</sup>

Thus, terminology deals with the description of specific terms of one or more fields of knowledge. It represents a multidisciplinary character as it manages to establish a continuous dialogue with scientific and technical fields. Also important is its connection with other disciplines, such as lexicography, lexicology, and semantics. Terminology is indeed related to these disciplines, as its object of study is also linguistic, but it cannot be confused with them. "Gjatë studimit të terminologjisë pasqyrohet shumëformësia e lidhjeve dhe e rrafshëve: zhvillimi i mendimit shkencor, lidhja dhe diferencimi i disiplinave shkencore, shkalla dhe veçoritë e zhvillimit të gjuhës e, në veçanti, gjendja e sistemit leksikor. / The study of terminology reflects the diversity of connections and levels: the development of scientific thought, the connection and differentiation of scientific disciplines, the degree and features of language development and, in particular, the state of the lexical system."<sup>7</sup> Terminology has an object of study of its own that distinguishes it from other fields of linguistics. Her field of study is technical and scientific terminology. The primary difference between terminology and lexicology lies in the difference between the term *specialized language* and the term

<sup>7</sup> Pasho, H. (2003): Terminologjia tekniko-shkencore dhe vendi i saj në shqipen standarde, Gjuha jonë, Nr. 1-2, 2003, f. 72.

general language, a difference that in most cases is difficult to establish, as the main source of term formation is language and general lexis. Pasho sees terminology as a “nënsistem brenda sistemit të gjuhës letrare / subsystem within the system of standard language”<sup>8</sup>, while we think that terminology is a discipline within linguistics, as “... ato (termat) ndërtohen sipas modeleve fjalëformuese që funksionojnë në gjuhë dhe u nënshtrohen ligjeve dhe normave të gjuhës. Nga ana tjetër këto sisteme hyjnë në fondin leksikor të gjuhës me cilësinë e pjesës përbërëse të tij, duke plotësuar vazhdimisht gjuhën, por gjithnjë me veçori karakteristike për terminologjinë. / ... they (terms) are constructed according to word-formation models functioning in language and are subject to the rules and norms of language. On the other hand, these systems enter the lexical fund of the language with the quality of its integral part, constantly supplementing the language, but always with characteristic features for the terminology.”<sup>9</sup>

One of the main tasks of terminology is not only the term itself and the production of terms but also their use in practice, to see how much each of the new terms created according to certain rules and norms is accepted and acquired by the language.

## 2. The term

The study object of terminology is the term, which is a sign or a linguistic definition of a general concept of a specific field. The value of a term is determined by its relationship to another term, within the same conceptual system. As a sign (de Saussure), the term is bilateral. It has two sides: the sound sequence (signifier) and the concept (meaning). The term is also a linguistic element and an element of knowledge, as it brings specialized knowledge of a field that belongs to a respective specialty.

“... termi duhet parë si shprehje e një koncepti dhe si pjesë përbërëse e një sistemi termash në lidhje të ngushtë hierarkike, duke kaluar nga e përgjithshmeja tek e veçanta. Në terminologji sistemi paraqitet më pak “kaotik” sesa në gjuhën e zakonshme ... / ... the term should be seen as an expression of a concept and as an integral part of a system of terms in close hierarchical connection, passing from the general to the specific. In terminology, the system is less “chaotic” than in ordinary language ...”<sup>10</sup>

The term is a linguistic “definition” of a general concept of a specific field. Its value is determined by its relationship to another term within the same conceptual system, while Duro defines the term as a *njësi emërtuese / signifier unit*<sup>11</sup>.

The term is a linguistic “definition” of a general concept of a specific field. Its value is determined by its relationship to another term within the same conceptual system, while Duro defines the term as a naming unit.

Terminological units are of a complex and multifaceted nature. They enable communication at different levels of specialization, which vary according to the specialization degree, for example between experts and the public, specialists and debutants in a special field, as well as only between specialists. Further terms, like linguistic signs, can also represent degrees, different stages of specialization, variation, and motivation.

Researching a terminological unit in a not specialized text, we may have confusion

<sup>8</sup> Pasho, H. (2003): Terminologjia tekniko-shkencore dhe vendi i saj në shqipen standarde, Gjuha jonë, Nr. 1-2, 2003, f. 73.

<sup>9</sup> Pasho, H. (2003): Terminologjia tekniko-shkencore dhe vendi i saj në shqipen standarde, Gjuha jonë, Nr. 1-2, 2003, f. 73.

<sup>10</sup> Leka, F. (2001): Hapësira të gjuhësisë, nga fjalorët në një libër. Shënime për vëllimin me studime gjuhësore “Terminologjia si sistem”, i Prof. Agron Duro, Shekulli, 28 maj 2001, f. 18.

<sup>11</sup> Duro, A (1997): Terminologjia ligjërimit e specializuar, Studime filologjike Nr. 1-4, f. 74.

between a term and a word of general language. This is possible provided by the fact that these two elements possess as many common features as possible, consequently, is drawn the boundary between terminology and another branch of linguistics, such as lexicology.

A term is a complex unit, the distinction of which constitutes one of the most difficult tasks in terminological work. The difficulties lie in recognizing the term by emphasizing the purpose of distinguishing it between all specialized and general lexicon.

Terms are natural elements of natural languages. Consequently, we cannot say that the specialized lexicon forms a separate language that differs from that which belongs to the general language system. There is therefore difficulty in recognizing a terminological unit, the so-called difficulty of distinguishing a term word from a non-term word. That is why it is difficult to define a term. We can say that terms are linguistic units that may pass from one field to another, from general language to specialty language and vice versa, and acquire or lose a more specific meaning. Research on the term cannot be reduced simply to a morpho-syntactic analysis, but must also include the context in which they are developed and used.

The study of terms and terminology must be carried out starting from a textual linguistic paradigm. The analysis of terminological units in their real context of specialized language is currently one of the most important accomplishments of research conducted in the field of terminology.

### 3. The concept

The concept is of essential importance for our study, as based on the analysis of semantic and conceptual features, we establish the equivalences between languages. In the technical languages appear "... *probleme që lidhen me përpikërinë e shprehjes së koncepteve nga termat përkatës, me realizimin e marrëdhënieve të njëvlershme term-koncept.* / ... problems related to the accuracy of the expression of concepts from the respective terms, with the realization of equivalent term-concept relations."<sup>12</sup>

However, we can define it as an abstract representation composed of all the common features, essential to a group of entities (object or idea) deriving from the individual characteristics of these entities.

The concept is a mental classification, it is an entity of thinking, which corresponds to the common and non-common elements of the object (in the case of individual objects) that are perceived by human beings. From an abstract point of view, the concept is an amalgam of semantic and pragmatic features that are selectively materialized in the function of the used communicative situation.

This element is thus different. It is subject not only to the influence of the concept of the language world, to which it belongs but also to the influence of the professional groups that use it. From the point of view of diversification, the concept is like a polyhedral term as it could be analyzed from different perspectives in the same field of study, but integrating at the same time different disciplines.

For terminological theory and practice, definitions are of paramount importance, as they are focused on concepts, which must be defined and described by linguistic means. They serve to establish an unequivocal relationship between concepts and signifiers.

The concept is expressed by a definition, which determines the semantic features

<sup>12</sup> Duro, A (1997): Terminologjia në ligjërimin e specializuar, Studime filologjike Nr. 1-4, f. 74.

and sets the most appropriate description for each field. The terminological study focuses on conceptual analysis for the determination of terms: characteristics, comprehensibility, extent, and relationships established with other terms. The conceptual analysis allows for determining the meaning and scope of a concept. On one hand, it is a set of characters that make up a notion and on the other one, it is a set of cases in which a concept could be used. In the areas of specialty, the concepts are denotative and precise. Concepts preserve the relationships between each other, which becomes clear when we see a text of the same study field.

#### 4. Context

By context, we mean an extract of a text (a phrase, a paragraph) in which the term (immediate context) is used, and also a discourse situation (broader context). This element is of particular importance for terminological work as its function is to place the concept in a particular terminological unit.

For terminology, context does not constitute a simple illustration of a definition starting from a significant number of closely related contexts, but it directs characteristic semantic features that allow it to relate terms and concepts in a precise situation.

The concept is identified in a context thanks to the other descriptive elements because there are some important elements of the concept involved in the context.

Robert Dubuc distinguishes three types of contexts:

*“- Définitoire : dans lequel apparaissent des données exactes en ce qui concerne le contexte désigné par le terme étudié ;*

*- Explicatif : dans lequel sont exposés, sommairement, des informations sur la nature et certains aspects des termes ;*

*- Associatif : il véhicule des descripteurs qui identifient, par association, le domaine ou le champ d'application auquel le terme appartient. /*

- Defining: in which appear accurate data related to the context and defined by the studied term;

- Explanatory: in which are concisely presented pieces of information related to the nature and some aspects of the terms;

- Associative: some descriptions are made that identify, through the association, the field of application to which the term belongs.”<sup>13</sup>

We think that explanatory and defining contexts are the most appropriate for conceptual analysis. Descriptive monolingual or bilingual terminology uses the explanatory context oftener, added where possible by the defining context. The associative contexts are used for semantic and conceptual analysis.

#### 5. Conclusions

Terminology is the discipline dealing with special terms; the practice, i.e., all the principles used to summarize and treat the terms; and all the terms used in a specialized field. It can be defined as a scientific discipline, as a science that studies the structure, formation, development, use, and organization of terms in various fields. One of the main tasks of terminology is not only the term itself and the production of terms but also their use in practice, to study how much each of the new terms created according to certain rules and norms is accepted and acquired by the language.

<sup>13</sup> Dubuc, R. (1985): Manuel pratique de terminologie, Quebec f. 62.

The term as a subject of terminology is a sign or a linguistic definition of a general concept of a specific field. It is a linguistic element and an element of knowledge, as it brings specialized knowledge of a field that belongs to a respective specialty. The value of a term is determined by its relationship to another term, within the same conceptual system. As a sign (de Saussure), the term has two sides: the sound sequence (signifier) and the concept (meaning).

The concept, as one side of the term, is an abstract representation composed of all the common features, essential to a group of entities (object or idea) deriving from the individual characteristics of these entities. The concept is a mental classification, it is an entity of thinking, an amalgam of semantic and pragmatic features that are selectively materialized in the function of the used communicative situation. But the concepts of different terms limit each other in a context. For terminology, context does not constitute a simple illustration of a definition starting from a significant number of closely related contexts, but it directs characteristic semantic features that allow it to relate terms and concepts in a precise situation.

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# An application of bootstrap in logistic regression model in cardiology data

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## Abstract

Various researches in cardiology require implementing advanced statistical knowledge. Nowadays the collaboration between statisticians and researchers from medicine is associated with important results. Logistic regression models offer a reliable way to estimate the association of one or more independent variables (continuous or categorical) with a binary dependent variable. Bootstrap is considered an important computer intensive method for estimating a population statistics by resampling the data with replacement. We will integrate bootstrap, logistic regression analysis, programming languages and statistical software in studying the significant factors in the survival of the patients with heart disease. We aim to compare the results obtained from using MATLAB, R and SPSS in the logistic regression model and when performing bootstrap.

**Keywords:** Logistic regression, programming language, statistical software, bootstrap, cardiology.

## Introduction

Applying statistics in different research areas such as medicine has become a challenge nowadays due to lack of advanced knowledge in statistics. Various researches in cardiology require implementing advanced statistical knowledge and the collaboration between statisticians and researchers from medicine is associated with important results.

Logistic regression models offer a reliable way to estimate the association of one or more independent variables (continuous or categorical) with a binary dependent variable. Also bootstrap is considered an important computer intensive method for estimating a population statistics by resampling the data with replacement.

Using statistical software packages for quantitative analysis is more convenient recently and it contributes in conducting a good analysis. The problem is to find the best and easy to use statistical software in the case of conducting a study in medicine. We will integrate bootstrap, logistic regression analysis, programming languages and statistical software in studying the significant factors in the survival of the patients with heart disease. We aim to compare the results obtained from using MATLAB, R and SPSS in the logistic regression model and when performing bootstrap. We expect to obtain the same significant coefficients in the model, but can we obtain similar bootstrap estimates and confidence interval using these software?

In our study we implemented advanced statistics with intention not only to discover significant risk factors in patient survival (which is very important in a cardiology study), but also to compare the results obtained when using bootstrap and also different software. (See [1], [7], [8], [9] for similar studies)

We used both R programming language, MATLAB and SPSS to obtain the logistic regression model and we also used nonparametric bootstrap to obtain the coefficient estimations and confidence intervals for the coefficients of the model. Despite the difficulties that associate using these software, we make a suggestion how to obtain the results faster and which are similarities and differences in the results obtained.

### **Objectives**

In this paper we aim to implement bootstrap methods and different statistical software in logistic regression analysis on a study with data from cardiology.

First, we want to obtain the significant factors in the model and to identify the risk factors for the mortality of the patients hospitalized and second we want to examine the impact of using bootstrap methods in obtaining point and interval estimations of the coefficients of the model and comparing the results using R, MATLAB and SPSS.

## **Methodology**

### **1. Data in the case study**

We used the data records from the Cardiology Department in a hospital in Tirana, Albania, with a total of 2201 patients that include the following variables: Gender (Male/Female), Age (Continuous variable), Coronary Artery Disease (SAK in the results below, three types: 1, 2, 3), Diabetes Mellitus (Yes/No), Ejection Fraction less than 40 percent (EF) (Yes/No), Body Mass Index greater than 30 (BMI) (Yes/No), Smoking (Yes/No), Post Myocardial Infarction (PostIM) (Yes/No), Dissection (Dissec) (Yes/No), Dual Antiplatelet Therapy (DAPT) (Yes/No), Arterial Hypertension (HTA) (Yes/ No). We have also included the records of the survival of these patients in the variable Mortality, coded with 0 and 1 (1-not survived and 0-survived). Many of the above variables are considered as risk factors for heart failure and we are interested to construct a model that determines the impact of these risk factors in the case of mortality of the patients studied.

### **2. Bootstrap methodology**

Traditional methods for statistical inference often require fulfilling several assumptions. Sometimes the measures of accuracy are based on asymptotic theory and cannot be used for small samples. For these reasons several researchers propose using a recent and effective alternative: the bootstrap.

The bootstrap introduced by Brad Efron (1979) is a computer-intensive method for approximating the sampling distribution of any statistic derived from a random sample by independently sampling with replacement from an existing data sample with the same sample size. The main idea behind the bootstrap is that in the conditions of the lack of any information about the population distribution, the sample contains all the required information and using this information correctly can lead to good results (see [4]-[6], [10], [14] for more about bootstrap and using bootstrap in logistic regression).

We used bootstrap in estimating coefficients and constructing confidence intervals for the coefficients of logistic regression.

### **3. Logistic regression**

In medical research it is commonplace to study the factors which affect the existence of a health problem. In these type of studies, the existence or not of a disease, which represents the response variable, is a qualitative variable. Thus the popular linear regression methodology is not applicable, and the logistic regression is used instead. Multiple Logistic Regression analysis was first introduced in health sciences in the

50s by Jerome Cornfield (See [2], [3]). It gained popularity in the 80s, and it is at present one of the most widely used statistical methods in health science.

Logistic Regression analysis is used to model the relationship between the explanatory variables (covariates) and the binary outcome. The outcome as a binary variable takes two values and often the outcomes are coded using 0 and 1. Usually 1 is used to denote the outcome of interest in the binary variable.

We can write the Multiple Logistic Regression model can as follows:

$$\ln\left(\frac{\pi}{1-\pi}\right) = a_0 + a_1X_1 + a_2X_2 + \dots + a_mX_m$$

( $\pi$  is the probability that the outcome is 1,  $1-\pi$  is the probability that the outcome is 0,

$X_1, X_2, \dots, X_m$  are  $m$  explanatory variables, and  $a_0, a_1, a_2, \dots, a_m$  are the coefficients of the model).

Using the logit transformation (which is how is called the natural logarithm transformation of the probabilities, in the left side in the model) the probability that the outcome is 1 when particular values of covariates is equivalently given by:

$$\pi = \frac{e^{a_0+a_1X_1+a_2X_2+\dots+a_mX_m}}{1 + e^{a_0+a_1X_1+a_2X_2+\dots+a_mX_m}}$$

It not easy to understand regression data analysis. For

the log odds within a logistic this reason, it is advisable to

take the exponent of the coefficients and to obtain Odd Ratios, easing in this way the interpretation of the results. The Odd Ratios represent the odds that an outcome will occur given a particular event, compared to the odds of the outcome occurring in the absence of that event. If the Odd Ratio is greater than 1, then the event is associated with a higher odds of generating a specific outcome. If the Odd Ratio is less than one, then the event is associated with a lower odds of that outcome occurring. (See [13], [15])

Many statistical software are widely available for estimating coefficients model and R, MATLAB and SPSS, which are used in this paper, are only a few. Furthermore, these tools are used to carry out significance tests of the coefficients.

#### 4. R, SPSS and MATLAB

Based on their popularity, we used both SPSS and R in our study to obtain the results for multiple logistic regression model and also for applying bootstrap.

**SPSS** is a statistical software suite developed by IBM for data management, advanced analytics, multivariate analysis, business intelligence, criminal investigation (see [12]).

**R** is a free software environment for statistical computing and graphics (see [16] for more).

**MATLAB** is a programming and numeric computing platform used by millions of engineers and scientists to analyze data, develop algorithms, and create models (see [11]).

In this study we compare the performance of R, MATLAB and SPSS in finding the model and performing 1000 bootstrap replications for estimating model coefficients and finding confidence intervals for model coefficients.

## Results

We used the data records from the Cardiology Department of a hospital in Tirana, Albania, with a total of 2201 patients that include: Gender, Age, Coronary Artery Disease, Ejection Fraction, Diabetes Mellitus, Smoking, Body Mass Index, Post Myocardial Infarction, Arterial Hypertension, Dissection and Dual Antiplatelet Therapy. We performed Logistic Regression to determine which factors are significant in the model, and their impact in the dependent variable following the hospitalization for the patients with heart failure. So, we have in total 11 predictors and the binary outcome that is the mortality of the patients hospitalized.

The dependent variable is coded 0 and 1, with value 1 that indicates the patients that did not survive. All the explanatory variables in the model are categorical except for the variable Age.

After using R, MATLAB and SPSS, we obtained the model and we noticed that not all the variables are significant in the model, but only five of them. We have marked in red the significant variables in the model in the tables below. The significant variables have the significance value of the test less than 0.05 (the corresponding column Sig. in the tables). Using SPSS, we obtained the following results (Tables 1-4):

**Table 1 Omnibus Tests of Model Coefficients (SPSS)**

		Chi-square	Df	Sig.
Step 1	Step	82.455	12	.000
	Block	82.455	12	.000
	Model	82.455	12	.000

**Table 2 Model Summary (SPSS)**

Step	-2 Log likelihood	Cox & Snell R Square	Nagelkerke R Square
1	712.865	.037	.121

**Table 3 Hosmer and Lemeshow Test (SPSS)**

Step	Chi-square	df	Sig.
1	9.212	8	.325

Also the overall percentage in the classification table resulted 95.6 % (The cut value is 0.5).

