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"SOCIAL AND NATURAL SCIENCES – GLOBAL CHALLENGE 2024"
(ICSNS XXXVII-2024)

Madrid - 12 November 2024

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Edited by: Dr. Lena Hoffman

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Oral literature and critical thinking of the Renaissance

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Abstract

Our renaissance writers, influenced by the needs and demands of the movement itself, have made an invaluable contribution to language, literature, history, the collection of oral literary heritage, journalism, organizational matters, etc. All the cultural activity of the Renaissance was part of the strengthening of the consciousness of national unity, an ignition of the fighting spirit for the liberation of the country from the centuries-old Turkish yoke. The renaissance became a driving force, feeding with vigor and courage, high literary ideals created for the realization of the ideas of freedom. Its connections with the old Albanian literature, even though we can say that it did not have strong connections, even though it relied on this literature developed before it, we can honestly call it new literature in terms of content, themes, form, but also for the strong influence it had on the Albanian population. For centuries, from generation to generation, the Albanians created and transmitted from the earliest times an excellent oral-literary tradition which took off during the Renaissance period, poetry in particular, perpetuating wars and other life events and keeping alive revolutionary and national spirit. Jeronim de Rada, Zef Jubani, Ndokë Ilia, Gavril Dara (Junior), Thimi Mitko Kamarda, Spiro Dine, Luigj Gurakuqi, Ndre Mjeda, Naim Frashëri dedicated a special importance to the work with the Albanian language to the general cultural activity. Regardless of the time of their appearance and the lack of a tradition of Albanian critical thought, the renaissanceists made an undeniable contribution to the development of critical thought of oral literary phenomena, becoming the foundation and encouragement of the expansion and deepening of critical thought about them..

Keywords: renaissance, oral literature, language, work, song, thought, critic.

1. Introduction

Our renaissance poets, influenced by the needs and demands of the movement itself, have made an invaluable contribution to language, literature, history, the collection of oral literary heritage, journalism, organizational matters, etc. All the cultural activity of the Renaissance was part of the strengthening of the consciousness of national unity, an ignition of the fighting spirit for the liberation of the country from the centuries-old Turkish yoke, the extraction of the broad stratum of the people from that miserable state and the taking of the Albanian culture.

Although Albania was in difficult conditions, when no school in the Albanian language had been opened, when *"Turkey does not want the ingenuity of the Albanians and the birth of Albania again, if only to keep it asleep and blind``*[1], it could not be expected for literature to be created outside of these conditions, for creators to express their subjective world or with their fantasy to get away from the reality of the time, one of the typical features of European romanticism.

The renaissance became a driving force, feeding with vigor and courage, high literary

ideals created for the realization of the ideas of freedom. Its connections with the old Albanian literature, even though we can say that it did not have strong connections, even though it relied on this literature developed before it, we can honestly call it new literature in terms of content, themes, form, but also for the strong influence it had on the Albanian population.

2. The premium oral literature and the flourishing ground of Renaissance literature

For centuries, generation after generation, the Albanians created and transmitted from the earliest times an excellent oral and literary tradition, which took off during the Renaissance period, especially poetry immortalizing wars and other life events and keeping alive the revolutionary and national spirit.

It was the reflection of the fate of the Albanian people over the centuries, a small country in a region of Europe, which for political, historical, economic and geographical reasons remained the most underdeveloped while the other peoples of Europe enjoyed the splendor of their cultures. theirs and the heritage enriched and filtered through the centuries. *`In the struggle to survive as a nation, after slow and difficult beginnings, Albanian literature, like a wet bush, took root in the rocky soil of its homeland, but the roots that to be cut and cut from time to time.''*[2]

In the eighteenth century, the Ottoman Empire underwent a gradual economic and political decline, accompanied by a slow but continuous territorial disintegration.

Meanwhile, in many small nations of Northern Europe, the romantic movement had awakened the awareness of national identity, while the Albanians would not have any special echoes. The cultural awakening encouraged and implied the need to use Albanian in all areas of life.