**Table 4 Coefficients, Odd Ratios and 95% Confidence Intervals for the Odd ratios (SPSS)**

		Variables in the Equation							
		Coeff.	Standard Error	Wald	Df	Sig.	Odd ratios	95% Confidence Intervals for Odd Ratios	
								Lower	Upper
Step 1 <sup>a</sup>	Gender	-.017	.234	.005	1	.942	.983	.621	1.556
	Age	-.018	.014	1.580	1	.209	.982	.955	1.010
	SAK			29.503	2	.000			
	SAK(2)	.885	.297	8.901	1	.003	2.423	1.355	4.334
	SAK(3)	1.767	.327	29.178	1	.000	5.851	3.082	11.107
	EF(<40%)	.771	.220	12.241	1	.000	2.161	1.404	3.329
	Diabet	.222	.227	.954	1	.329	1.249	.800	1.950
	Smoking	.026	.267	.009	1	.923	1.026	.608	1.732
	BMI (>30)	-.444	.239	3.459	1	.063	.642	.402	1.024
	PostIM	.265	.251	1.119	1	.290	1.304	.798	2.131
	HTA	-.592	.285	4.313	1	.038	.553	.316	.967
	Dissec.	1.442	.362	15.892	1	.000	4.229	2.081	8.593
	DAPT	-.945	.360	6.899	1	.009	.389	.192	.787
	Constant	-1.649	1.043	2.502	1	.114	.192		

a. Variable(s) entered on step 1: Gender, Age, SAK, EF, Diabet, Smoking, BMI, PostIM, HTA, Dissec., DAPT.

By applying R we obtained the following results (Tables 5-6):

**Table 5 Model Summary (R)**

Cox & Snell R Square	Nagelkerke R Square
.03677	.1212

**Table 6 Coefficients, Odd Ratios and 95% Confidence Intervals for the Odd Ratios (R)**

Coeff.	Standard Error	Sig.	Odd Ratios	95% Confidence Intervals for Odd Ratios		
				Lower	Upper	
Gender	-0.017	0.234	0.942	0.983	0.625	1.570
Age	-0.018	0.014	0.209	0.982	0.955	1.010
SAK	.885	.297	0.003	2.423	1.363	4.377
SAK(2)	1.767	0.327	6.60e-08	5.851	3.083	11.166
SAK(3)	0.771	0.220	0.0005	2.161	1.402	3.332
EF (<40%)	0.222	0.227	0.329	1.249	0.796	1.946
Diabet	0.026	0.267	0.923	1.026	0.615	1.758
Smoking	-0.444	0.239	0.063	0.642	0.400	1.022
BMI (>30)	0.265	0.251	0.290	1.304	0.789	2.114

PostIM	-0.592	0.285	0.038	0.553	0.321	0.987
HTA	1.441	0.362	6.71e-05	4.229	2.009	8.117
Dissec.	-0.945	0.359	0.009	0.389	0.197	0.812
DAPT	-1.649	1.043	0.114	0.192	0.024	1.447

With MATLAB we have the following results (Table 7):

**Table 7 Coefficients, Odd Ratios and 95% Confidence Intervals for the Odd ratios (MATLAB)**

Coeff.	Standard Error	Sig.	Odd Ratios	95% Confidence Intervals for Odd Ratios		
				Lower	Upper	
Gender	-0.017	0.234	0.942	0.983	0.621	1.556
Age	-0.018	0.0144	0.209	0.982	0.955	1.010
SAK	0.885	0.297	0.003	2.423	1.365	4.334
SAK(2)	1.767	0.327	6.604e-08	5.851	3.082	11.107
SAK(3)	0.771	0.220	0.0005	2.162	1.404	3.329
EF(<40%)	0.222	0.227	0.329	1.249	0.799	1.9504
Diabet	0.026	0.267	0.923	1.026	0.608	1.731
Smoking	-0.444	0.2389	0.063	0.642	0.402	1.024
BMI (>30)	0.265	0.251	0.290	1.304	0.798	2.131
PostIM	-0.592	0.285	0.038	0.553	0.316	0.967
HTA	1.442	0.362	6.707e-05	4.228	2.081	8.593
Dissec.	-0.945	0.359	0.009	0.389	0.192	0.787
DAPT	-1.649	1.043	0.114	0.192	0.025	1.483

By applying non-parametric bootstrap using SPSS, R and MATLAB with the number of replications N=1000, we obtain the following results (Tables 8-10):

**Table 8 Bootstrap for the variables in the equation (coefficients, bias, standard error and 95% Confidence Interval for the model coefficients) with R**

	Original	Bias	Std. Error	95% Confidence Interval for coeff.	
				Lower	Upper
Gender	-0.017	0.011	0.248	-0.476	0.489
Age	-0.018	-0.0002	0.015	-0.047	0.011
SAK(2)	0.885	0.016	0.321	0.288	1.556
SAK(3)	1.767	0.038	0.353	1.168	2.524
EF (<40%)	0.771	0.003	0.238	0.322	1.278
Diabet	0.222	0.005	0.244	-0.276	0.707
Smoking	0.026	0.004	0.299	-0.547	0.602
BMI (>30)	-0.444	0.005	0.257	-0.954	0.094
PostIM	0.265	-0.028	0.263	-0.292	0.755
HTA	-0.592	0.021	0.333	-1.209	0.109
Dissec.	1.442	0.021	0.413	0.584	2.219
DAPT	-0.945	0.0243	0.417	-1.661	-0.013
Constant	-1.649	-0.116	1.087	-3.974	0.4

**Table 9 Bootstrap for variables in the equation (coefficients, bias, standard error and 95% Confidence Interval for the model coefficients) with SPSS**

	Original	Bootstrap <sup>a</sup>			
		Bias	Std. Error	95% Confidence Interval for coeff.	
				Lower	Upper
Gender	-.017	.017	.248	-.505	.480
Age	-.018	.000	.016	-.047	.013
SAK(2)	.885	.027	.322	.318	1.555
SAK(3)	1.767	.037	.335	1.126	2.462
EF(<40%)	.771	.005	.214	.330	1.193
Diabet	.222	.005	.240	-.212	.708
Smoking	.026	.013	.296	-.520	.636
BMI(>30)	-.444	-.007	.240	-.930	.010
PostIM	.265	-.010	.266	-.312	.764
HTA	-.592	-.001	.327	-1.215	.065
Dissec.	1.442	-.007	.399	.574	2.123
DAPT	-.945	.011	.397	-1.655	-.080
Constant	-1.649	-.098	1.158	-4.225	.414
a. Unless otherwise noted, bootstrap results are based on 1000 bootstrap samples					

**Table 10 Bootstrap for the variables in the equation (coefficients, bias, standard error) with MATLAB**

	Original	Bias	Std. Error	95% Confidence Interval for coeff.	
				Lower	Upper
Gender	-0.017	-0.001	0.246	-0.493	0.489
Age	-0.018	2.23e-05	0.015	-0.045	0.013
SAK(2)	0.885	-0.0005	0.313	0.264	1.507
SAK(3)	1.767	-0.018	0.349	1.045	2.417
EF(<40%)	0.771	0.0055	0.217	0.348	1.199
Diabet	0.222	0.009	0.236	-0.268	0.657
Smoking	0.026	-0.031	0.309	-0.605	0.632
BMI(>30)	-0.444	0.0015	0.239	-0.937	0.0212
PostIM	0.265	0.0043	0.2715	-0.312	0.775
HTA	-0.592	-0.0015	0.321	-1.177	0.066
Dissec.	1.442	0.0005	0.386	0.550	2.117
DAPT	-0.945	9.40e-05	0.413	-1.685	-0.083
Intercept	-1.649	0.080	1.118	-3.761	0.475

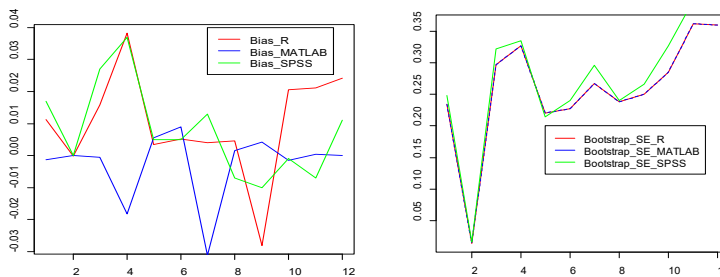
In applying R, MATLAB and SPSS we have the dependent variable Mortality coded as 1 for the patients that did not survive and 0 for the patients that survived. In our logistic regression model we aimed to predict the odds for a patient not surviving

based on 11 predictors. From the obtained results, we noticed that we have the same significant factors from SPSS, MATLAB and R. The significant predictors for the model are: Coronary Artery Disease, Ejection Fraction, Arterial Hypertension, Dissection and Dual Antiplatelet Therapy.

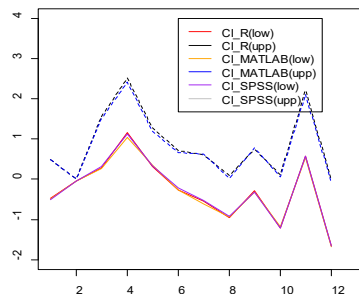
All these significant variables have the p-value of the significance test less than 0.05 (see the corresponding column in each table).

In the case of the variable Coronary Artery Disease (SAK in the tables above), we have three values: 1, 2 and 3 which indicates the type of the Coronary Artery Disease of the patient. As a reference category is the first type so we have SAK (2) and SAK (3) in the table for the second and the third type respectively. The patients with second and third type Coronary Artery Disease are more in risk compared to the patients with the first type of Coronary Artery Disease. We notice that the patients with third type of Coronary Artery Disease are more at risk. Based on the coefficients and the odd ratios we noticed that the patients with Ejection Fraction value less than 40 percent are more likely not to survive in comparison with the patients with values of Ejection Fraction greater than 40 percent.

Also the patients that had dissection are more at risk in comparison with the patients that did not have dissection. In this case, the risk is very high for the patients with dissection. The patients with Arterial Hypertension are not at risk in comparison to the other patients. The risk in this case seems nearly the same for both groups. The patients with Dual Antiplatelet therapy are not at risk in comparison with other patients, but in this case we can notice a great chance to survive for the patients that had this therapy. We created graphs to highlight the similarities and differences between the results obtained from R, MATLAB and SPSS (Fig. 1-4):

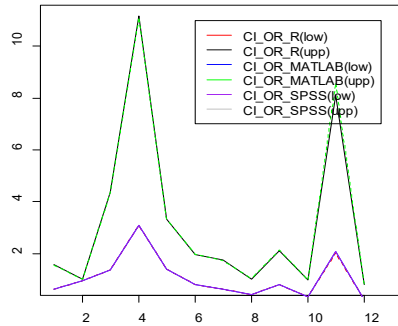


**Figure 1. Comparison of Bias (Left) and Standard Error (right) of bootstrap estimations using R, MATLAB and SPSS.**

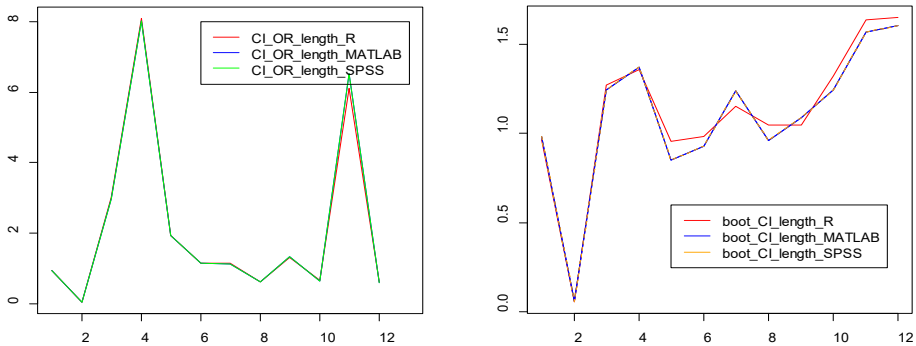


**Figure 2. 95% Bootstrap Confidence Intervals for the Coefficients of Logistic**

## Regression Model using R, MATLAB and SPSS.



**Figure 3.** 95% Confidence Intervals for the Odd Ratios of Logistic Regression Model using R, MATLAB and SPSS.



**Figure 4** 95% Confidence Interval length for Odd Ratios of the model (left) and 95% bootstrap Confidence Interval length for the model coefficients (right) using R, MATLAB and SPSS.

## Conclusions

To identify the factors that predict the mortality of the patients with cardiac problems we considered a data records sample from hospitalized patients and then a multiple logistic regression was conducted, entering 11 covariates in the model. The results indicated that we have five significant predictors in the model.

The Omnibus Tests of Model Coefficients significance value is  $0 < 0.05$ , this indicates that the overall model is statistically significant. Also Hosmer and Lemeshow Test results (significance value  $0.325 > 0.05$ ) indicates that the model fits the data.

The overall percentage in the classification table must be at least 80%. In our model this value is 95.6 %, which this is a good indicator for the logistic regression model.

From performing the logistic regression analysis with R, MATLAB and SPSS, we obtained the same results for the model coefficients and the significant variables.

The significant variables in the model resulted: Coronary Artery Disease, Ejection Fraction, Arterial Hypertension, Dissection and Dual Antiplatelet Therapy. The impact of these factors in predicting the mortality of the patients and the risk

associated with each of them is different. Also we can notice that the 95% confidence intervals for the odd ratios are very close to each other.

We also obtained good results from R, MATLAB and SPSS for estimating the model coefficients using bootstrap. There are some minor differences comparing R, MATLAB and SPSS results in the case of bootstrapping the model coefficients regarding Bias and Standard Error.

So, if we compare Bootstrap Standard Error (SE) for the model coefficient estimations, we can notice that we have values close to each other, but nearly the same especially in the case of R and MATLAB. Also there are smaller values of Standard Error using bootstrap with R and MATLAB in comparison with SPSS.

Also we obtained 95% bootstrap confidence intervals for the coefficients that are close to each other. The interval length has a slight difference, with similar results from MATLAB and SPSS in comparison with R (see the corresponding Figures above).

The bootstrap results using 1000 replications are obtained faster using R and MATLAB than SPSS.

So, to conclude, we obtained a good model of logistic regression and we discovered the risk factors in the mortality of the patients hospitalized and also the impact of the significant predictors in the dependent variable in our study of 2201 patients.

It is interesting that while we have the same results regarding the model coefficients and significant factors in the model, we also have 95% confidence intervals for the odd ratios that are close to each other using R, MATLAB and SPSS.

Performing bootstrap with R, MATLAB and SPSS gave us good estimations for the coefficients and their values are close to each other, but we also notice a small difference in bias and standard error of estimations. R and MATLAB perform better in the case of standard errors and MATLAB and SPSS have the same performance in bootstrap Confidence Interval length for the model coefficients.

## **Acknowledgments**

We thank Doctor Juliana Karanxha from the Department of Cardiology, American Hospital 3, Tirana, Albania for the help with the dataset for the hospitalized patients.

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# Management and leading of organizations in the era of globalization

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## Abstract

Globalization has raised fundamental questions about the processes of management and leadership in organizations that will enable sustainable organizational functioning and competitive advantage. The modern theories of management and leadership are based on the competence of managers to develop the core organizational competencies that have been identified as the key to global competitiveness. Mechanisms for the formation of new organizational skills consist of modern management styles and procedures that require appropriate managerial competencies. This paper examines the competencies and styles of managing and leadership organizations in the context of the globalized world through the concept of basic organizational competence. The purpose of this paper is to define and explain the theoretical foundations of the concepts: core organizational competence and managerial competence, their interrelationship and impact on organizational development. The empirical part examines the relationship between managers' socio-emotional competencies and effective management that promotes the building and development of competent organizations. The findings, tested on a sample of 85 respondents in managerial positions in power companies in North Macedonia, showed that socio-emotional competencies have a significant impact on modern transformational management styles that promote the development of organizational competence and competitive advantage of the organizational. These findings confirm that effective organizational competence is implicitly related to the level of development of emotional and social managerial competencies, which are a prerequisite for high performance management. The implications of the work are in the insight into the need to create and implement educational programs for training of managers at all levels in organizations, in order to develop managerial competencies that will promote greater organizational competence, success and competitive advantage.

**Keywords:** core organizational competencies, management, socio-emotional competencies.

## Introduction

Globalization is a phenomenon which marks the contemporary social reality and has universal reflections and implication on the management and also on the human functioning.

The modern theories of management and leadership are based on the competence of managers to develop the human capital as a core organizational competence that have been identified as a key to global competitiveness. Mechanisms for the formation of new organizational skills consist of modern management and leadership that development a human capitals a core competence in organizations that will enable sustainable organizational functioning and competitive advantage.

The human capital, seen as a collective value of the capabilities, knowledge and skills of the staff, gets dominant meaning in these conditions. The design of the effective systems for management and development, which use the human capital, is a challenge for many authors who thrive new scientific knowledge.

This paper focuses on the synthesis of the concepts: management, human capital, core organizational competencies and development which entwine in the context of organizational success and competitiveness.

The concept of this paper is to give insight in the contemporary strategic planning trends with human resources where the employees are used for achieving and maintaining competitive advantage. Furthermore, a lot of data from academic and consultant findings are included and they show that the adequate treatment of the human resources (HR) brings important differences in the results of business working. The whole process of treating and designing programs for developing skills in human resources, presented in contemporary world findings, is analyzed and compared with the current one in our organizations. The imperative of this research is foreseeing the need and the possibility of the scientific findings and practices by the human resources management from modern countries, as well as their use in our country by adapting and adjusting in concrete conditions.

## **Theoretical base**

### **Core competencies for effective management**

The competition pressures the organizations which ask from their managers and employees actual knowledge, skills and capabilities in order to achieve better results at work. The organizations face changes in the rival competition while the managers and the employees need training in order to maintain and upgrade their qualifications. Intrapersonal and interpersonal competencies have large meaning in improving the effective management, the work relations and resolving conflicts. These skills are included in the concept of emotional intelligence. The emotional intelligence (EI) is a contemporary psychological paradigm which unites two aspects of the person – cognition and affect or intelligence and emotions. It is the individual's potential for learning skills such as: self-consciousness, self-managing, social consciousness and relationship management, which are precondition for success in business (Goleman, 1995).

The theoretical base and the focus on the emotional intelligence are some of the decision making factors for success, besides the technical capabilities and academic intelligence, and are priority for the scientific valorization of the concept. There is scientific evidence for the influence of EI on the work success. Not until recently, the extraordinary competence and superior intelligence are considered as decision-making factors for success. The work organizations led by this attitude are checking the professional knowledge during the employment process. Even the psychologists gave priority to the test for measuring universal intellectual capabilities, when they had to decide for one of the measuring instruments. Based on the intelligence quotient (IQ), it can be roughly envisioned how much a person is qualified to work. However, the practice constantly shows that the people with solid knowledge and intellectual skills are not necessarily successful and that many people with superior intelligence

(IQ 160) work for people with average intelligence (IQ100).