This difficult social and cultural situation in Albania for almost five centuries influenced that even the few works and writings that were published before 1836 were known by a limited number of people, so they remained anonymous for many authors who were involved in writing.

The early traditions of Albanian literature of the sixteenth and seventeenth centuries, closely related to the Catholic Church, have long been lost. The first and sure supporter of every writer of the Renaissance, oral literature would feed a lot of themes, motives and ideas in their literary creations, so even the renaissance writers would have oral literature as a point of reference. This is how Angelo Basile, Francesco Avati, De Rada, Schiroi express it by collecting it and writing for them. But, even indirectly, the creations of Dara, Naim Frashëri, Zef Serembe, Andon Zako Çajupi were created according to her spirit and model.

Problems for oral literature, written literature or the literary art of the renaissance are generally encountered in articles published in periodicals, newspapers or prefaces in special publications, since they: "*...lived and created in very specific conditions, except Jeronim de Rada e Luigj Gurakuqi*''.[3]

In today's literary science, even though some of the opinions expressed by the

[2] Robert Elsie, *History of Albanian literature*, Tirana, 1997, pg. 7.

[3] J. de. Rada, *Principles of Aesthetics*, Naples, 1861; Luigj Gurakuqi, *Verse in the Albanian language,* published with sequels in the magazine „Albania" in 1904, while as a separate publication in 1906.

renaissance writers do not present any special theoretical importance and value, in general, they are worth as the first theoretical opinions for the problems of oral literature and for the history of Albanian literature and Albanian critical thought.

3. De Rada and literary art

Among the first Renaissance representatives who dealt with some of the most complex issues of literary art, is Jeronim de Rada. *Principles of Aesthetics*, a work he published in 1861, he presents his philosophical, political, literary, aesthetic, ethical, sociological ideas and thoughts.

Regardless of any of its shortcomings, such as fragmentism, the author has tried his best to organize his views into a single system, arguing them logically. The fruit of a long literary and life experience, their importance is great for critical literary thought and the history of Albanian literature.

Professor Alfred Uçi, in an article on the author of the famous *Milosao*, states that De Rada: *"Poetry must not only accurately present the plastic forms of things, but must also use all other non-figurative, expressive means of speech, musical sound, its rhythmic, onomatopoeic, to express something deeper*".[4] A fan of the Homeric poems, the Iliad and the Odyssey, De Rada learns the importance of the novel as a literary genre.

For De Rada, folk songs are called rhapsody. But, as far as their terminology is concerned, it is not always clear. So "rhapsody" - rhapsody, I use it in today's sense of song, folk songs. According to him, the term "song" can also be used for written creations, perhaps even the title he gave to his work, Songs of Milosao, is related to this opinion.

Compared to the rhapsody, the song, according to him, has a wider meaning, even though they can hardly be separated. The term "poem" means a longer poetic creation.

Among other things, De Rada points out the great political and social role of art in the political life of the time. The idea that folk songs are a simple reflection of our lives proves that they were subjective literary creations and not just stories. Even when he talks about singers and their importance, he calls them *"creators of these illusions"*.

Folk songs, according to him, describe the events so truthfully that no story can surpass them, which deals with the same argument. They are the most faithful reflection of the life of the people from which the entire history of the past of the Albanian people can be learned. So, as we can see, there are contradictory opinions regarding this matter.

In addition to the historical and national value that folk songs convey, the first thing that stands out is his assessment of literary and artistic values, calling them: *„one of the most beautiful among the epics of other peoples"*[5] In a call to the colleagues and readers of the magazine „Flamuri i Arbërit'' in the contribution that had to be made to the collection of this rich oral and literary heritage, he states that:''... This is an excellent heritage of all of us.''[6].