There are numerous research papers about the competencies of emotional intelligence (EI) and effective management. The technological progress brought changes in the work which became less connected to routine and the managers became more dependable on the capability to motivate the employees and implement changes. Since the beginning of the technological evolution, managers have faced difficulties in striving to control less the routine work and to overcome the employees' resistance who did not accept the new norms and values easily. Overcoming these difficulties is closely connected to the introduction of new paradigm in management – emotional intelligence. "EI has the potential to contribute to effective management in various ways. It is unquestionable that management is a process led by emotion, from the both sides' perspective – the managers and followers" (George, 2000).

One of the most prominent researchers is McClelland, 1998, who warned that the approach which includes prediction of the success based on cognitive capabilities does not give prediction for the success of the individual. Research showed that a lot of people with superior intelligence did not become successful, which is explained with the fact that cognitive capabilities can indicate on the presence or absence of the capacities needed for performing complex operations. It was concluded that 67% of the competencies which are needed for success in business are based on emotional and social competencies. The results from the McClelland's research, which was carried out in 30 different companies, identify the characteristics according to which extraordinary managers from prestigious companies differ from the others. Facts from the research show that successful managers, workers and adept people are not defined by the academic intelligence and their work skill only, but also by their social and emotional competence.

Goleman presents research findings from 121 different organizations (Goleman, 1998), where the emotional competence has the greatest influence on the professional success of the managers and other employees. It is also shown that the intelligence quotient (IQ) alone is not enough to predict the success and it outflanks around 25% from the variation (Stemberg, 1996).

The analyses made on qualified staff in 500 organizations, state institutions and non-profit organizations, showed that emotional intelligence is a measure for the success and skillfulness for almost every job.

Another impressive example is the longitudinal 40 year study about the connection of the IQ with the success in work, known as Somerville study, carried out on 450 children. The findings showed that academic intelligence presented through IQ was not much connected with the work success and the other parts of the individual's life. As the most important factors emerged the ability to cope with frustrations, emotion control and getting on well with people (Goleman, 1998). Successful management includes effective emotion usage, good communication with the employees and motivating the followers to accept and share the vision.

### **Emotional and social competencies for effective management**

Findings from many research papers supported the concept of emotional intelligence presented through emotional and social competencies of the managers, as components of successful management of the human capital (Gardner, Stough, 2001; George,

Bettenhausen, 1990; Palmer, Walls, Burgess, Stough, 2001). The authors concluded that there is evidence for the connection between the emotional competence of managers and the rival advantage (Palmer, Walls, Burgess, Stough, 2001).

All empiric evidence confirmed that the high level of EI is connected to the success and the competitiveness of the organizations. Actually, the connection of EI with the work success is responsible for the great importance of this psychological concept. Goleman states that individuals with highly developed emotional capabilities who manage and know well their feelings, can recognize and effectively react to other people's emotions, have advantage in all areas (Goleman, 1998).

The research for the influence of emotional competencies (EC) of managers and employees on the organizations' success in Macedonia is based on PhD dissertation of Marija Kotevska Dimovska, named 'The connection of emotional intelligence with the style of management in educational institutions'. This research brought concrete findings about the connection of EI with the management success, also about the influence of self-confidence on the managers' effectiveness and the connection of emotional competence with work success.

### **Methodology of the research**

The methodology used in this paper is based on contemporary empirical findings about the influence of emotional competence of managers on the core competencies and success of the organization and its competitiveness. That is achieved through the comparative approach where findings from this area presented in contemporary literature are compared to theory and empiricism in our conditions. The comparative approach is used on a concrete sample of managers in profitable organizations and is based on their insights about the need for social competencies (SC) development in a function of competition and also on concrete conclusion for the realization of SC. The occurrence for research in this paper comes from the influence of the effective management on the competitiveness in the organizations in contemporary conditions. The problem in this research is how to improve organizational competitiveness or how much can emotional and social competency be a source of rival advantage. Is improvement of the managers' emotional and social competency going to bring improved quality in the work and rival advantage?

The subject of this research paper is the influence of emotional and social competencies on the rival advantage of the organization.

Aims of the research:

- Insight of the need for developing the managers' emotional and social competencies
- Methods for developing the emotional and social competencies for managers the employees in the function of rival advantage
- Ways for using programs about developing the emotional and social competencies

Hypothetical frame: This research starts from the presumption that there is a connection between the degree of the managers' development of emotional and social competence and the flourishing of the organization presented through effective managing i.e. leadership. The general hypothesis is: Emotional and social competence of managers influence the rise in rival advantage of the organization.

Research techniques: questionnaire for assessment of attitudes for the need of

development of employee's social and emotional competencies; interview for assessment of the managers' awareness for the importance of the emotional and social competencies; observing.

Measuring instruments used in this research are:

- Questionnaire for measuring the widespread of contemporary and classic leadership styles- Multifactor questionnaire for leadership- MLQ Bass i Avolio, 1998
- Questionnaire for measuring the emotional and social competence- Questionnaire for emotional competence, PEK, Taksic, 1999

Population and sample: As a sample, in the research were included 85 managers from first and second level, who are employed in profitable organizations in North Macedonia.

### **Presentation and explanation of the results**

The results presented are according to the answers from the questionnaires, tests and poll questionnaire given to the respondents. The results show that there is a connection between emotional competence and effective leadership. That connection is confirmed by the existence of high correlation between the transformational leadership maintenance and emotional competencies, and managers' social awareness. The emotional intelligence presented with all emotional competencies significantly correlates with transformational leadership ( $r=0,61$  ;  $p<0,001$ ) and validates that managers with higher emotional and social competence prefer effective and modern leadership. The EI competencies take 39.7% in determination of the ability to practice contemporary management styles, which include leadership (Table 1.)

**Table 1. Presentation of multiple correlation between EI competencies and managers' transformational leadership style**

Respondents	Multiple correlation quotient	Multiple determination quotient	Variant
N	R	R2	%
85	0,62	0,397	39,7

The managers' emotional and social competence determines the ability to use modern, effective and successful leadership styles, which influences the employees' pleasure, motivation and even reflects the company's success in rival advantage. The percentage in which the four EI competencies: self-awareness, self-confidence, self-management and social awareness take part in effective leadership with 39,7%, which shows that effective management need certain level of EI.

In the following table, the correlation between effective management (including leadership) and all competencies individually (self-awareness, self-confidence, self-management and social awareness) is presented. Self-management or managing with your emotions, is the best indicator of the effective management when it is itself ( $r = 0,50$ ;  $p<0,001$ ). However, when self-confidence is added, the correlation magnifies to 0,56, and the determination quotient goes up to 0,313. When all three competencies are taken into consideration, the correlation magnifies to 0,58 ( $p<0,001$ ), while the determination quotient becomes 0,336. If these predictors are grouped together with self-awareness, self-confidence, self-management

and social awareness, then, multiple correlation goes up to 0,61 ( $p < 0,001$ ).

**Table 2. Correlation between transformational leadership and all EI competencies individually: self-awareness, self-confidence, self-domination and social**

	Tran. Leadership	Social awareness	Social confidence	Social management	Social awareness
Transformational leadership	1				
Self-awareness	0,38***	1			
Self-confidence	0.48***	0,436	1		
Self-domination	0,50***	0,33	0,312	1	
Social awareness	0,51***	0,209	0,208	0,207	1

The results show that the ability to practice transformational leadership seeks manager which has certain socio-emotional competencies, such as: self-awareness, optimism and openness, optimal self-confidence, to enjoy in other people's company, ability to accept new ideas and to approach people with confidence. That is a person who experiments, plans and is capable of long investment, who is optimistic, empathic and self-aware.

The results from the poll questionnaire showed high level of awareness in managers in terms of meaning of social competencies and present the need to develop those competencies in the leadership and the other employees. These conclusions came after concrete observation and answers analyses of the poll made for this research and also from the interview. On the question do they know what is emotional and social competence, 74% answered that they know; 20% that they have heard, but they do not know, while the rest 6% have not heard at all about this concept. On the question if there is a need for self-grow of the emotional and social competencies, 85% answered yes, 15% said maybe and 10% said no. On the question, would they take part in education for developing social and emotional competencies, 95% from the managers said yes, 4% answered maybe and 1% said no.

According to the reports from the pool and the interview, the managers with high level of self-awareness and understanding (emotional awareness and empathy) can influence forming positive organizational culture based on positive motivation. On the other hand, managers with low level of emotional competence have not got the power to create positive motivation. That directly affects the work success.

From the questions above, conclusions were made and they will be interpreted in the following paragraphs.

## Conclusion

According to the findings and results, it can be stated that social and emotional competence of managers represents capital for effective management, and also a way to get rival advantage. Word trends show that the use of effective management becomes more and more implemented in the process of getting rival advantage. This means bigger systematic and planned investment in education and development in managers on all levels, meaning development of their social and emotional

competencies. This is confirmed with this research and in addition to that, a future direction would be investment in making programs for development and also their implementation in the educational system and organizations.

What comes out of this research?

The result of this study is the support for incorporating education for emotional intelligence development of managers on all levels. It is necessary to create trainings for management teams in the organizations, which are headed to developing the emotional intelligence and improving emotional competencies for responsibility management of their positions. "Even the most successful professionals are ready to admit that no graduate, not even themselves, is a finished product and because of that everyone has to commit to lifelong learning for their professional and personal development" (Palmer, 1995).

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# Procedure for admission of persons in residential public/non-public social care centers, Elbasan Region

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## Abstract

Admission of children, persons with disabilities (disabled) or the elderly, in residential public/non-public social care centers, aims to accommodate them in a suitable environment that enables them to perform their every need. It is the State Social Service, the needs assessment commissions at the Regional Councils of the country or at each Municipality of the country, that make the decision for the admission of the above-mentioned persons in these centers. For this reason, the content of this paper consists, in the legal analysis of the procedures for the admission of children, persons with disabilities or the elderly, in the residential centers of public/non-public social care, in Albania and in the Region of Elbasan in particular. The main focus of this paper will be: 1. DCM no. 425, dated 27.6.2012 "On determining the criteria and necessary documentation for the Admission of persons in residential, public and non-public institutions of social care"; 2. VKM no. 839, dated 3.12.2014 "On some changes and additions to the DCM no. 425/2012 "; 3. For the region of Elbasan, the analysis of the procedure followed for the admission of children, persons with disabilities or the elderly, in non-public residential centers operating in this region. Finally, attention will be paid to what has been done so far, to enable good management of the above procedure in the Elbasan region, and what needs to be done in the future to improve this procedure in this region. The paper is developed in terms of a theoretical, analytical, argumentative and legal approach. The method used in this paper is the empirical one. The research has been done about the reality on the topic in question, interpreting it as objectively as possible.

**Keywords:** admission to an institution, elderly person, person with disabilities (PWD), children, district needs assessment commission, municipality needs assessment commission, State Social Service.

## 1. Introduction

Admission of children, persons with disabilities (disabled) or the elderly, in residential public/non-public social care centers, aims to accommodate them in a suitable environment that enables them to perform their every need. It is the State Social Service, the needs assessment commissions at the Regional Councils of the country or at each Municipality of the country, that make the decision for the admission of the above-mentioned persons in these centers. In the Republic of Albania, based on the new territorial division, there are sixty (60) Municipalities and twelve (12) regions in total.

The content of this paper consists of the procedure followed in relation to the admission of children, persons with disabilities (PWDs) or the elderly, in residential public and non-public social care centers in the Republic of Albania (DCM no. 425/2012 and in the DCM No. 839/2014).

Then this paper continues for the region of Elbasan in particular, with an analysis of the procedure followed for the admission of children, persons with disabilities or the elderly, in non-public residential centers operating in this region. Specifically, their placement in non-public residential institutions is carried out in the Elbasan region only by a commission decision. This commission meets once (1) a month at the ShSSh, in the needs assessment commissions at the institution of the Elbasan Regional Council or at each of the seven (7) Municipalities that have in its composition this region. The members of this commission, before making the decision, perform the control of the documentation required by the law in force for the admission of children, the elderly or the disabled. A problem encountered over the years and which continues to be today, is the lack of this documentation, which is ascertained by the commission during the audit, before making the decision.

The decision of the above commission should always be taken respecting the principle of the best interests of the child, in cases where the request is for a child. In practice in the district of Elbasan, it happens that this principle has not been implemented, because the highest interest of the child is to be placed in a family environment before being placed in a residential institution of social care. By family environment i refer to the foster family provided by the legislation in force (DCM no. 149/2018).

Finally, the paper pays attention to what has been done so far, to enable good management of the above procedure in the region of Elbasan, and what needs to be done and further to improve this procedure in this region with three (3) recommendations.

## **2. Admission of persons in residential public and non-public social care centers in the Republic of Albania**

Based on DCM no. 425/2012 and in DCM no. 839/2014, the criteria, documentation and admission: of a child, of a person with disabilities (PWD) and of an elderly person in residential, public/non-public, social care institutions, are defined as follows:

### *1. Child*

It is accepted in the above mentioned institutions the child: - that the father and mother do not live, that there are no relatives or non-relatives to take care/to adopt him/her by a court decision; - illegal and that for economic and social reasons one of the parents is unable to raise him; - that one or both of the parents, the court with a final decision, has denied them the parental right; - that the parents have been detained/arrested/sentenced to deprivation of liberty (with a final decision), during the time of detention/arrest/serving the sentence. In this case, the court decides on the placement of the child in a residential institution, provided that his parents have voluntarily requested this placement; - which the court has determined to be abandoned; - which the court places in residential institutions, regardless of the situation of his family; - who has a poor family; - who have a family with serious social problems such as divorce of the parents or the latter have remarried; - who have sick parents (hospitalized or in hospitals abroad). The latter must express their free will to place the child in the institution, as long as they recover (one parent is enough); - who has left or is no longer observed by the parent/guardian, as long as the latter are identified.

A child who is disabled or malnourished is not admitted to public/non-public residential, social care institutions, even when he/she meets the above criteria.

The child admitted to the above institutions must be in the age group of 0-18 years. Specifically, in the Orphanage it is accepted from 0-3 years old, in the Preschool Orphanage it is accepted from 3-6 years old and in the School Orphanage it is accepted from 6-18 years old. The orphan child who has completed the 9-year (compulsory) school and often expresses the desire to enroll in high school, is accommodated in dormitories.

The child who has the following documentation is accepted in public/non-public residential institutions of social care: - birth certificate of the child; - two photos of the child; - family certificate of the child; - death certificate of the father and mother of the child; - court decision depriving the child of parental rights; a notarized copy of the mother's declaration certifying the abandonment of the child. If the latter does not exist a copy of the official statement certifying the abandonment of the child in the maternity ward by the director of the latter; - the document certifying the health condition of the child (epicrisis) accompanied by the medical card containing the relevant data for vaccination; - the minutes containing the data related to the birth of the child; - the minutes and the previous order certifying the acceptance/transfer by a commission decision of the child, when the latter due to age is transferred from one institution to another; - the document that certifies the school that the child has completed; - notarial declaration certifying the giving of the consensus of the mother and father of the child, of the guardian of the child, regarding his/her placement in the institution or transfer of the child to another institution; - the certificate completed by the social administrator according to the standard form provided by DCM no. 839/2014. This certificate contains the difficult social and economic situation of the child's family; - notarized documents proving the ownership of the immovable property where they reside, as well as other notarized documents proving other property rights, if the child is a direct heir when: father and mother do not live or the latter by court decision, has denied her parental rights; data issued by the police requested depending on the case.

The right to place the child in the above institutions has the following: - mother and father or one of them when the other has died: - the person who enjoys the right to care for the child; - the director of the maternity hospital where the child is born; - state police; - social assistance and care sector in local administrative units; - the unit of children's rights, located in the institution of the Regional Council; - child protection unit (CPU), located in the municipality or administrative unit; previous residential institution when the child reaches the age for transfer to another institution; - Licensed Non-Profit Organizations (NGOs) that provide social care services for children; - The Social Services Sector located in each of the twelve (12) Regional Directorates of the State Social Service (DRSHSSh) in the Republic of Albania (RSh).

## 2. *PWD*

Admitted in residential, public/non-public, social care institutions, a person with disabilities (PWD), as follows: - who has mental, physical and sensory disabilities determined by decision of the Medical Commission for Assignment of Ability to Work (KMCAP); - who is in the age group from 0-25 years.

Accepted in the above institutions, PWDs who have the following documentation: - birth certificate; - civil status certificate of the person with disabilities; - the decision of KMCAP; - document certifying the health condition of PWDs (epicrisis); - two photos of PWD; - the document that contains the difficult social and economic situation of

the disabled family as well as the document that proves the personal income of the disabled. These two documents are completed by the social administrator (AS) of AS of the administrative unit where he resides, according to the standard form attached to DCM no. 839/2014; - a copy of the decision of the municipal council containing the admission of PWDs in the above institutions; - the request of the PWD for his placement in public/non-public residential institutions of social care; - document certifying the education completed by the PWD; - a written statement, which must be notarized, and which contains the consent of the father and mother or the person who enjoys the right to care for PWD, in relation to his placement in the institution. The right to accommodate PWDs in the above institutions has the following: - father and mother; - the person who enjoys the right to care for a person with a disability. This right to care has been established by the Medical Commission for the Assignment of Ability to Work or by the court; - State police; - AS located in the municipality or administrative unit; d) social assistance and care sector in local administrative units.

### 3. *Elderly person*

Admitted in residential, public/non-public, social care institutions, the elderly person, as follows: - whose family is poor (without income or with insufficient income); - whose family is determined by the AS of the administrative unit where he/she resides based on the law in force (law no. 57, dated 18.07.2019 "On Social Assistance in the Republic of Albania") as a family in need; - an elderly person who has been abandoned by family members or is alone without family members and without income to live; - the elderly person must be retired.

The elderly person who owns the following documentation is accepted in the above mentioned institutions: - a written request made by the elderly person or by his/her family members, relatives or AS of the administrative unit where has the place of residence, provided that the elderly give their consent for this request; - civil status certificate of the elderly person; - Certificate of marital status of the elderly person; - two photos of the elderly person; - document certifying the health condition of the elderly (medical report); - document certifying whether the person in question receives a pension or any other type of income (issued by the Social Insurance Institution); - the document that contains the difficult social and economic situation of the elderly family. This document is completed by the AS of the administrative unit where the person resides in question, according to the standard form attached to the DCM no. 839/2014.

The right to accommodate the elderly person in residential, public/non-public, social care institutions, has the following: - the elderly person; - the person who enjoys the right to care for the elderly; - State police; - social assistance and care sector at the local level.