In the preface to the rhapsodies of 1883, he compares the Arberian folk songs with the literary creations of Europe at that time: *„Indeed, today they are a living example of*

[4] Alfred Uçi, '*„Jeronim de Rada on Art" in Principles of Aesthetics, „Drita"*, 14 April, Tirana, 1974, pg. 12.
[5] Still there, pg. 12.
[6] Jup Kastrati, *The two prefaces to De Rada's rhapsodies, "Shkodra", no.*, 1966, pg. 309.

European poetic art.''.[7]
In a conversation with a German researcher from Hanover, Herman Kaster, a collector of folk songs from different peoples, it is no coincidence that De Rada proudly states that: „The daring spirit and new freshness of them (of Arberian folk songs) seemed to him that raised them even higher than those you had known and heard; that's why he encouraged me to bring them to the light so that others can see them''.[8]

4. Other authors collecting popular songs

Another passionate collector of folklore heritage and appreciator of literary creativity in general, of folk songs as literary and artistic creations that express the Albanian world and spirit, is Angel Bazile. He lived in the years 1813-1848 and Cesare Lombrezo considered him one of the five most cultured arborists of the time, together with Jeronim de Rada.
He adds the opinion that the folk songs should be published in the best language and in the oldest form found among Arberians, since some villages had confused their language. Therefore, he proposes that they be published in the language of the village of Plataci, a village in which the languages were better preserved and preserved in their most complete form and the language was older and purer.
Jeronim de Rada informs us about the precious contribution of St. Basil first in the Introduction and then publishes it in the Songs of Milosao. In a letter sent to Jeronim de Rada, he says that Plataci's songs stand out: "both for the direct verse, free, so strongly pleasant, truly Albanian and of a completely ancient atmosphere, as well as for their perfection and for the language the truth of Albanians so generous across the sea, where we came from." His goal was to publish them as soon as possible, because only as such, published: *"Arbëresh songs will be a monument, which, like the pyramids, will stand high among our people in the eyes of foreigners*."[9]
Another outstanding figure of the National Renaissance, Zef Jubani, worker, ideologist, folklorist, writer and economist, is known for publishing a collection of *Albanian Folk Songs and Rhapsody* in the Gegh dialect. Jubani defended the creation of a unique alphabet of the Albanian language.
In his own work *Collection of folk songs and rhapsody of Albanian poems*, published in 1871, as well as in several other articles where he expresses his thoughts on art in general, poetry, folk songs, their role and importance, music, even though the thoughts are not systematized and do not have the proper theoretical support, they have historical value for Albanian literature and critical thought in general.
As the use of terms, even the title of the work itself, in the preface or in the articles where it talks about literary art, the terms song and folk song are used in the sense they have today: a) folk song as an oral literary creation and b) poems as a creation written. I use the term "*rhapsody"* in the sense of a folk song, as a creation of a folk singer. He thought that the rhapsodes published by him were fragments of a long poetic creation, of a poem which, in his time, had not been completed.
Zef Jubani uses the term poetry in the general sense of the literary art in verses,

[7] Still there, pg. 309.
[8] Jup Kastrati, *The two prefaces to De Rada's rhapsodies, "Shkodra", no.,* 1966, pg. 308.
[9] Dhimiter Shuteriqi, *Anthology of Albanian literature,* Tirana, 1955, pgs. 132-133.

without making a clear distinction whether it is an oral creation or a written one. In the *Collection of popular songs and rhapsody of Albanian poems*, he also publishes some poems and poems by well-known authors such as Peter Bogdani from "*The group of prophets"*, Peter Zarishi's poem "*Song of Albania"*, *Two poems of his own*, etc.

Almost all the renaissances', in their cultural activity, paid special attention to the work with language, as the blood of a nation, a basic element of culture, but also a means of communication and material of linguistic science. But also, the collectors of oral literature often paid special attention to the value of the materials collected and published from this literature.