When the elderly person is placed in the above institutions, he/she is informed that during the time he/she will stay in this institution: - the amount of economic assistance will not be calculated (NE, law no. 57, dated 18.07.2019); - is not entitled to receive the monthly payment of the AK (DCM no. 722, dated 11.11.2019); - is not entitled to receive the monthly payment of guardianship (DCM no. 722, dated 11.11.2019); - has the right to benefit the monthly payment of the pension only in the amount of 40% (law no. 7703/1993 as amended).

Based on DCM no. 425/2012 and in DCM no. 839/2014, the procedure followed for the accommodation of the three target groups mentioned above in residential,

public/non-public, social care institutions, is as follows: - persons enjoy the right to be accommodated in these institutions for a period of six (6) months. This term can go up to one (1) year. This deadline starts from the date that coincides with the submission of their request; - deadline for placing the newborn in the baby's home 15 (fifteen) days. This period starts from the date that coincides with the birth of the baby, and depending on the health condition of the latter can be even more; - for children who have families with serious economic/social problems, and who are housed in these institutions for 3 years, the economic and social situation of their families is re-evaluated by the Ash of the respective administrative unit. The result of the re-evaluation is given to the local government structures if the public/non-public residential institution is not national and to the State Social Service (ShSSh) if these institutions are national.

The systematization of children in the above-mentioned institutions is carried out only by a decision of the commission. This commission meets once (1) a month at the ShSSh or at the needs assessment commissions at the institution of the Regional Council or at each Municipality.

## **2. Admission of persons in residential public and non-public social care centers in the region of Elbasan**

The Republic of Albania according to the new territorial division is composed of twelve regions. Elbasan region is the largest in the area compared to eleven (11) other regions and one of the poorest regions in the country. In its composition this region has seven (7) municipalities that are spread over fifty (50) administrative units.

Residential public/non-public social care institutions in Elbasan Region, for children, the elderly and persons with disabilities are in total five (5), located in the administrative unit of Elbasan (Elbasan municipality) and the administrative unit of Mollas (Cerrik municipality). These institutions are as follows: a) three (3) residential institutions located in the administrative unit of Elbasan, aim at placing minors in need of special protection, in a family environment with priority that of origin in accordance with the policies social activities related to the children of this target group, upbringing, health and social care, education, psycho-social treatment of juveniles, their integration in the out-of-center environment, escort in kindergarten, summer camps and undertaking reintegration negotiations in family. These three (3) institutions are not public and are named as follows: 1. Charity Missionaries Foundation/Gift of Love "Mother Teresa Sisters" (offers services for children aged 0-6 years including children with disabilities); 2. "Weilhelm Aid Association for Albania" - "Happy Hours" House (offers services for children aged 6-14 and does not include children with disabilities); 3. "Weilhelm Aid for Albania" - Antonia House (offers services only for girls aged 14-16 and does not include girls with disabilities); b) one (1) residential institution also located in the administrative unit of Elbasan, aims to place the elderly in need in a family environment, health, social care and their psycho-social treatment. This institution is non-public and is named "Balashe" Center (offers services only for retired seniors and does not include seniors with disabilities); c) one (1) residential institution located in the administrative unit Mollas, aims to place minors who are in need of special protection in a family environment with priority that of origin in accordance with the social policies of the country in relation to children of this target group, upbringing, health and social care, education, psycho-social treatment

of juveniles, their integration in the out-of-center environment, companionship in kindergarten, summer camps and undertaking family reintegration negotiations. This institution is also non-public and is named the Center "Daughters of Love" (offers services for children aged 0-6 years and does not include children with disabilities).

The accommodation of children, PWDs or the elderly, in the above-mentioned non-public institutions, is carried out in the Elbasan region only by a commission decision. This commission meets once (1) a month at the SSS, in the needs assessment commissions at the institution of the Elbasan Regional Council or at each of the seven (7) Municipalities that have in its composition this region. The members of this commission, before making the decision, perform the control of the documentation required by the law in force for the admission of children, the elderly or the disabled. A problem encountered over the years and which continues to be today, is the lack of this documentation, which is ascertained by the commission during the audit, before making the decision.

The decision of the above commission should always be taken respecting the principle of the best interests of the child, in cases where the request is for a child. In practice, it happens that this principle has not been applied, because the best interest of the child is to be placed in a family environment before being placed in a residential institution of social care. By family environment i refer to the foster family provided by the legislation in force (specifically DCM no. 149, dated 13.03.2018 "On the criteria, documentation and procedures for registration of the foster family for children without parental care and the amount of funding for the expenses of the placed child in foster families").

The needs assessment commission at the institution of the Elbasan Regional Council or at each of the seven (7) Municipalities that make up the Elbasan region, consists of the following members: - of leaders and specialists of the social assistance and care sector at the level local or county level; - from the head of the State Social Service Elbasan or representatives of this institution; - from the leaders or representatives of all public/non-public, residential, daily or community NGOs, for children or the elderly, as the case may be, operating in this region.

In the needs assessment commission at the institution of the Elbasan Regional Council or at each of the seven (7) Municipalities in the Elbasan region, in addition to the procedure for accommodation of children, PWDs, or the elderly in residential centers located in this region, a planning should be done with the managers or representatives of these residential centers, for the arrangements that will be performed in the future. This planning is also done by the members of the commission that meets at the State Social Service. However, the practice followed so far in the Elbasan region, shows us that this planning has not been done or has been done but has not been implemented by the centers. This is because the centers prefer to choose the future beneficiaries (they know them personally with their own initiative before) who will accommodate, in order to avoid as much as possible the problematic persons. This results in a violation of the principle of non-discrimination, against persons who request these services.

### **Conclusions and recommendations**

Based on the analysis of this paper, i conclude that there are good results so far, regarding the development of the procedure for the admission of children, PWDs or

the elderly, in residential public/non-public social care centers operating in the Region of Elbasan, from by the needs assessment commission located at the institution of the Elbasan Regional Council or at each of the seven (7) Municipalities that make up this region.

What needs to be done next, to improve this procedure in the Elbasan region, follows in the form of recommendations as follows:

1. As mentioned in the analysis of the paper, it is noted that in the needs assessment commission at the institution of the Elbasan Regional Council or at each of the seven (7) Municipalities that make up the Elbasan region, during the procedure (including the control of the documentation required by the law in force, of the person who is the service seeker) that follows this commission for the accommodation of children, PWDs or the elderly in non-public residential social care centers located in this region, to find deficiencies in the documentation. Consequently for a more efficient, effective and effective implementation of DCM no. 425/2012, i recommend that: *the documentation submitted to the needs assessment commission at the institution of the Elbasan Regional Council or at each of the seven (7) Municipalities in the composition of the Elbasan region, regarding the placement in a residential institution of children, PWDs or the elderly, not to be admitted further with deficiencies. As a result, future decisions that will be taken by this commission will be only with completed documentation of the beneficiary.*

2. As mentioned in the analysis of the paper, it is noticed that in the needs assessment commission at the institution of the Elbasan Regional Council or at each of the seven (7) Municipalities that make up the Elbasan region, the head and a planning with the leaders or representatives of non-public residential centers operating in this district, regarding future accommodation in these centers for children, PWDs or the elderly. The practice followed so far in the Elbasan region, shows us that this planning has not been done or has been done but has not been implemented by the centers. This is because the centers prefer to choose the future beneficiaries (they know them personally with their own initiative before) who will accommodate, in order to avoid as much as possible, the problematic persons. Consequently for a more efficient, effective and effective implementation of DCM no. 425/2012, i recommend that: *in continuation, the non-public residential centers that operate in the region of Elbasan, in relation to the future accommodation in these centers for children, PWDs or the elderly, to implement the planning that has been decided in the needs assessment commission at the institution of the Elbasan Regional Council or at each of the seven (7) Municipalities that make up this region, thus avoiding the provision of services according to personal acquaintances or preferences.*

3. As mentioned in the analysis of the paper, it is noted that the decision of the commission of the Elbasan Regional Council or of each of the seven (7) Municipalities that make up the Elbasan region, regarding the accommodation in non-public residential centers operating in the region Elbasan, of children, or children with disabilities, should always be taken respecting the principle of the highest interest of the child. In practice it happens that this principle has not been applied, because the best interest of the child is to be placed in a family environment (foster family) before being placed in a residential institution of social care. Consequently, for a more efficient, effective and effective implementation of DCM no. 425/2012, i recommend that: *following the decision of the commission, regarding the future placements in the above-mentioned centers for children or children with disabilities, to be taken by giving priority to the placement of the child in a foster family.*

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# Word Formation in Albanian and German: A Comparative View

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## Abstract

Language in general and its lexicon, in particular, are directly influenced by developments and changes in all aspects of life in society since new phenomena need to be named to refer to them in communication. Word formation makes a special contribution in that respect as it is the linguistic discipline that deals with the patterns on which the language forms lexical units based on existing linguistic material.

This paper aims at drawing a comparison between word-formation processes in Albanian and German to point out the similarities and differences between these two Indo-European languages. Linguists' attitudes to the classification of mechanisms of word formation in both languages are explored, as well. The paper also focuses on identifying the most productive word-formation processes as well as the word classes, which are continually being extended with new members in both languages. Another purpose of this paper is to present in a general way the characteristics of the word-formation processes, focusing only on the most essential issues. To fulfill the scope of the work, we did not rely on ad hoc formations, but on authentic material, words that are in the dictionary of the Albanian language and the dictionary of the German language.

**Keywords:** word formation, Albanian language, German language, word-formation processes.

### • An overview of word formation

Word formation has become the object of study by many linguists at different times, as it is one of the most important ways of expanding the lexicon of a language. In their works, Hysa (1975: 58) and Dhrimo (1975: 141-143) analyze the studies that have been dedicated to the formation of Albanian words, shedding light on the interest that this topic has aroused in foreign linguists, regardless of their superficial treatment or conclusions.<sup>1</sup> Based on the definition given by different linguists of Albanian and German language to word formation, it can be said that the object of this linguistic discipline are the word-formation tools that languages make available for the formation of new words, the existing models in each of the languages, morpheme and word-formation analysis, the creation of word-formation types, the word-formation processes themselves and as well as the new words formed as a result of these processes. Thus Busch and Stenschke (2014: 94) call word formation "*Prozess der Bildung neuer Wörter, welcher der Erweiterung des Wortschatzes einer Sprache dient. Dabei werden auf verschiedene Weise Morpheme miteinander kombiniert und verändert. / The process of forming new words, which serves to expand the vocabulary of a language and during which through different ways morphemes are combined and change.*"

Word formation is closely related to two language disciplines. Its scope of study links word formation closely with grammar. While its product is the creation of a new word, which is a new lexical unit, and "*Kuptimi leksikor i fjalës nuk mund të zbulohet e të studiohet i shkëputur nga ndërtimi i fjalës, nga morfemat e saj. / The lexical meaning of the word cannot be discovered and studied apart from the construction of the word, from*

*its morphemes*" (Thomai 2011: 24). This links word-formation closely with lexicology. Therefore, linguists of these two language disciplines also treat word formation as the scope of the respective language discipline, as happens with Engel (1996: 438, 511, 576), Eisenberg according to whom "*Die Bildung neuer Wörter ... ist Gegenstand der Wortbildungsmorphologie. / The formation of new words ... is the scope of word-formation morphology*" (Eisenberg 2020: 219). Other linguists such as Römer / Matzke (2005), Helbig / Buscha (1999), Admoni (1982), Zifonun (1997) or Sommerfeld / Starke (1998) see word formation as a distinct linguistic discipline. Lloshi agrees, according to which studies in the field of word-formation have been expanded and deepened and efforts have been made to complete the inventory of word-formation morphemes with the result "... *përviçimin e fjalëformimit si disiplinë më vete me objektin, metodën dhe detyrat e veta. / ... outlining word formation as a separate discipline with its object, method, and tasks.*" (Lloshi 1972: 487).

### • **Types of Word-Formation in the Albanian language**

*"Mënyra është nënndarja më e madhe e sistemit të fjalëformimit. Sistemi i fjalëformimit përbëhet nga tërësia e mënyrave dhe tipave fjalëformues. Të gjitha fjalët e formuara me të njëjtin lloj formanti i takojnë një mënyrë fjalëformimi. / The method is the largest subdivision of the word formation system. The word-formation system consists of the set of ways and types of word-formation. All words formed with the same type of word-formation element belong to a word-formation method."* (Agalliu a.o. 1995: 58)

Linguists' attitudes regarding the classification of words according to the way of word formation have been different over the years, where ambiguities are noticed, especially regarding the derived words and attached words. A complete and detailed treatment of word-formation can be found in the publication "Grammar of the Albanian Language 1" of the Institute of Linguistics and Literature at the Academy of Sciences (1995), which extensively examines not only the word formation in a separate chapter but also the word-formation of each speech.

In the Albanian language, there are six main means of word formation: derivation, composition, univerbation, using proclitic attributive articles and conversion.

#### 1.1. **Derivation**

The derivation is the way new words are formed by combining word-formation affixes with word themes based on existing word-formation patterns. This way is also known as the most productive way for the formation of Albanian words. Kole (1986: 27) comparing the "Vocabulary of today's Albanian language" of 1954 with that of 1980 concludes that "*Emrat e prejardhur duket të përbëjnë grupin më të madh ndër të gjitha fjalët e tjera të formuara me ndajshesa fjalëformuese, bile edhe ndër të gjitha fjalët jo të parme në gjuhën e sotme shqipe. / Derived nouns seem to constitute the largest group among all other words formed with word-forming affixes, even among all non-primary words in today's Albanian language.*"

The derivation is one of the ways of word formation which is divided into subtypes depending on the word-formation affix. Thus, in the Albanian language, there are four types of derived words: derived words formed with a prefix: *i paaftë, përpunoj*; derived words formed with the suffix: *lexim, gramatik*; derived words formed with prefix and suffix simultaneously: *përgjithësoj, shfrytëzoj*; as well as derived words formed without an affix: *hapi, mundi*. Among them, the most productive type are

words formed with suffixes. Suffix along with composition are considered the two most productive ways of word-formation of the Albanian language. There are several reasons. First, the number of Albanian suffixes is almost three times greater than that of prefixes (Hysa1975: 62). Second, many of the suffixes are productive to a large extent and third, they are capable of joining primary words (*punoj*), derived words (*zhvendosje*) as well as compound words (*fatkeqësi*). The suffix also has a classifying character, as it joins a word-forming topic, not only forms a new word with a new meaning but determines in which part of the speech it is classified. In this way, new nouns can be formed from nouns (*kopsht – kopshtar*), but also verbs (*punë – punoj*) or adverbs (*nxitim – nxitimthi*). Less productive is the prefix derivation. New words are formed with derivation even when prefixes and suffixes are attached to the word-forming theme simultaneously. In this case, the prefix and the suffix are both in the capacity of the word-forming element. This word-formation subtype is very less productive within the derivation. Even less productive is the derivation without a suffix. In the Albanian language there are some nouns and some verbs, which in their structure have no suffix, but are semantically motivated by other words, such as the noun “hap” which means *step* from the verb “hap” which means *open*, the noun “kyç” which means *wrist* from the verb “kyç” which means a *lock*.

## 1.2. Composition

Composition is one of the most productive ways of forming new words in the Albanian language.

Unlike derivation, through composition new words are formed by combining two or more motivating themes, which are known as compounds. Since the Albanian language recognizes univertation as a word-formation method, it is important to note that compound words are not formed by the union of two or more words, but by merging two or more motivating themes, as this also constitutes one of the differences between compound words and univertation words. Of these motivating themes of the compound word one, the supporting theme grammatically shapes the whole composition, while the other theme or other themes, if there are more, are neutralized by grammatical meanings. Regardless of the number of themes that come together to create the compound word, it is always two-dimensional. Thus even words composed with three word-forming themes are two-parted, of which one part is simple, while the other part of the compound is a compound word. Through the composition are formed many nouns (*ditëlindje*) and adjectives (*zemërlepur*) and fewer verbs (*udhëheq*), adverbs (*buzagaz*), as well as some number names (*pesëdhjetë*). The link between parts of a compound word can be a coordinating relationship or a subordinating relationship, thus creating two types of compositions: compound words with a coordinating relationship between their parts, or *copulative compounds*, and compound words with a subordinating relationship between their parts, or *determinative compounds*. Copulative compounds, have been few in the Albanian language, but have been added and are increasing more and more with new creations according to existing language models. Copulative compounds are nouns (*hekurbeton, marrëdhënie*). This type of word formation for adjectives in literary Albanian (*technical-scientific*) has become particularly productive (Dhrimo 1975: 180). Given the name itself, the parts of determinative compounds define each other. In some cases, it is the first part of the compound that defines the second, e.g. *mirëmbaj, flakëdhëse*. In

other cases, it is the second element that defines the first part as it happens with composites: *fatbardhë, vendbanim*. An expressive composition of its grammatical categories is usually the second part. We say, usually, because there are some determinative compounds which are written with a hyphen between the constituent elements and the grammatical categories are expressed by the first part as it happens with composites of the type *shtëpi-muze, peshk-sharrë*, etc. Determinative compounds are mainly nouns (*vargmal, hekurudhë*) and adjectives (*buzëqumësht, gojartë*) and fewer verbs (*mirëkuptoj, buzëqesh*) and adverbs (*duarkryq, kokëmënjatë*).

### 1.3. Univerbation

Through univerbation new words are formed from the lexicalization of a phrase (*gjithmonë*), a prepositional phrase (*pasdite*), a group of words (*thashethem*), or even a sentence (*mirupafshim*) as a result of using them together for a long time. It should be noted that univerbation is the result of a very long usage process. Interesting is the fact that some words attached to Albanian are formed from the wish sentence such as *qoftëlargu* from the wish sentence *Qoftë larg!* Univerbation is especially productive for immutable parts of speech such as adverbs (*gjithmonë*), prepositions (*nëpër*), conjunctions (*sesa*), particles (*kushedi*), exclamations (*faleminderit*). But with univerbation are also formed pronouns (*kushdo*), number words (*dymbëdhjetë*), fewer nouns (*gjëgjëzë*), and fewer verbs (*vërej*).

### 1.4. Using proclitic attributive articles<sup>2</sup> as a means of forming new words in Albanian

This method is the formation of new words through proclitic attributive articles. This word-formation process is productive in the formation of participle adjectives and verbal nouns. Participle adjectives are formed by placing a proclitic attributive article before the participle of the verb, such as *punoj – punuar – i punuar*, *besoj – besuar – i besuar*) and constitute the largest group of words formed by means of this type of word formation. What is characteristic of these participle adjectives formed in this way is their passive meaning. They “denote the result of the activities realized by the verb...” (Agalliu a.o 1995: 196) *i punuar = që është punuar (which is worked on/upon)*. Verbal nouns form the second group of words created by means of this process. They are either neuter or feminine in reference, for example, *të qeshurit* or *e qeshura*, *të qarët* or *e qara*. This group of nouns is very limited even due to the fact that most of them are being replaced with formations via suffixation (*të ecurit – ecja*).