Another author, collector of our oral literature, was Thimi Mitko. With an invaluable contribution to Albanian folklore with folk songs, idioms and stories, popular sayings from the southern regions, he published in 1878 in Alexandria, Egypt, the great work *Albanian Bee*. With the great desire to save and give the words and texts in Albanian to the generations to come, Thimi Mitko writes that: "...especially, I want you to give a cause and an incentive to your Albanian compatriots for culture and to study their native language, which in this your way brings benefits so that they can also prosper".[10]

Luigj Gurakuqi presents interesting thoughts in the work *Verse in the Albanian language*, in which he deals with problems of form and content and the origin of folk songs. He teaches them the idea that song and man were born together and that it is passed down from generation to generation: *"With song, we pray for holidays, with song, men are honored, with poems, the courage of warriors is immortalized, with dance, the day of marriage is celebrated, and with other joys".*[11]

In the preface to the collection of materials from Albanian oral literature, *Waves of the Sea*, published in 1908, Spiro Dine expresses similar thoughts to Thimi Mitko. He judges that the value of the collected oral literary materials is national, linguistic, historical, therefore he says: *"Thus, our songs... are very necessary and old for our nation, because we look at the events of every time... and from a whole story can come out of these."*[12]

5. Conclusion

Since in this paper we have mentioned the critical opinion of a part of our renaissance people, even though they were involved in a lot of political, patriotic, historical, literary, linguistic activities, it is important to say that the lack of a tradition of Albanian thought on the arts in in general and literary art in particular, bring deficiencies in theoretical issues for the arts in general and literary art.

The first author who theoretically examined Jeronim de Rada in the *Principles of Aesthetics* published in 1861 and in the two prefaces to the rhapsodes (1866 and 1883). Although some of his theoretical and literary thoughts on literary art and poetry did not last and do not have any great value for the contemporary science of literature, the time when they appeared made them have a great influence on his successor. A good part of the poetic creations and their creative singers are valuable and acceptable

[10] Thimi Mitko, Albanian bee, Aleksandria, 1878, as: Early collectors of Albanian folklore, Vol. II, Tirana, 1961, p. 12.

[11] Luigj Gurakuqi, *Selected works, Prishtina*, 1969, pg.161.

[12] Spiro Dine, *Sea waves, Sofia*, 1908, MHFSH, III, Tirana, 1962, pg. 9.

for today's science of oral literature.Luigj Gurakuqi, with his modest contribution, although focused on the matter of rhyming, in *Verse in the Albanian language*, deals with some problems of oral literary art and its origins. Other authors such as Thimi Mitko, Spiro Dine, Gavril Dara (the Junior) with publications in periodicals of the time or other special works, raised some important issues and basic problems of oral literary art, its artistic and social role and importance. Regardless of the lack of a tradition of Albanian critical thought and the time when they appeared, the contribution of the revivalists was invaluable in the development of critical thought on oral literature. Thus, thanks to him, the literary and critical thought of literary and oral phenomena was put on the right tracks methodological and theoretical.

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Linear Flow Geometry in Porous Media and Determination of Hydrodynamic Parameters of Oil Reservoir

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Abstract

Oil and gas accumulations found in porous spaces and their movement through these spaces so called filtration, can be considered as hydraulically connected system. During the exploitation of an oil-gas field, production goes through several stages and is influenced by different factors that affect the behavior of fluids in porous media. These factors and the stages it passes through are important to have as much knowledge as possible about the types of flow systems in certain reservoir rocks. This information is used to model the relationship between pressure and flow rate.
The type of fluid that moves in the porous medium in this case incompressible fluid and the study of linear flow both in the physical and mathematical context in the determination of different hydrodynamic parameters, for the case of steady state and isotropic porous medium, is the focus of this research work.

Keywords: compressibility, radial flow, reservoir, isotropic, equation, pressure, flow rate.