### 1.5. Conversion

Conversion is a morpho-syntactic way, as the new word that is formed in this way acquires a new paradigm, it turns into another part of speech without undergoing any change in its structure. This happens because of the new syntactic connections that the word creates. The word-forming element consists of the new paradigm that the word gains or the loss of the old paradigm as well as the syntactic relations of the word. In Albanian, conversion has formed nouns (*lëkurë e bardhë – e bardha* e syrit), adjectives (*ushtria e armikut – ushtri armike*), adverbs (*Natën e mirë! – Natën vonë*), prepositions (*kafshoi buzën – buzë detit*), conjunctions (*Kush të pyeti? – Kush kërkon gjën*) and particles (*Punojmë edhe mësojmë. – Edhe atje ai nuk hoqi dorë*). In the

<sup>2</sup> formative elements introducing adjectives

Albanian language, there are also exclamations formed by nominalization adjectives. (*E zeza e syrit – E zeza!*).

In many cases, the ways of word-formation are intertwined with each other to create new words. The adjective *i rëndësishëm/important* is a good example of this group of words. This is a derived adjective that clearly distinguishes that as a word-forming theme has served the abstract-noun importance, while as a word-forming element the suffix *-shëm* and the element *i*. Although some of these ways are not very productive, they are important, as they testify to the richness and diversity of the word-formation ways of the Albanian language.

## 2. Types of Word Formation in the German language

The division of words into *simple words* “simplicia” and *composites* “composita” and *original* (primitive) words and *derived words* (derivatives) can be found in the older grammars of New Modern German (*Neuhochdeutsch*), showing the interest that has awakened word formation as a scope of linguistic studies. However, it is the grammatical studies of the 19<sup>th</sup> and 20<sup>th</sup> centuries that highlight the different patterns and ways of word formation in German (Erbsen 2006: 10). What stands out among German linguists is the different attitudes regarding the classification of word-formation modes. But this attitude is justified by the fact that the classification is based on different criteria. However, German word-formation linguists are united by the fact that everyone agrees that derivation and composition are the most productive ways of word formation in this language. Apart from them, Conversion, Univerbation, and mixed modes are also known as the most important word formation methods in German.

### 2.1 Derivation

The derivation is one of the most productive ways of forming new words in German. Within it are distinguished words formed with prefixes, which are prefixed to word-forming themes. Kuhn (1994: 30) views preposition as a separate word-formation method and not as a subtype of origin. Prefixes do not have a classification character, so the new word that is formed enriches the same class in which the word that serves as a formative theme belongs. German prefixes can carry the accent of the word. This is especially important for verbs formed by prefixes, because if the prefix carries the accent of the word, then the verb is separable (*aussteigen*), otherwise, it is not divided when used in the sentence (*besteigen*). In most cases, prefixes are combined with verbal themes making the prefix productive, especially for the verb. But nouns (*Urenkel*) and adjectives (*unbequem*) are also formed by prefixes. Suffixation is not only the most productive subtype of origin, but together they constitute the most productive ways of expanding the lexicon in the German language. This is related not only to the large number of suffixes that the German language possesses but also to the classifying character of suffixes as well as to the fact that they combine simple words (*Arbeiter*), derived (*Beerdigung*), and compound (*arbeitsgerichtlich*) even nouns such as *Leninismus*, *Luthertum*. In German, prefixes, and suffixes form nouns (*Gerede*), adjectives (*gelehrig*), and verbs (*beseitigen*). The formation of nouns with prefixes and suffixes at the same time is very limited. For Donalies (2002: 33) such words are formed with circumfix, recognizing the group of suffixes besides the prefix and suffix also the circumfix. In German, there are derived words that are formed without any

suffix, but only with the phonetic change of the root. This way of word formation is no longer productive, as it has its origin in apophony, a non-current linguistic phenomenon. With this subtype of origin are formed mainly nouns (*fliegen* – *Flug*, *zwingen* – *Zwang*) and very few verbs (*liegen* – *legen*, *schwanken* – *schwenken*). The last subtype of derivation, back-formation in the word-formation literature is also known as pseudo composition, as the way such words are formed can also be motivated by composition. With this method, nouns are formed from adjectives (*Eigensinn* from *einigsinnig*) and verbs from nouns (*kopfrechnen* from *Kopfrechnen*). Words formed in this way are very limited in number. For Donalies (2002: 132) this way of word formation is not necessary for analyzing the formations of today's language.

## 2.2 Composition

Composition occupies a special place in the word-formation system of the German language, constituting one of the most active word-formation modes, especially for the expansion of the class of nouns. The German language is known for compositions composed of several motivating themes. This has to do with the fact that words have an ingrained order in this language. German is a language with a not very developed inflection system, so this ingrained order helps to express syntactic and semantic relationships. According to Erben (2006: 140) during language development, the relationship between the formation of syntactic groups and word formation is developed in favor of the latter, giving priority to the formation of complex words. This tendency of German to replace syntactic groups (Univerbierung) "*durch ein einziges Wort mit komprimierter Bedeutung / by a single word with a compressed meaning*", has its origins in the early Early Modern German (*Frühneuhochdeutsch*) (Polenz 2000: 193). Thus the principle of economy language has also influenced the development of composites, causing a composite to express an information flow, large and the meaning of a whole sentence as it happens with the composite *Herrenoberbekleidungsindustrie* = *Industriezweig des Bekleidungs-gewerbes, der Herrenoberbekleidung herstellt* (*branch of the apparel industry, which produces men's outerwear*). In addition to compound nouns, adjectives (*tiefblau*), verbs (*sicherstellen*), and fewer adverbs (*dorthin*) are formed. In the formation of composites participate all parts of speech and even abbreviations as in the case of the word *DDR-Bürger*. In the German language, copulative compounds and determinative compounds are formed. The latter is also predominant in number. Copulative compounds form nouns (*Hosenrock*) and adjectives (*taubblind*). The first part of the determinative compound defines the second part, which in turn determines which part of speech the new word will belong to (*der Zucker* + *süß* = *zuckersüß*).

## 2.3 Univerbation

The attitudes of German linguists regarding this way of word-formation are different. Some treat them within the group of composites as a special type of them (Paul 1920: 31; Henzen 1957: 37; Erben 2006: 37). Donalies (2002: 93) is against the use of the term *Zusammenrückung*. To him, words such as nouns (*Handvoll*, *Taugenichts*, *Rührmichnichtan*) and adverbs (*derat*, *zeitlebens*, *keineswegs*) are formed through the Conversion of phrases and sentences from which they came.

## 2.4 Conversion

The most productive and important model of conversion is naming, which Eichinger

(2000: 186) calls “*Kernfall der Conversion/core of the conversion*”. The noun class is particularly enriched by this word-formation mode as in German any part of speech can be named by turning it into a neuter noun, except number words which turn into feminine nouns (*die Vier*). Thus the infinitive forms abstract nouns of the neuter gender, which do not form the plural and in most cases name processes (*gehen - das Gehen*), making it a principle that from each Infinitive of the verb a noun is formed.

## 2.5 Other word-forming methods

In German, some words are formed by repeating the same word (*soso*), or words formed by merging two words into one (*jein - ja + nein, Kurlaub - Kur + Urlaub*), but it must be said that such formations are rather casual, and few have succeeded in becoming part of language dictionaries. Some linguists also know the German way of mixing, according to which words are formed from composition and suffixation. Words formed from an petrified phrase and a suffix are classified as such: *einen Antrag stellen + -er - Antragsteller; schwarz sehen + -er - Schwarzseher; Angst machen + -erei - Angstmacherei*.

## Conclusions

From the review and comparison of the word-formation system of Albanian and German, we can say that they possess a rich system not only in ways but also in word-formation elements.

In both languages descent, in particular, suffixation, and composition constitute the *two most productive ways* of the lexicon of these languages.

The attitude of linguists regarding *backward derivation* is interesting (*Rückbildung*). This word-formation model is familiar to both languages, but it does not help in analyzing words from their current positions.

Univerbation is a way that is not so active in either Albanian or German. But, while Albanian univerbation is accepted by all linguists as an important way of word formation, in German the attitude towards it changes.

Composition is another way of word formation that both languages know and use massively to form new words, especially German which also due to the characteristics of its structure, creates compounds with many motivating themes. Such compounds in Albanian are very rare and do not have more than three motivational themes. Determinative compounds of the German language always have the first part as the defining part, except the noun *Vierteljahr*. While in the Albanian language in the role of the determinant can be both the first and the second limb. In the Albanian language, the second limb of the compound does not always grammatically shape the whole compound as it happens in German.

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# Contribution of Viktor Karpaci and Mark Bazaiti in architecture and sculpture of the XV-XVI centuries

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## Abstract

From the early centuries, our country was the cradle of masters of construction of houses, bridges, castles, shrines with advanced construction technique and a perfect architecture. Albania was the place of masters and craftsmen who processed gold, silver, coral, ivory, pearl, those who worked and carved stone, marble, wood, etc. With these beautiful and durable objects, Albanian craftsmen, builders and artists decorated the cities as well as the houses and the premises. These Albanian craftsmen, being skilled workers, with talent and creative fantasy, with initiative, were in great demand in other parts of the Balkans and in the Mediterranean Basin. Only from Northern Albania in the XIV century, 40 Albanian architects, sculptors and painters moved to Dalmatia to work, who made a name for themselves with their works created with taste and endurance.<sup>1</sup> We find a series of documents, contracts, agreements of Albanian artists in the works, which testify of the Middle Ages in Dalmatia. Prominent Croatian scholars made a major contribution to the illumination of fine arts on the Adriatic coast and its impact on the affirmation of art with its specifics. Amongst them, we can mention great authors such as: Ljubo Babic, Cvito Fiskovic, Ljuba Karaman and others.<sup>2</sup>

**Keywords :** Architecture, Sculpture, Albanians, Middle Ages, Etc.

## Introduction

Among the Albanian artists of this time, Miho Tivarasi stands out<sup>3</sup>, who, as an architect, stonemason and sculptor, decorated with his talented work many cult institutions in Ragusa and equipped them with works of art. His architectural schemes, ornamental motifs, decorations etc.

Crafted with different styles and outside the influences of religious styles, they gave Ragusa a new look and artistic development at a time when the ideas of the European Renaissance and the human art of this era had not yet emerged with that force and that influence, that they had later in the progressive development of mankind. Albanians have special merits in the development of art in other Balkan countries, especially in Dalmatia.<sup>4</sup> Many works of art made by Albanians are still preserved on the Dalmatian coast and this is due to the fact that Dalmatia, less than other areas of the Balkans, was damaged by the destructive force of the Ottoman invaders in the XV and XVI centuries. The works of art that have remained here from the time of the Middle Ages are witnesses of this extensive creativity of Albanians and speak of the development of art in medieval Albania.<sup>5</sup>

In Duomo of Milan there is an altar made with rare craftsmanship and art, adorned with numerous and very beautiful capitals. Milanese still call this altar "Albanian altar", because it was the work of an Albanian. It was completed in 1430 by Alex Turketa from Albania (Alexio Tarcheta de Albanis) who has both dated and signed the work.

The greatest Albanian artists of the Renaissance era are Andrea Nikollë Aleksi from Durrës, Viktor Karpaci from the districts of Korça, Mark Bazaiti, Onufri and his son

Nikolla from Neokastra (Elbasan), three generations of Albanian artists of a family named Albanians, in Vicence of Italy and others.<sup>6</sup>

Thousands of Albanians that had gathered in Venice due to the sea route of exile, in the second half of the XV century, after the heroic resistance of Albanian castles and the conquest of the country, lived with hardship and uncertainty about the future. Above all, they were tormented by the pain of the enslaved Homeland.

Wanting to preserve everything valuable Albanian in customs, language, etc., the Albanians of Venice formed a stable community and with their own forces erected a building as the seat and center of their brotherhood.

Their participation in economic activity, at the beginning of the 16th century, had given them the opportunity to open a school of their own, a school of more crafts, but where both knowledge and classical culture were taught. Albanians also had their own hospital in Venice. They had also created opportunities to help each other financially. The main motive of the life and activity of these Albanians was "For the honor and glory of the Homeland", a deeply patriotic motive. A well-known painter of Albanian origin lived in Venice at that time. Viktor Karpaci. This artist was entrusted with the completion of the central building of the Albanians with works of art. The creative artistic work he developed here with such inspiration gave him immortal name. Together with Viktor Karpaci and almost his age, the other Albanian artist Mark Bazaiti also lived and created paintings. Both are considered among the geniuses of the Renaissance painting. Their works have spread today in many European capitals and are highly valued for their humanistic spirit and high artistic level.<sup>7</sup>

Viktor Karpaci was born in Venice in 1455.<sup>8</sup> His parents were from Albania, from the district of Korça, moved to the Republic of Lagoons (Venice) in the XV century. His family lived in the brotherhood of Venice, but some of the broad Karpaci family had also moved to Romania. Karpaci is an Albanian surname, which is still preserved today and has its origin from the Albanian word karpë (rock, crepe). The Albanian origin of this great artist is confirmed by his whole life and artistic activity.

He was a contemporary and close collaborator with the great artists of the Italian Renaissance, Gentile Bellini (1429-1507) and Giovanni Bellini (Gambellini) (1430-1516). The first is thought to have worked directly on the sketches of Skanderbeg's portrait, when our Hero was in Italy. Viktor Karpaci considered Gentile Bellini as his honored teacher.

Various scholars have listed Viktor Karpaci together with the geniuses of Venetian Renaissance painting, such as Andrea Mantenja, Giovanni Bellini, Gentine Bellini, Carlo Krivoli, Lazaro Bastiani, etc., but have forgotten his Albanian origin and his creative work as an Albanian.<sup>9</sup>

He is unjustly regarded as a Venetian painter. His whole life and work clearly show that he was Albanian and patriotic.

Art critics and historians in Italy and elsewhere have always written about his works and given reviews, of course very positive, but nothing about his life and his Albanian origin at a time when for his contemporaries and less valuable painters, details about their lives were given. In the fog of centuries, it seems, not without purpose, his Albanianness is hidden.

<sup>6</sup> Prenushi, *Kontribut shqiptar*, 178.

<sup>7</sup> Prenushi, *Kontribut shqiptar*, 180.

<sup>8</sup> AHD Fondi: *Diversa Cancellarie*, fol.146v.

<sup>9</sup> Prenushi, *Kontribut shqiptar*, 180.

In the studies and publications of the pre-liberation, made in Albania, the activity of Viktor Karpaci in the Albanian brotherhood of Venice has been noted.

Viktor Karpaci was in Venice since the beginning of the XVI century one of the most active members of the fraternity "Scuola degli albanesi" (School of Albanians). This Albanian cultural center worked for the benefit of the liberation of the Homeland and for the preservation of our traditions, the love for freedom and cultural good. There were many Albanians in exile in Venice. Six neighborhoods of the city bore Albanian names and the political, economic and especially the cultural activity of the Albanians was alive. Even today, in this city, the name of a street is preserved in memory of the Albanians who lived there (Calla degli albanesi).<sup>10</sup>

There are many paintings, paintings with large proportions, created by Karpaci's brush, but, the artistic works with Albanian theme, occupy a key place among them. Thus, when the School of Albanians was built in 1502, he carved an Albanian-themed bas-relief on the main façade, between the two windows, a very significant memory of the Homeland. It depicted the siege of Shkodra: in the center the castle that symbolizes the Albanian resistance and, in front of it, in a place below, with their glorious weapons, Sultan Mehmet and the Grand Vizier. Above the bas-relief, the year XCCCCLXXIII (1474) was engraved, the year of the first conquest and heroic defense. This bas-relief, preserved to this day, is considered one of the rare and precious works of the Renaissance, echoing the great events of the time.<sup>11</sup>

He proved his Albanian origin with the dress he made in marble on the facade of the Albanian School and especially with the decoration he made of it with his magnificent paintings, these works of art, which clearly show traces of motifs from Albania. It should be noted that Viktor Karpaci was a well-known painter, but for the needs of the Albanian fraternity he also worked as a sculptor in the bas-relief we showed, he also worked as an architect and director of works for the marble dress of the school.<sup>12</sup> Of the six paintings of this Albanian painter, tastefully inspired by the School of Albanians in Venice, when he was at the peak of his maturity as an artist, the two best were taken by order of Meternik, when the Austrians conquered Venice and still today are preserved in Vienna, while others are located in the Academy of Venice as well as in other cities of Italy. In addition to these six paintings, Viktor Karpaci has many other creations of artistic values.

In his creativity in painting, in addition to non-religious themes we also have religious themes as in his contemporaries. But his art, regardless of the theme, is human and wonderful. He comes from the beginning of the golden century in painting. Viktor Karpaci is also known as the painter of the stories of St. George in the cult institutions of the same name in Venice, where Albanians gathered, mainly from Albania where the painter himself came from. In the gallery of the Academy of Venice and elsewhere there are other paintings of him that, although with a religious theme, with their realistic, vital presentation gave a blow, just like other great works of Renaissance art, medieval religious ideology, mysticism, generally obscurantist religious art.<sup>13</sup>

Comparing Donatello, the great artist of the Italian Renaissance, with Viktor Karpaci, an art critic writes: "Remember the Donatelian hero, closely created with the Olympic clarity of the Christian saints ... Look, on the contrary, at the frantic

<sup>10</sup> Prenushi, *Kontribut shqiptar*; 182.

<sup>11</sup> Prenushi, *Kontribut shqiptar*; 182.

<sup>12</sup> AHD, Fondi: *Diversa Cancellarie*, fol.147.

<sup>13</sup> Prenushi, *Kontribut shqiptar*; 183.

cavalry treated by Karpac's brush. The horse is a fiery, warlike, and black horse, and the whole composition, in its entirety, resembles our imaginations of the simple and fearless knights so popular in the visions of fantastic dreams. Of course, this is a very decorative figure ... "

This rating is given for the painting of St. George killing the dragon, in which V. Karpaci has presented with real features the fight against evil, against the ugly and the triumph of the positive, of course through a semi-legendary allegory. In the center he has put the figure of a warrior with all his vivacity and fighting ability. So, in paintings with religious themes, he has known to choose the most catchy and popular ones.

Very positive opinions have been given about the paintings of this Albanian painter. Thus, for the painting of Viktor Karpaci's easel entitled "Orsola" (semi-fabulous figure), we have this assessment: "Even the light that comes in through the open window has something from the real sky. The delicate colors sing..."<sup>14</sup>. Another large-scale painting by Viktor Karpaci, with a non-religious theme, is "Departure", which is still preserved today in the Academy of Venice.<sup>15</sup> In it, the artist has painted with vivid colors, pleasant colors, with realism, the departure of a group of citizens from the coast. Perhaps here is something of his longing for departure from the other side of the Adriatic, from his beloved Homeland that was in captivity. In this painting we have a festive look. The beauty and harmony in the appearance of the people, in the presentation of the means of navigation, characteristic for this city surrounded by the sea, as well as other details of this painting, show the rare abilities and creative fantasy of this painter, for his expressive humanism and vivid, for the mastery of the use of colors, etc. Karpaci is also known as a completed landscape master.<sup>16</sup> There are many works in painting by Viktor Karpaci, some of which are considered as a living reflection of the Venetian life of the time, but the works in painting and sculpture for the School of Albanians are undoubtedly his best creations. He worked for them around 1502-1510. A portrait of a young man in a red hat is also highly regarded among Karpac's works. In one of his paintings there is a drum, which as it is known, was brought to Italy for the first time by Albanian and Greek strategists.

Viktor Karpaci died in Venice in 1526, when he was 71 years old. He worked tirelessly in the last years of his life. In all publications of the history of Renaissance art, in special and universal encyclopedias his name is mentioned with special reverence and his paintings have been reproduced as models of advanced realistic Renaissance art.<sup>17</sup>

Some of his frescoes in the Ducal Palace of Venice have disappeared, but the main works are still preserved today in the Art Gallery of this city as well as in the province of Venice, in Chioggia, Ferrara, in the city's bookstore, in Milan and up to Zadar Cathedral. Works by the Albanian painter Viktor Karpaci are also available in several European capitals, in Berlin, Vienna, Paris (Louvre) etc. And are regarded as rare masterpieces of 16th century art. Karpaci's works have been featured in many international exhibitions as far as New York and Philadelphia.

With this early and talented painter, Albania was worthily represented in the art of

<sup>14</sup> Lucia Nadin, *Shqiptarët në Venedik, Mërgim dhe integrim (1479- 1552)*, Tiranë: Shtëpia botuese: 55, 2008, 174 – 184.

<sup>15</sup> Prenushi, *Kontribut shqiptar*, 183.

<sup>16</sup> Prenushi, *Kontribut shqiptar*, , 185.

<sup>17</sup> Andrea Venturini, *Storia dell'arte italiana, VIII, IV*, (Milano: Libreria Alfea Rare Books, 1915), 35 – 45.

the European Renaissance.

In another line with Viktor Karpaçi, as an artist, the other Albanian painter Mark Bazaiti stands. They both have a lot in common. They were almost peers, lived and worked far from home, in Venice, they created dignified works in painting, the theme of their works is approximate and both are considered among the geniuses of 1500 painting. Mark Bazaiti is considered a student of Alvise Vivarin (1451-1502), a prominent painter of the 15th century, also considered a follower of the art of Giovanni Bellini and Victor Karpaçi.

The Albanianess of the painter Mark Bazaiti is primarily dedicated to the scientific research of the famous German orientalist Frans Babinger, albanologist, scholar of the Albanian Middle Ages.

We have little information about his life. Some think he lived between 1470 and 1525, but the most general opinion is that he was born around 1460 and died in 1530. But we do not know the place of birth, the time of his or his parents' departure from Albania and the Albanian province where he originated.<sup>18</sup>

As a painter in Venice, Bazaiti first appeared in the early 16th century, when after the death of the famous painter Alvisa Vivarin, in 1502, was entrusted with painting the altar in the church of St. M. of Fraternity. This happened in 1503. Previously he must have worked as a student and assistant to the painter Vivarini. From this time, this young painter, with an Albanian surname, becomes more and more famous. This monumental work as well as the paintings and portraits he created with art in the years 1510 to 1521 gave him great fame as an artist and made his name immortal. In 1530 he was on the list of the corporation of painters in Venice (*Fraglia dei pittori*). This has led scholars to designate 1530 as the year of his death.<sup>19</sup>

From 1503 to 1510 he completed the decoration of the above church. Of the works made here, the painting of St. Sebastian and that of St. Jerome are especially appreciated, the first is located in the church of St. Mary of Health (*SM della Salute*) in Venice, the second in the Art Gallery in this city.

In 1510, Bazaiti completed his famous large-scale painting "The Inspiration of the Sons of Zebedee" (biblical theme), which is preserved in the Vienna Art Gallery. It is held as his masterpiece for the realistic power of the reflection of the characters, all simple and poor people, for the painting of rocky environments, for the use of colors, for the landscape and the background. Five paintings and frames of Bazait are also preserved in the Academy of Venice. Among them, the "Last Supper" has a special artistic value, a large painting with an ensemble of very vivid figures.<sup>20</sup>

From the year 1520 is the work of this painter entitled "St. George that kills the dragon" (Academy of Venice), which just like the work of V. Karpaçi represents the victory of man over evil, ugly through a well-known allegory and symbolism.

The latest work of art of Mark Bazaiti is considered the painting "Portrait of a man" (*ritratto virile*), which is one of his rare works with a non-religious theme. It dates from 1521 and is still preserved today in the Academy of Bergamo (Italy), in the Moreli collection.<sup>21</sup> All of Bazaiti's creations speak of his realistic concepts, of the acquisition and implementation of Renaissance ideas. His painting has artfully

<sup>18</sup> Prenushi, *Kontribut shqiptar*; 186.

<sup>19</sup> Prenushi, *Kontribut shqiptar*; 186.

<sup>20</sup> Jahja Drançolli, *Arbërit Ndërmjet Perëndimit dhe Lindjes gjatë mesjetës*, (Zagreb: Misioni Katolik Shqiptar në Kroaci, 2008), 427-429.

<sup>21</sup> Prenushi, *Kontribut shqiptar*; 190.

reflected the spiritual state of the figures, has presented scenes of environments with calorific truth. Of all his works, "Inspiration of the sons of Zebedee", it seems, is the painting, which has more views of Albanian mountains and the common people. Even in other paintings and portraits he has vital truths, expressions and liveliness, which make his art very close and communicative. In his paintings we find portraits of people he has known in life. As a master of large-scale paintings and scenes and figurative ensembles with a real natural background, Bazaiti has been admired as one of the geniuses of Renaissance painting. In a number of publications his wonderful creativity has been raised, cultivated at a time when in many European countries there were no such great artists yet. In some illustrated publication is given, but with hesitation, his Albanianess many years before the studies of F. Babinger.<sup>22</sup> Mark Bazaiti and Viktor Karpaci created at a time when our country, after a heroic resistance, was going through the great drama of the Ottoman occupation, when our people, not enduring captivity, either took the mountains or chose the difficult path of exile. In both cases, the Albanian resistance against the policy of assimilation and denationalization was strong in every aspect of life. Together with the heavy burden of this active resistance. Albania through its worthy representatives in science, art and culture, and a valuable contribution to the European Renaissance movement.<sup>23</sup>

### Conclusions

The XV – XVI centuries are centuries of flourishing art in Europe, and from the data we presented above, it can be seen that Albanians also contributed in this direction and the best known are undoubtedly Viktor Karpaci and Mark Bazaiti who contributed to both painting and in architecture. Especially the work of the two aforementioned authors is known in the sixteenth century.

The above-mentioned authors made a valuable contribution to Venice, giving a valuable contribution especially to the iconographic paintings of the churches of the time, but they also had a valuable contribution to paintings outside the religious theme such as "Portrait of a Man" (Ritratto Virile) by Bazaiti. Their works are preserved in world-renowned museums such as Vienna and New York. Their activity remains a very important contribution to medieval culture and a worthy Arberian representation in European culture.

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<sup>22</sup> Prenushi, *Kontribut shqiptar*; 190.

<sup>23</sup> Prenushi, *Kontribut shqiptar*; 190.

# Accountability responsibility as an instrument for performance measurement and profit increase - Case study Profix Manufacturing Enterprise – Gjilan

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## Abstract

This paper addresses the role and importance of accounting information, in particular liability accounting and the impact of liability centers on the success of the enterprise. The success of business decision making is closely linked to the quality and accuracy of accounting information. Every entity, regardless of ownership, size and form of legal organization, the capital structure exists and functions to achieve its objectives.

We live in a time of great changes in external environmental factors, which impose the need to know modern methods and models for running a business. However, the main basis of business success depends on the quality of decision making. The main basis for quality decisions is accounting information. Information is needed in every management process, from planning, organization to the final stage, the control system.

Thus, information is defined as data processed in comprehensible or relevant forms, which serve different users for certain purposes. This means that accounting information is data processed in order to be usable for planning, controlling and making managerial decisions. Normally, managers can not personally undertake direct observations, over all the activity for which they are responsible. Executives receive information from their associates, or through the content of official reports, some of which are prepared by the accounting sector.

In organizations that have centralized decision-making systems, it takes a long time for local information to pass to headquarters, and conversely, decision-making from headquarters to local units takes a long time. In the conditions of an economy with a very strong dynamics, delays in information make communication difficult, reducing the effectiveness of the decision. Therefore, in a decentralized enterprise, when the local manager has authority and responsibility in making and implementing decisions, such problems do not arise. Local managers are able to respond to customer requests for price reductions, as well as requests from local governments. The different languages used by managers of different divisions affect communication problems. For this reason, the decentralized structure pushes decision-making down to the local manager level, thus eliminating the need for centralized instructions. Central management by decentralizing operational decisions, is free to focus on strategic planning that is characterized by long-term decision making. The long-term survival of the company is a priority of central management, rather than operational actions. Top managers have more time to deal with the most important development issues of the company. With decentralization, low-level managers are given the opportunity to make decisions and implement them. Senior managers control and evaluate the decisions of lower level managers. In the paper, special importance is given to liability accounting, which deals with the identification and tracking of costs and revenues in different departments and departments, divided into areas of responsibility. Every manager has rights and responsibilities in achieving the objectives of the department he leads. All costs incurred, income, loss, profit and investment are subject to the responsibility of someone in the management structure of the enterprise.

**Keywords:** Accountability responsibility, performance measurement, profit increase, Profix Manufacturing Enterprise, Gjilan.

## **Research problem**

This paper addresses the role and importance of accounting information, especially liability accounting and the impact of liability centers on the success of the enterprise. The success of business decision making is closely linked to the quality and accuracy of accounting information. Every economic entity, regardless of ownership, size and form of legal organization, as well as the capital structure exists and functions to achieve the objectives.

The very large influences of external, but also internal environmental factors, impose the need to know contemporary methods and models for running a business. But the main basis of business success depends on the quality of decision making. Managers and owners of capital during decision-making must possess accurate, reliable and quality information to support their decisions.

The accounting information system provides the most reliable and relevant information to owners and managers. Information is needed in every management process starting from planning, organization to the last stage, control system. Thus, information is defined as data processed in comprehensible or relevant forms, which serve different users for certain purposes. This means that accounting information is data processed in order to be usable for planning, controlling and making managerial decisions. Normally, executives may not personally undertake direct observations of all the activity for which they are responsible. Executives receive information from their associates, or through the content of official reports, some of which are prepared by the accounting sector.

Enterprise segments can be analyzed: as profit centers, as investment centers and as cost centers.

In particular, the performance of each responsibility center will be analyzed, in order to give a more realistic picture of the success and failure of each responsibility center, then the results obtained will be combined to evaluate the business performance of the enterprise

## **Research purpose and objectives**

It should be taken into account that in managerial accounting the information must be relevant because otherwise it has no value. It is understood that this is related to the phrase used today, "different expenses for different purposes", which can be used as an argument, that the information may be the subject of further work. It also understands that the grouping of expenditures for any purpose may prove to be irrelevant until it is broken down into specific analytical research, processing and supplementation or in any way adapted for a specific purpose.

Information is the key condition for holding managers accountable for results. For example, the production manager is responsible for the costs and quality of the products produced, but not for the revenue. This is because this manager has costs information, budgets and controls them. Any deviation between actual and expected costs, the responsibility lies with the manager himself.

The main impetus for the development and application of liability accounting by companies, both small and large, have come from:

- Increasing the complexity of business conditioned by rapid technological and market

changes, diversification of business-financial activity of the company, combination of companies, etc. ;

- Decentralization of governance in response to the increasing complexity of business and the need to establish a flexible organizational structure of the company;
- Increased competition conditioned by increased productivity and strict spending control;
- Recognize the vital role of planning and control in corporate governance.

Acknowledging that past accounting information concepts have not been appropriate for governing systematic planning and control activities.

The managing accountant has a broad role in developing the liability accounting system in a global business environment. The business keeps an eye on the accountant for financial and business expertise.

In creating the information offer, liability accounting at the center of objectives sets out:

- determination of costs and effects across organizational units, business units, functions, departments or otherwise defined areas of responsibility;
- creating the needs for information of certain reports, both ex post, in the phase of measuring the realization, and ex-ante, in the phase of designing the result;
- comparison of planned costs and results in time and space, in order to control the implementation and construction of a qualitative motivational system; AND
- interpretation of preparatory information, in order to assist management in the process of running the enterprise.

Accounting system with special emphasis on liability accounting, includes the responsibility of information and reports processed by this system.

## **Work hypotheses**

The modern conditions of business operation require knowledge of different methods for the enterprise to exist and operate. Enterprises with many centers of responsibility must choose one of the forms of decision-making, centralized or decentralized. In general, both types of decision-making have positive and negative sides.

Seven reasons why firms may prefer management decentralization include:

Better access to local information, known shortcomings, timely response, centralized management focus, training and evaluation of segment managers, motivation of segment managers, and increased competitiveness.

- Better access to local information

When making decisions, managers need information. All those managers who have timely and accurate information, make fairer decisions. Local managers are those managers who have direct contact with the nature and power of local competition, the workforce that means, have more information of a local character.

- Known shortcomings

For local information although managers at the center have information, they often have many other problems and do not pay proper attention to this information.

This way the firm can avoid the cost and inconvenience associated with collecting and transferring local information to management placement centers.

- Timely response

In centralized organizations it takes a long time for local information to pass to

headquarters. Even the decision from the headquarters to the local units, takes a lot of time.

- Concentration of central management

Central management by decentralizing operational decisions is free to focus on strategic planning, which is characterized by long-term decision making.

- Training and evaluation of segment managers

Training employees and managers is one of the main tasks of the human resources department. We will focus on the importance of training managers.

- Motivation of segment managers

By giving authority and demanding responsibility in the implementation of decisions taken by local managers, some of their highest level needs are met (self-assessment and self-realization).

- Increased competition

In centralized companies, large total profits can hide the inefficiency of different units and subunits. The decentralized method enables the company to determine the contribution of each unit and there is no possibility that other units that have not fulfilled the plans, hide behind the results of other units.

## **Object of the study**

The main purpose of the formation and existence of enterprises is profit. Managers need information for each segment of the enterprise, in order to take measures and activities to improve the quality of business. This information about enterprise segments helps managers to:

1. How are assets planned and allocated between segments?

Managers must know how successful the specific segments are in their activity, in order to determine the business goals in the income, in order to allocate funds to those segments, which have the greatest profit potential. If one production line is more profitable than the other, then overall profitability can be increased by allocating larger production capacities to production lines with profitable products;

2. Decentralization as a precondition for increased performance and responsibility.

3. Control of activities (business).

It means the business of the segments and when the revenues decrease the costs increase, in a word, it means to see which segments of the enterprise work below the expected efficiency. This data on enterprise segments, enables managers to close any unprofitable segment or analyze the reasons for the failure of the segment in question;

4. Evaluate the success of segment managers.

Managers are responsible for the segments of the enterprise they lead, the success of the segments provides them with a basis for assessing their capabilities;

1. How are liability centers classified and how are they controlled by top managers?

2. Methods for measuring the performance of each of the centers of responsibility.

3. What methods will be applied for the formation of internal prices between the centers of responsibility?

## **Research methods**

In the treatment of the topic, in order to confirm / refute the hypotheses, the research methods used in this study are: qualitative analysis, quantitative analysis, descriptive analysis, description method, generalization method, design methods, interview methods, comparative method, case studies, deduction method, induction. The collected data will be analyzed and presented in tabular and graphical form, as well as through numerical indicators.

Data sources are: books, scientific papers, journal articles and the internet.

## **Accounting, understanding role and its importance**

Over the years, various researchers have tried to give the most accurate and complete definition of accounting. But the definitions given for accounting have changed and evolved over time. Thus in 1940 accounting was defined as: the art of recording, classifying and summarizing in a meaningful way and in monetary value, of operations that are at least partially of a financial nature and the interpretation of these results.

Accounting as a set of tools and procedures, consists of:

- a. Activity of registration in the respective accounts;
- b. Processing of information in certain forms ;,
- c. Communication of information in certain forms and deadlines to its users.

In a broader sense, accounting is the process of identifying, recording, measuring and communicating the financial information of an entity, in order to make decisions and draw important conclusions about<sup>1</sup> the performance of economic activity.

Meanwhile, accounting as a language of communication or as they call it, "LANGUA DE BUSINESS", above all is a system which collects, processes data and prepares various reports on the needs and requirements of managers.

## **Accountability of responsibility as a tool for stimulating business success**

The enterprise for the realization of the foreseen objectives acts in its entirety. However, in each enterprise, especially in the manufacturing ones, the jobs are divided according to the types of products, the object of expenses and other divisions based on the need and demand of the managers.

However, the division of accounting based on responsibilities, the preparation of profit reports by departments which represent their contribution to the overall profit, the costs of individual departments and the manner of contribution, both at the department level and at the product level are many questions that are posed to management accounting, which always pays more attention to the decision-making process. The company is constantly growing and in the same way there is a need to share and transfer responsibilities, starting from the departments to the company as a whole.

## **Segmentation of profix-gjilan enterprise and its importance**

The organizational structure of the enterprise includes a range of responsibilities, from the lowest levels to the highest levels of management, from the most basic units

of organization of managerial activities to the enterprise as a whole. In larger companies, the ranges of responsibilities are longer. Today, many powerful global firms are calling for decentralization to be as effective as possible, but at the same time looking for methods and models that can provide information to senior management. The more decentralized the enterprise becomes, the greater the role and importance of liability accounting.

The organizational structure of many companies has similarities. In manufacturing enterprises the organizational form of departments is such that each includes different functions. Thus we can count the supply sector, manufacturing, commercial or sales sector, accounting and finance sector, human resources sector, etc. This organizational way enables employees to specialize in their job tasks.

Also, this way of division by departments, organizational units helps in the process of control and installation of boundaries of managerial responsibility. Enterprises use different names for organizational forms such as sectors, subsidiaries, product lines, sales sectors, etc. This, in a word, means: segment so that the organizational unit within the enterprise can be described. For this reason, enterprise segments are described as places of responsibility.

Regarding the autonomy regarding the formation of prices between the centers of responsibility during the exchange of material goods, it is imposed as a need that senior executives, managers if they can intervene in cases when problematic issues arise, between the supply center of responsibility in relation to exchange price. In theoretically decentralized companies, no pressure should be allowed on individual centers, but the modern practice of business management would not allow the cooperation between the centers of responsibility to be terminated in the long run.