Introduction

Fluid flow in porous media, the number of phases present, flow regimes, fluid compressibility and the geometry of flow systems represents one of the basic disciplines of reservoir engineering for the determination of various hydrodynamic parameters. [1]. Flow in porous media occurs in many natural and industrial processes, including the process of penetration of various fluids, e.g. through the ground, or in different layers (filters) of asphalt or textile, etc., as well as underground filtration processes including (the flow of liquids in the layer whether single-phase, two-phase or three-phase) as well as the flow of liquids [2,3]. The process of filtration in porous media is affected by various forces, and all the theory and models of filtration originate from Darcy's law, during the application of which is considered that part of the rock or the structure of the pore space, the dimensions of which are quite large compared to the size of the pore channels. In other words, a statistical law that averages the behavior of many pore channels is applicable in the engineering field, especially in the oil and gas industry. [4]. Full characterization of the fluid flow mechanism through a porous medium is possible based on PVT laboratory studies which determine fluid properties, pressure gradients during the filtration process, physical properties of the rock (matrix) involving here; permeability, porosity, saturation, and the geometry and type of flow condition. [5,6,7]. Considering the incompressible fluid, whose volume and density do not change with the change of pressure and considering the non-deformable porous medium and linear flow, based on the law of conservation of mass, Darcy's law and the initial and boundary conditions obtained in consideration, the determination of the hydrodynamic parameters in the case when the filtration of the fluid in the porous medium is linear is reached [4,5] .

1. Methodology

Based on the basic physics principle of conservation mass, the mathematical form of the continuity equation in the case of single-stage filtration is as following:

$$\left[\frac{\partial}{\partial \times}(\rho * V_{\times}) + \frac{\partial}{\partial \gamma}(\rho * V_{\gamma}) + \frac{\partial}{\partial z}(\rho * V_{z})\right] - \frac{\partial}{\partial t}[\rho * \emptyset] = 0$$

$$\partial/\partial x + \partial/\partial y + \partial/\partial z = \nabla \rightarrow \textit{Hamiltonian Operator}$$

$$(\rho * V) = -\frac{\partial}{\partial t}(\rho * \emptyset) \text{ or } div\left(\rho * \vec{V}\right) = -\frac{\partial}{\partial t}(\rho * \emptyset) \quad (1)$$

The mathematical expression in Eq. 8 represents the continuity equation. In the flow mechanics of porous media, the equation of motion is generally expressed by the flow velocity in the differential form of Darcy's law [3,4]. The differential forms of the equation of motion in three directions are:

$$v_{\times} = -\frac{k}{\mu} * \frac{\partial p}{\partial \times};\ v_{\gamma} = -\frac{k}{\mu} * \frac{\partial p}{\partial \gamma};\ v_{z} = -\frac{k}{\mu} * \frac{\partial p}{\partial z} \qquad (2)$$

It can also be written as:

$$\nu = -\frac{k}{\mu} * \text{grad}(p) \text{ or } \nu = -\frac{k}{\mu} * \nabla p \qquad (3)$$

Based on the continuity equation and the equation of motion presented above as well as the conditions for the incompressible fluid that are ∂v/∂P=0 and ∂ϱ/∂p=0 we will have the following equations:

$$\nabla(\rho * V) = -\frac{\partial}{\partial t}(\rho * \emptyset) \Leftrightarrow \nabla\left(\rho * (-\frac{k}{\mu} * \nabla p)\right) = -\frac{\partial}{\partial t}(\rho * \emptyset)$$

$$\nabla(\rho * \nabla p) = -\frac{\emptyset * \mu}{k} * \frac{\partial \rho}{\partial t} = 0 \rightarrow \nabla^2 p = 0 \leftrightarrow \mathbf{\nabla^2 p} = \mathbf{\frac{\partial^2 p}{\partial \times^2} + \frac{\partial^2 p}{\partial \gamma^2} + \frac{\partial^2 p}{\partial z^2}} \quad (4)$$

Equation 4 represents the differential form or basic differential equation of incompressible fluid for steady-state flow in isotropic porous media. Below will be discussed about the linear flow in the case of filtration of incompressible fluids in the porous medium and the hydrodynamic parameters that are determined, based on the initial and boundary conditions that are taken into consideration. Regardless of the classification of flow geometry in porous media including linear flow, radial flow and spherical flow, it should be noted that in reality none of these geometries are exactly found in underground oil and gas reservoirs, but their purpose is to approximate as best as the mobility of fluids in the porous spaces of the rocks, in order to achieve different engineering objectives [3,8].