As for the enterprise in question, we have not yet encountered the practice that the division dealing with façade and other finishing works in construction, allow the centers of responsibility that tile adhesive or habrib of various types be supplied by other suppliers. In the literature we encounter other concepts, it is that of the group of authors who are supporters of the concept of decentralization and according to which the enterprise must at all costs defend the concept of decentralized organization, even when it comes to reducing the result financial.

If at all costs the solution is imposed by senior managers, of course without the right any responsibility center would reduce the financial result, would demotivate the manager and employees, would lose the creativity in this responsibility center. Accountability centers should be seen as independent units in decision making, but their decisions will be consistent with the long-term objectives of the company as a whole.

### **Measurement and evaluation of segment success**

Measuring and evaluating the success of segments is one of the highest priority tasks of senior management, because setting standards for measuring and controlling the work of division managers is a very difficult task, because the methods of measurement and evaluation differ from one manufacturing enterprise to another manufacturing enterprise due to the specifics, the impact of external and internal environmental factors, the resources available to the enterprise itself, etc. Also, the determination and evaluation of results vary between centers of responsibility within the enterprise

itself, depending on whether it is a spender, an investor or a profit center. Cost centers are important for the production of a product. The evaluation of these centers is done by comparing production costs, measuring these costs with the average of the industry branch, where the enterprise competes, comparing production costs with the forecasted and realized norms. Setting realistic standards, objective cost estimation, whether product or general, also aims to verify the set standards, which are in line with the long-term objectives of the enterprise<sup>2</sup>. The fact that in practice we encounter cases where we have common costs associated with several products, can cause serious difficulties in determining the actual costs of individual cost centers. The division of costs into products is often done arbitrarily, using different "keys", because in principle, the specific positions of the definitions of these costs can neither be defended nor rejected. But when it comes to measuring the performance of managers it is good that these costs are not taken into account, because they can lead us to inaccurate indicators. Only those expenses that management can influence should be considered. When it comes to common expenses related to cost centers, they are divided based on several parameters and distributed arbitrarily, but which aims to provide a realistic picture of the business of the center of responsibility. The problem of shared costs and their division between products, facilities and responsibility centers is one of the main concerns of managers, but also one of the long-term goals and objectives of managerial accountants to find the most modern forms and ways to measure them.

### **The need for information as a precondition for the success of Profix Gjilan Enterprise**

The main purpose of the formation and existence of enterprises is profit. Managers need information for each segment of the enterprise, in order to take measures and activities to improve the quality of business. This information about enterprise segments helps managers to:

1. Planning and allocation of funds. Managers must know how successful the individual segments are, in their activity in order to determine the business goals in revenue, in order to allocate funds to those segments, which have greater profit potential. If one production line is more profitable than the other, then overall profitability can be increased by allocating larger production capacities to production lines with profitable products.
2. Control of activities (business). It means the business of the segments and when the revenues decrease, the costs increase; in a word, to see which segments of the enterprise work below the expected efficiency. This data on enterprise segments enable managers to close a non-profit segment or analyze the reasons for the failure of the segment in question.
3. Evaluate the success of segment managers. Managers are responsible for the segments of the enterprise they lead, the success of the segments provides them with a basis for assessing their capabilities.

### **Forms of responsibility centers**

The forms of responsibility centers in the accounting literature are classified in differ-

ent ways, depending on the forms of authorizations of managers, their responsibilities and opportunities for a better control of the business of the enterprise. Responsibility centers are part of the enterprise where cost, revenue or investment controls are performed.

Enterprise segments can be analyzed: as profit centers, as investment centers and as cost centers.

The profit center is a segment of the enterprise, which generates income and creates expenses. Examples of for-profit centers include product lines, sales sectors, retail. Profitable centers are initially evaluated according to their profitability. The revenues and costs of each segment are first analyzed with the planned results, then these data are compared with the results of previous years, with the profitable centers of the enterprise, etc.

Investment centers in reality are profitable centers, for which the management has objective possibilities to measure the cost of assets which is used in the business of the enterprise<sup>3</sup>. The success of investment centers can be assessed by using the measure of return on investment. In practice, the margin of the segment is used in proportion to the average of assets (assets/assets) used by the segment.

To show the difference between investment centers and other for-profit centers, we will analyze the example of a hotel and the coffee shop within that hotel.

Both the hotel and the coffee shop are profitable centers. The hotel is an investment center because the management has data on the tools used for the hotel business. Although it can be thought that even for the coffee shop data can be provided on the tools it uses, its space within the hotel, but some other indicators can hardly be compared. Thus e.g. the coffee shop utilizes very little land space, the hotel building and parking lot, the dining hall, the guest lounges. For these reasons the coffee shop can be analyzed as a for-profit center and not as an investment center.

In the accounting literature and practice there are the following forms of liability centers: cost centers, revenue centers, profit centers and investment centers. We will stick to this division, for the reason that we consider it more inclusive.

*Centers of responsibility according to the object of responsibility*

Cost center	Revenue Center	Profit center	Investment center
Holds responsible for	Holds responsible for	Holds responsible for	Holds responsible for
Cost	-	Cost	Cost
-	Income	Income	Income
-	-	Profit	Profit
-	-	-	Profitability rate of
			Investment

**Internal prices and economic relations between Profit enterprise units – Gjilan**

The formation of selling prices of products and services in the market economy, which is characterized by a very strong competition between market participants, makes the decisions taken during the formation of selling prices to be considered as one of the most responsible decisions, by own managers.

### **Successful pricing policy is based on three main pillars:**

The first: - if the selling prices of our enterprise are realistic, acceptable to consumers and competitive; we can say that the enterprise meets the needs and requirements of customers at real prices. The consumer is willing to pay compensation for the product they bought, if the product based on quality and price is acceptable to him, or to pay at a reasonable price for what he buys.

Second: - if the prices offered in the market are based on the real costs of production or service offered in the market, the enterprise will achieve its objectives, will ensure a profit which will increase its financial performance, AND

Third: - Competition through market offers and costs of production or service, affect the formation of the selling price of the effects. We should also not forget the influence of external environmental factors, specifically the economic policy measures of different countries that through different laws and regulations, different taxes and fees affect the pricing of certain products.

For the conception of pricing policy and decision-making, in relation to price formation, it is important to know the components in pricing and their impact. Pricing policy factors are:

1. Request,
2. Competition on the supply side,
3. Economic policy and other state measures, and
4. costs.

Rational pricing policy implies the application of each of these factors.

In the following we will address the impact of costs on pricing, the ratio between the supply of raw materials and semi-finished products between divisions, the impact of policies on pricing between divisions within the company, and the cases where a division receives decision to supply effects from firms outside the company. However, the main basis that determines the price level is costs and revenues. The role of management accounting is very large and is a key tool that management uses when determining the selling prices of products and services.

When forming prices, it should be borne in mind that the price must cover the average total costs. In case of non-utilization of capacities, it is acceptable to accept offers, the price of which covers marginal costs (variable costs per unit). In countries that have inflationary movements, while our effects are sold on credit (on credit), it does not mean that then it is necessary to adjust the selling prices.

The following four questions can be asked about the pricing and business life of the enterprise:

- What prices to offer with our products,
- Will the prices offered to us for our products be accepted,
- How to form internal prices in order to decentralize the planning and control of the business result of the enterprise, and
- How to address the effects of the inflationary environment on enterprise costs?

Regarding the first question in the role of the enterprise as a price proposer in the part of production based on orders. When accepting an offer for the production of a custom product, in practice the concept of full product prices is usually used, or as it is known in the literature, the formation of prices according to the "cost plus" method. Pricing based on this method is not difficult, so, based on the specific order we, based on the delivery note for raw materials have the direct costs of the raw material, then

the working hours are calculated, directly needed for the special order, and average overall costs. This should include the fixed costs required for the ordered production. In the second question, we have to answer whether the prices that are offered to us for our products or services will be accepted. To accept the offer, we have to rely on the relevant marginal costs, respectively costs which would not exist if we did not accept the offer. It is important in this case to apply the contribution (marginal) result method, which in reality is to provide data on variable (marginal) costs, per unit of production or service.

The formation of internal prices is closely related to the possibility for investment or profitable centers within an enterprise, in addition to external sales, to make sales even when the valuation is made on the basis of prices other than the cost price.

The inflationary environment also has an impact on pricing policy. In practice, regarding this problem, we have the following solutions:

- the first group includes those enterprises that when setting the selling price take into account the inflationary movements from the provision of factors of production, sales to collection of claims,

- in the second group of enterprises we are dealing with the leveling of prices of certain products according to the inflation rate, and

- The third group of enterprises includes those enterprises which link the formation of product prices and effects with convertible currencies. In these cases, even when selling their products and services in the outgoing invoices write the clause, that on the day of payment will be valid the price of the convertible currency that is listed on the sales invoice itself. This means that in the formation of selling prices should be based on the concept of reproduction, and not on historical (nominal) costs.

This way of price formation thus, based on the average variable costs (marginal) and the average total costs, should be applied for internal and external needs.

### **Regarding transfer pricing, the following methods are possible:**

1. Variable or total costs: - During the implementation of this method, in total costs, in addition to variable costs, the allocation of general fixed costs will be made.

2. Method "costs plus compensation for profit": - In this case the sales division will realize profit, but it will be ascertained based on the given formula, which would create conditions by which managers will lose motivation. If the formula is conceived as a fixed percentage in costs, this will encourage the creation of unnecessary costs to increase profit. This is a potential problem of all cost plus methods.

3. Market price: - When there is a market price for certain products, this may be the optimal solution for the formation of transfer pricing. The use of market prices does not eliminate conflicts between divisions. The market price does not exist if the goods are transferred from one division to another as unfinished products.

4. Contracted prices: - The fairest decision would be if the parties talk about prices. These conversations can take a long time and be repeated. If the prices of the goods that are the subject of the negotiations change frequently, then the contracting parties will be forced to meet and discuss the price change.

The exchange of products and services between organizational parts (transfer pricing) is of great theoretical and practical importance and is therefore treated by many local and foreign authors. Setting these goals is a very complex problem for which universal solutions can not be provided for all companies, so it is necessary for each

company to analyze its chances and opportunities. The exchange of products and services between companies operating at national borders is not as complicated as with companies having subsidiaries in different countries. It is interesting to note the opinion of an author, who clearly presents what strategy the company should use when exchanging products in the domestic and foreign markets:

**a. In the local market:**

1. Evaluation of work results is performed in order to accurately evaluate the effects of specific organizational parts.
2. Managerial motivation in order to ensure perception as a whole, with the profit center for each organizational part.
3. Defining the goals and separating the production so that the expenses and revenues, which should be earned by the buyers, can be better accentuated.
4. Keeping account of market conditions in order to stimulate internal competition, so that the enterprise in some way maintains balance with external market factors.

**b) Exchange rates in international transte pricing are important, due to:**

1. General financial results of the enterprise,
2. Competitive position of organizational parts in foreign countries,
3. Evaluation of the results of organizational parts in foreign countries,
4. Restrictions imposed by foreign countries for the transfer of profit or dividends,
5. The need to have significant cash flows in the organizational parts in foreign countries,
6. Maintaining good relations with the local government of the organizational part of the foreign country.

Multinational enterprises in addition to problems in the field of customs and taxation, they have other problems related to restrictions on profit sharing and capital transfer, other restrictions which are related to the protection of the environment and other problems.

## **Market-based prices and negotiations**

Market-based and negotiated prices represent the best and most acceptable approach to exchange between enterprise divisions. The main basis for cooperation between liability centers based on the principle of profitability, are market prices. Negotiated prices are used when enterprises exchange products that we do not encounter in the market, it is more applied when enterprises exchange unfinished products, which are not traded in the market and therefore they negotiate the exchange prices of material goods through negotiations. . The market price enables an equal competition between the different divisions of the enterprise, for the realization of the greatest possible profit. In practice, we encounter cases where only revenue centers present profits.

However, the products that those centers sell are produced by other centers. Also, market prices enable a real competition between different sectors in the company as a whole, and highlight all the deviations from not achieving the objectives within the center. On the contrary, the losses created by one center are covered by the profit of the other center, one center supplies material goods at a higher price than the other center, in order to enable that center to cover the losses.

The implementation of market prices is an indicator that the company has achieved

a high degree of decentralization. This form of exchange also enables a more efficient control of the business process in each center of responsibility.

The market price enables the control of the exchange of products and services in conditions of free market functioning, in conditions when we have a decentralized organizational structure, where the centers of responsibility really act as separate enterprises, which cooperate with each other. , only on the basis of free competition which is a sound basis for profit maximization.

Another condition that enables the increase of success at work is the fact that the centers of responsibility, although they cooperate on the basis of market economy, they have more information about the products, semi-products or services offered by the other center, than in cases when it is obliged to supply them from suppliers outside the enterprise.

Also, the time factor, the cost of transportation are often dominant factors that facilitate cooperation between centers of responsibility.

### **Market based prices**

Enterprises are determined to sell products or services at market-based prices, in cases where there is an external market for these products or services and that market is fully competitive, the correct transfer price is the market price. In this case the company sets the internal prices in the height of the external prices, according to which it sells to external buyers.

However, it should be noted that in the market for the same product or service, we encounter different prices offered by different companies. For example, a market price may be determined on the basis of a similar product if a completely identical product is not found on the market. The market price can be determined based on the prices encountered in different price lists.

But in this case, many price lists of different manufacturers must be taken and compared, and an average price must be taken which the enterprise will use as the market price, when selling products within the divisions of the enterprise.

### **When applying the expression given in exchange prices again then the following should be taken into account:**

1. The liability center must be supplied from within, until the liability sales center will meet all the conditions regarding the price, and is ready to carry out internal realization;
2. If the liability center which sells, is not able to offer the same conditions, ie price as offered by external suppliers, then the liability center which purchased, has the right to be supplied by external suppliers;
3. The liability center which sells, has the unreserved right to refuse internal transactions, if it benefits from the sale to an external buyer;
4. A fully independent oversight body should be established, which will help to resolve ambiguities between specific centers of responsibility regarding exchange rates. When companies use market prices as a basis for exchanging products between different centers, they must first have accurate information about the prices offered by suppliers, in cases where the company sells its products or the prices offered by com-

petitors in cases where the company sells its products or services. The time factor, transport prices in case of supply or sale outside the enterprise sectors should also be taken into account here. In practice, we encounter cases when the technological processes are such and make it impossible for the company to use market prices between its internal sectors. In cases where the dependence between the centers of particular sectors is not high, then the selling or buying price of the market leads to optimal solutions.

Accounting practice and theory recognize many different forms of transfer pricing, when exchanging goods and services between centers of responsibility. These different types of transfer pricing can be based on:

1. Market prices as a basis for exchange,
2. Costs as a basis for exchange,
3. Exchange prices formed on the basis of a contract between profitable centers.

In the first case, market prices serve as the basis for the exchange of products and services between different centers within the enterprise. When applying this form of exchange, the selling prices are the same for both domestic divisions and other external buyers.

Theoretically this would probably be the fairest way when exchanging goods and services within different for-profit centers. However, during the practical use of this method we encounter the cases when for this we do not have market prices for certain products or services, and in this case we have to get the prices of analogous products or services that actually distort the reality of the functioning of the mechanism. market. Another problem we encounter in practice, when using this method is the subjective side of the managers of special centers, who in most cases prefer to exchange products and services between different sectors, within the company rather than out. out of it. The managers of the centers cooperate with each other and try to help each other because, a center that today can sell its products outside the enterprise, it has the opportunity to supply the raw materials inside the enterprise from another sector.

In the second case, costs as a basis for exchange can be said that even here when using this form of exchange can be used only variable costs and fixed costs of production. Also here we must emphasize whether the real costs will be taken or will go with the standard costs.

In the third case, exchange prices formed on the basis of the contract between profitable centers, as a basis when applying this method of exchange between centers, can be taken market prices, or cost-based prices.

No matter which method is used, that form of cooperation which realizes the greatest profit of the company as a whole on the one hand, and maximizing the revenue of each profit center, should be supported.

Senior managers must continuously monitor the results of the exchange between profit centers, so as not to come to the situation that a profitable center realizes very high revenues at the expense of other centers during the exchange of products and services, that the enterprise on the whole bring him more loss than gain.

**For the determination of the market price we will use the formula shown before for the determination of the price.**

**For example:**

Price per exchange =	Variable unit costs	lost percentage in + transfer per unit from external realization
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**The remaining realization loss per unit will be calculated**

Production selling price Y	1,00 euros
Variable production costs Y	0,50 euros
Remaining production realization Y	0,50 euros
Production quantity e Y	4.500 euros
Whose production is abandoned	4.500 euros
Total residual loss of realization	2.250 euros

2.250 lost residue of production realization of Y	=	0,225 the lost remnant of realization per unit of new production.
10.000 Units which would be produced in the profit center "B"		
Exchange price	0,50 variable cost= 0,725 euros	÷ 0,225 lost waste e implementation

This practically means that the set exchange price can not be lower than 0.735 euros. for a new production unit. Profit center "A", can set a higher price if they want to increase its profit. Also, I can not set prices lower than 0.735 euros, in case it sets lower prices it means profit reduction.

If the profit center "B" is not satisfied with the price of 0.735 euros, then this division can supply these products from other suppliers outside the company, but provided that the supply is not equal to or higher than 0.735 euro. In this case, the division that sells and the division that buys would also lose.

If the profit center "A", in our case, possesses unused capacity then the determination of the price per exchange can be done based on the calculation of variable costs + profit. The lowest selling price may be 0.500 euros (as much as variable costs per unit of production).

**Cost-based prices**

In the theory and practice of liability accounting, as a fairly widespread practice is the exchange of effects between liability centers that is based on costs. Especially when market prices are inadequate and you can hardly rely on them. In the pricing method when transferring effects between different divisions within the parent company, the key is that pricing is based on full cost plus contribution margin, which is similar to the "cost plus" method. However, in this case we say that we are dealing with the full price. In practice, the incomplete cost-based pricing method can often be used. The cost-based transfer method can be used when it comes to the actual cost price,

the planned cost price. The margin rate to be increased depends on the division's economic activity and external market prices. Based on this method, prices are based on variable costs. Pricing based on costs is thought to be the only procedure. This procedure in itself hides some major shortcomings, which can be illustrated with the example which we will mention below.

In this case, the Enterprise PROFIX – Gjilan, has two separate factories, one of which is engaged in the production of material - various abrasives, and the other for painting facades with habrides. The façade department is supplied with habri raw materials by the production department, but if they cannot agree on the prices, they can supply the raw materials from other manufacturers as well. However, in the practice of operation of medium and small enterprises, not only in the territory of Kosovo but also beyond, it is still not practiced that enterprises supply the same products produced within different divisions by other manufacturers. This new form of cooperation would create a genuine competition within the company, between the sectors so that the façade sector would put constant pressure on price reduction, increase the economy and labor productivity of the production sector, and this so-called internal competition, would serve as a basis for correcting "bottlenecks" in this sector which would create a sound basis to fight competition outside the enterprise. But the same thing would happen, if the production department would engage the facade department to carry out works related to the painting and maintenance of production facilities. This means that we still do not have a professional and responsible approach, within the various divisions of the enterprise.

### Total costs (full)

The full cost transfer price includes the total costs for the production of raw material, semi-finished or finished product and the contribution margin or calculated profit. The internal price includes all types of costs, regardless of the fact that the enterprise destines the products for the other department, within the enterprise itself. At first glance, this seems illogical, but the practice and theory of management accounting tells us something else. If the unit for the production of raw material production X, sets the price of 0.50 euros per kilogram, while the department which deals with the final works supplies the same raw material from another enterprise at a price of 0.45 euros for kg, then this department has economic reasons to make a decision to supply the raw material outside the enterprise from another supplier. If this department consumes 50,000 kg during the year, then it can be seen that it realizes a profit of 2,500.00 euros. The same profit will be realized by the production department, if it provides sales outside the enterprise of a buyer of 2,500.00 euros.

Chart

				Sale	Internal sales
Department	Type of material	Quantity / kg	Price	Internal price	The difference
Department - production	Pofiks,010	50.000	0,50	0,45	2.500

Chart

## Construction department

		Internal supply		External formula- tion	The difference
Department	Type of material	Quantity / kg	Price	Internal price	
Reparti –prod- himpantaria	Pofiks,010	50.000	0,50	0,45	2.500

### Disadvantages of this method:

First, it does not sufficiently take into account the elastic effects of supply, respectively the requirements of pricing policy, and are necessary for the adaptation of selling prices,

Second, it does not respect competition, namely that other manufacturers are more efficient than us, and have lower average prices for the same or similar products, which also requires the adaptation of prices calculated on the basis of average costs of general,

Third, it ignores the possibility of correcting the financial result, when accepting the order and below the average average costs, or above the supplementary, respectively variable costs.

However, despite these shortcomings, this method according to the average overall costs has a general application, especially in custom manufacturing.

### Conclusions and recommendations

1. During the study and analysis of the management organization process in both systems; decentralized and centralized we can conclude that enterprises, and in this context the owners of the firm POFIX GJILAN, should give priority to the decentralized model on the one hand, while the control system, in particular internal control to apply in all sectors of the enterprise, as a single and contemporary model for the development of the enterprise and the increase of its performance.
2. Liability accounting is based on the principle that expenditures, investments and revenues create different centers of responsibility and each segment within its competencies of responsibilities, can affect expenditures, investments and revenues. These special centers of responsibility account for expenditures, investments, and revenues, by compiling regular reports in a certain form and within certain deadlines, successively starting from the lowest to the highest center of responsibility.
3. Enterprises are determined to sell products or services at market-based prices, in cases where there is an external market for these products or services, and that market is fully competitive, the exact transfer price is the market price. In this case, the company sets the internal prices in the height of the external prices, according to which it sells to external buyers.
4. During the implementation of the decision - market-based transfer prices are presented in cases when the same products or services are encountered in the market with different prices and quality offered by different companies.

5. In the context of liability accounting, a special role has the system of measuring investment results, using the rate of increase in profitability with the rate of funds engaged. In other words, how much has the rate of return increased from the investments made in the assets of the enterprise (ROI). In addition to profitability, enterprises use operating profit as a measure of investment centers. The significance of operating profit comes into expression when the rate of return can not give us comparable indicators to measure the effect of investment.

6. The objectives of the various centers of responsibility must be in line with the objectives of the enterprise as a whole. There are forms of efficient control of the responsibility centers, where the most important are: objective measurement of the achieved results, comparing them with the planned ones (at the enterprise level) as well as the comparison of the foreseen and the realized objectives in each center of responsibilities.

7. The transfer of products and services between certain centers of responsibility, which is done on the basis of market prices, is considered as motivation for the buyer and the seller, to be treated as independent autonomous divisions.

8. No matter which method will be used, that form of cooperation which realizes the greatest profit of the company as a whole on the one hand, and maximizing the income of each profit center on the other hand, should be supported. Senior managers must continuously monitor the results of the exchange, between the profit centers so as not to come to the situation that a profitable center realizes very high revenues at the expense of other centers, during the exchange of products and services and the enterprise. on the whole bring him more loss than gain.

9. The exchange of products and services between the centers of responsibility of enterprises, which is not very complicated within the state borders. However, the exchange between different centers, within a multinational company causes a serious problem in setting exchange prices, between companies from different countries within a multinational enterprise.

10. If managers in determining the cost of the product, are based on the quantity of production and sales in the short run, then in periods when demand and quantity of sales are high, fixed costs will be allocated to the quantity of products produced and sold and we will have a low fixed cost per unit of production, and conversely, if demand and sales decrease, the fixed costs per unit of production and sales will be high. It is recommended to use longer periods of time when determining the cost of the product.

11. Liability centers should be seen as independent units, when making decisions, but their decisions should be in line with the long-term objectives of the company as a whole.

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# The Right to Family Life of Same Sex Couples in Albania

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## Abstract

Article 8 of the European Convention on Human Rights guarantees the right to respect for private and family life. The European Commission and the European Court of Human Rights have influenced the expansion of the concept of “family life”. Under the Convention, “family life” will constitute not only the relationship between spouses but also the relationship between cohabitants regardless of sexual orientation.

Currently, there is no unanimous position of European states towards recognizing the legal status of same sex couples. States are classified as states that have recognized same-sex marriage, states that regulate registered civil partnership, and states that do not provide for any legal regulation in this regard. Albania is also part of this last group.

The Albanian legislation recognizes two legal forms of family formation, marriage and cohabitation, despite the fact that the latter does not find detailed regulation in the Family Code. Their characteristic is the fact that the Family Code is limited to the recognition of heterosexual relations. Thus, marriage is defined as a legal union between a man and a woman, while cohabitation is a factual union between a man and a woman. Having said that, in Albania, homosexual couples can live together, this is the only opportunity they have to start a family, but they do not enjoy any legal protection.

The purpose of this presentation is to evaluate the possibility of offering legal protection to same-sex couples as well.

**Keywords:** Family life, the European Convention of Human Rights, the European Court of Human Rights, same-sex couples, marriage, registered partnership.

## Introduction

At the present time we do not find a legal definition of the term “family”. When referring to the traditional concept, “family” is composed by a man and a woman who have entered into marriage and their descendants whose personal and property relations are regulated by law. Other concepts such as same-sex relationships and cohabitation have been added to this traditional concept.

Article 8, paragraph I of the European Convention of Human Rights (ECHR) states that everyone has the right to respect for his private and family life, his home and his correspondence. For a long period of time, the European Commission and the European Court of Human Rights have restricted the scope of application of Article 8 of the Convention, only in the context of heterosexual relations. Consequently, homosexual relations did not constitute family life but were included only in the context of private life. The big turning point happened in 2010 in the case of *Schalk and Kopf v. Austria*.<sup>1</sup> In this case, the Court held that a stable homosexual cohabitation is included not only in the context of private life, but also constitutes family life under Article 8 of the Convention, the same as a similar heterosexual relationship. The arguments the Court used were: the change in social attitudes towards homosexual couples that has occurred in many Contracting States in the recent decades as well as the legal recognition of homosexual cohabitation by many Contracting States.

What do we mean by the term “family life”? What are the conditions that must be

met in order for a relationship between two adults to constitute family life? The Convention does not provide us with a definition of the term. Over the years the Court has found itself in a situation where it has to determine on a case-by-case basis whether a particular relationship constitutes family life and whether it falls within the scope of application of Article 8 of the ECHR. From the position held by the Court on various cases, we conclude that the essential ingredient of family life is the right to enjoy living together and to have legal recognition without interference from third parties. However, even in cases where couples do not live together or the relationship does not enjoy legal protection it may also attract the protection afforded by the right to family life. In these cases, the European Court of Human Rights applies a number of criteria (such as duration of the relationship, cohabitation) in order to ascertain whether a given relationship is embraced by the right to family life under Article 8 of the ECHR.<sup>2</sup> In recent years, various forms of homosexual relations have been included in the sphere of family life, such as civil partnership, other forms of civil unions, and same-sex marriage. Nevertheless, the Court notes that Article 12 of the Convention does not impose a positive obligation on member States to recognize the right of same-sex couples to marry. In this context, since there is no consensus among the Contracting States of the Convention, the margin of appreciation of each state is wide. However, the Court has taken a step forward by “forcing” member States to provide for a legal recognition for same-sex couples in order to guarantee the protection of the right to family life for these couples.<sup>3</sup>

The number of states that have accepted same-sex marriage or any other legal institution governing these relationships has increased rapidly.

This adjustment came as a result of the need to adapt to developments taking place in Europe, where facilitating the free movement of persons, including same-sex couples, was a priority issue in the context of family reunification. Legal recognition of the rights of same-sex couples has also influenced the discussion of fundamental human rights in Europe. The protection that different legislations provide to homosexual persons and couples is based on the principles of the protection of fundamental human rights, such as the principle of equal treatment and the principle of non-discrimination. Moreover, it is also related to the fact that persons should enjoy the right to choose the way of life.

## **1. The Factual Family in the Albanian Legislation**

In the last century, family law underwent an almost uniform evolution in the countries of the European continent, as a result of which other phenomena were added to the traditional concept of family, such as cohabitation between persons of different sexes and then cohabitation and marriage between persons of the same sex.

Initially, there was a lack of legal regulation for the institute of cohabitation, then this attitude began to change, both for heterosexual and homosexual couples. Denmark was the first of the Nordic Countries - and the first country in the world - to introduce a registered partnership model.<sup>4</sup> Denmark regulated the registration of same-sex couples in 1989 recognizing them the same rights and obligations as married couples. This decision paved the way for movement around the world leading to an increase in the number of states that acknowledged and recognized homosexual relations.

Currently in Albania, the number of couples who have chosen cohabitation as an alternative to starting a family has increased. The reasons may be related to the avoidance of tradition, the impossibility to enter into marriage because the partners do not meet the conditions required by law for marriage, the avoidance of rights and

obligations provided by the legislation on the institution of marriage, etc. Albanian legislation recognizes and “regulates” the institute of cohabitation in two articles. This is a novelty of the current Family Code. Cohabitation is a factual union between a man and a woman living as a couple, characterized by a common life that represents a character of stability and continuity.<sup>5</sup> Cohabiting persons, husband and wife, can enter into an agreement before the notary where they determine the consequences arising from cohabitation regarding children and property during cohabitation.<sup>6</sup>

In this context we will address two issues:

- a) The right of homosexual couples to cohabit;
- b) The right to enjoy regulation and legal protection of cohabitants.

### 1.1 The Right of Homosexual Couples to Cohabit

The Constitution of the Republic of Albania stipulates that *everyone has the right to marry and to have a family, marriage and the family enjoy the special protection of the State.*<sup>7</sup> From this provision we understand that the legislator with the term family does not mean only the family derived from marriage, leaving room for other alternative forms of family creation such as cohabitation. The legal literature refers to cohabitation outside marriage as cohabitation *more uxorio*, due to the great resemblance to the family derived from marriage.<sup>8</sup>

In Albania until 2003 the institute of cohabitation did not enjoy legal recognition. With the entry into force of the Family Code, cohabitation was also provided, but only for heterosexual couples. From reading the provisions of the code we notice that the legislator has explicitly limited cohabitation in the relationship between two persons of opposite sexes. However, despite the forecast of the FC, homosexual couples can cohabit in Albania, but their cohabitation is not included in the scope of application of the FC. In fact, this is not a problem in practice, as there is no legal act prohibiting homosexual cohabitation. Currently, the only alternative that same-sex couples have to start a family is cohabitation. For years, these couples have been lobbying and asking the legislature to legally recognize their factual existence based on the principle of equality.

We think that the time has come for the FC to intervene in terms of recognizing and regulating homosexual cohabitation. Specifically, the first part of Article 163 FC should be modified by providing for cohabitation as *a factual union between two persons...* without specifying their gender. The law, of course, can choose the way to legal recognition of family relationships, which retain the connotation of a continuous relationship between at least two people, regardless of their diversity, without having to ask the question what sex nature has assigned to you.<sup>9</sup> We agree with the position taken by the European Court of Human Rights in the case *Oliari and others v. Italy*<sup>10</sup> in determining that Italy failed to provide legal protection to same-sex couples in relation to guaranteeing basic needs, relevant to a couple in a stable relationship, as it does not provide for any legal arrangements for same-sex couples to guarantee the fundamental rights of individuals included in this group. The court considered that a form of civil union or registered partnership would make the relationship of these couples legally recognized and notes that 24 out of the 47 member States of

<sup>5</sup> Article 163, Family Code of the Republic of Albania, approved by Law no. 9062, dated 8.5.2003.

<sup>6</sup> Article 164, Family Code of the Republic of Albania, approved by Law no. 9062, dated 8.5.2003.

<sup>7</sup> Article 53, Constitution of the Republic of Albania, approved by Law no. 8417, dated 22.11.1998.

<sup>8</sup> Omari, S., *E drejta familjare*, first edition, Botimet Morava, Tiranë, 2010, p. 41.

<sup>9</sup> *Trattato di diritto di famiglia*, directed by Giovanni Bonilini, volume IV, *Unione civile e convivenza di fatto*, UTET, 2017, p. 11.

<sup>10</sup> *Oliari and others v. Italy*, (Applications no. 18766/11 and 36030/11, 21/10/2015).

the Council of Europe have offered legal recognition to homosexual relationships. The court cannot force Contracting States to allow same-sex marriage, but on the other hand States must provide protection and legal recognition to same-sex couples. This also explains why some states only regulate homosexual cohabitation as an alternative when marriage is limited to heterosexual relationships.

## 1.2 The Right of Cohabitants to Enjoy Legal Settlement and Protection

Cohabitation does not guarantee legal protection to partners. The FC provides for the possibility of entering a cohabitation contract that must be concluded before the notary, and this is limited to heterosexual couples. But, the partners cannot be legal heirs of each other (except the case when the surviving partner is incapable to work and at least one year before the death of the other partner leaved together with him as a dependent member of his family).

In our opinion there are arguments for and against the possibility of providing legal regulation for cohabitants of the opposite sex. First, we must keep in mind that legal regulation and legal protection come as a result of the tendencies of society and the recent trend is the regulation of relations between partners without state intervention as it seeks the freedom to leave a relationship at the moment that it no longer has feelings, without falling prey to other mechanisms or procedures that must be followed to end it. Second, couples are oriented towards contractual regulation in cases when they deal with property issues. But, on the other hand despite the importance of the will autonomy we should not overlook the fact that this alternative does not favor, on the contrary it is at a disadvantage of the economically weakest cohabitant. The question arises, what happens to the cohabitant who for a long period of time, through his unpaid work, has provided economic benefits to the other cohabitant? In our judgment, in these cases we are in conditions of benefitting without legal reason.

But, the same arguments cannot be used in the situation of same-sex couples, for whom the legislation does not provide any kind of legal protection. Currently, we are in a situation of a differential treatment for these couples, based on the sexual orientation of the partners. We think that it is necessary to take actions now and not to wait the moment that ECtHR can find the lack of legal recognition of same-sex couples to be contrary to article 8 of the ECHR, as has happened in other countries such as Italy,<sup>11</sup> Greece,<sup>12</sup> etc.

Since Albanian legislation provides legal protection to heterosexual couples through the institution of marriage,<sup>13</sup> for homosexual couples it may provide for through the institution of cohabitation.<sup>14</sup> In this way, we do not break away from tradition, and on the other hand we do not discriminate against homosexual couples who want to start a family.

## 2. Family Code v. Special Law

In recent decades society has distanced itself from the traditional way of determining

<sup>11</sup> Oliari and others v. Italia, (Applications no. 18766/11 and 36030/11, 21/10/2015).

<sup>12</sup> Vallianatos and others v. Greece, (Applications n. 29381/09 and 32684/09, 7 November 2013).

<sup>13</sup> “Marriage can only be entered into between a man and a woman”, Article 7, Family Code of the Republic of Albania, approved by Law no. 9062, dated 8.5.2003.

<sup>14</sup> Ratzenbock and Seydl V. Austria, (Application no. 28475/12, 09/04/2018). The exclusion of heterosexual couples from the right to register cohabitation should be considered in the light of the whole situation that led to the legal recognition of cohabitation. In Austria the registered partnership was envisaged as an alternative to the right to marry of homosexual couples, as these couples did not enjoy the right to marry.

the rights of persons based on the status they enjoy and has oriented towards the freedom of partners in determining the legal consequences arising from the relationship between them. On the other hand, the “struggle” of same-sex couples to be considered families and to have legal recognition through the institute of marriage or registered civil partnership makes us think that the “status” in a relationship, at least in terms of legal consequences, continues to matter.

In our opinion, the lack of legal regulation for cohabitation indicates the intention of the legislator to orient couples towards marriage. Failure to regulate the consequences of cohabitation was not a problem as long as the right of homosexual couples to enjoy legal protection was not discussed. Today, the situation has changed. Most countries in the world have accepted and offered legal protection to homosexual relationships. This legal recognition is realized within the framework of human rights to end suffering from discrimination.

We think that the Albanian society is currently not ready to change the traditional concept of marriage as a relationship that is created between a man and a woman. Nevertheless, it must legally acknowledge and regulate homosexual relationships. Homosexual couples, like heterosexual couples, constitute families and should enjoy legal recognition.

Regarding the Albanian legislation, would it be better for the legislator to regulate the institution of cohabitation by intervening in the Family Code or draft a special law?

We think that cohabitation is an institution of family law and therefore should be regulated in the Family Code, just like marriage and any other institution of family law. If the legislator would choose regulation by special law, cohabitation would be differentiated from other institutions. We should not ignore the fact that cohabitation is gaining ground, as a result of the ever-increasing number of couples who choose to cohabit, and over time the legal status of cohabitation with that of marriage can be equated.

### **Conclusions and Recommendations**

Despite the social developments and changes that have taken place in recent decades, if we refer to the ways of starting a family, the institute of marriage occupies the leading place.

In recent years, many countries have taken steps towards legal recognition for same-sex couples as a result of the European Court of Human Rights’ stance. Unfortunately, we cannot say the same for Albania which does not offer any kind of legal recognition for same-sex couples. Despite this, there have not been any cases on same sex topics submitted to the European Court of Human Rights against Albania.

In our opinion the time has come to respond to non-traditional forms of family creation. It is the task of the legislator to maintain a balance between the traditional family, its values on the one hand and new forms of family creation on the other. Albania needs to reform its domestic legislation, align it with reality, accepting today’s family life and providing legal regulation for all relations in the couple, regardless of the sex of the partners.

It’s time for same-sex couples to have the right to register their unions. We think that a detailed legal reform and regulation is needed in the Family Code regarding cohabitation, including the conditions for cohabitation, the rights and obligations of cohabitants and the consequences in case of termination of cohabitation.

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