2. Results and Discussion

For the study and determination of hydrodynamic parameters during fluid filtration in the case of linear flow, let us first take into consideration a horizontal layer with permeability coefficient k, length L, and cross section F, in which incompressible liquid with viscosity u is filtered, as in figure 1 shown as following:

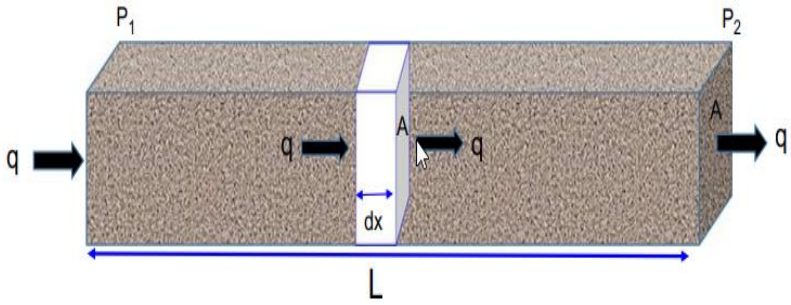

Figure 1-Darcy's linear flow model *[1].*

During the entire period of exploitation, the constant pressurep_c is maintained in the linear feeding contour of the layer and the constant pressure p_g is maintained in the gallery of the layer parallel to the feeding contour. Liquid filtration in the contour is done according to the linear law. To determine the hydrodynamic parameters of the fluid, it means to determine: velocity field, fluid flow rate, pressure field, pressure gradient and the law of movement of a fluid particle. Based on the differential equation of the incompressible fluid and since the flow is linear, then we place the ox axis according to the floor of the layer with the origin in the feeding contour and then the basic equation is simplified as following:

$$\nabla^2 \mathrm{p} = 0$$

$$\nabla^2 \mathrm{p} = \frac{\partial^2 \mathrm{p}}{\partial \mathrm{x}^2} + \frac{\partial^2 \mathrm{p}}{\partial \mathrm{y}^2} + \frac{\partial^2 \mathrm{p}}{\partial \mathrm{z}^2} = 0$$

$$\frac{\partial^2 \mathrm{p}}{\partial \mathrm{x}^2} = \frac{\partial}{\partial \times} * \left(\frac{\partial p}{\partial \times}\right) = 0$$

$$\frac{\partial p}{\partial x} = a \to \partial p = a * \partial x \to dp = a * dx$$

$$\int dp = \int a * dx \to p = a * x + b$$

$$x = 0 \to p = p_c \to p_c = b$$

$$x = L \to p = p_g \to p_g = a * L + b \leftrightarrow p_g = a * L + p_c$$

$$-a * L = p_c - p_g \rightarrow a = -\frac{p_c - p_g}{L} * x$$

$$\boldsymbol{p = p_c - \frac{p_c - p_g}{L} * x} \quad (5)$$

$$p = p_c + p_g - p_g - \frac{p_c - p_g}{L} * x \leftrightarrow p = p_g + (p_c - p_g) * \left(1 - \frac{x}{L}\right)$$

$$\boldsymbol{p = p_g + \frac{p_c - p_g}{L} * (L - x)} \quad (6)$$

In equations 5 and 6, the pressure distribution field is defined in both parameters, both in the contour pressure case and in the gallery pressure case. From the differentiation of equation 6, we get the value of the pressure gradient at each point of the layer and precisely will be as following:

$$\frac{\partial p}{\partial \times} = \frac{\partial}{\partial \times}\left(p_g + \frac{p_c - p_g}{L} * (L - x)\right) \leftrightarrow \boldsymbol{\frac{\partial p}{\partial \times} = -\frac{p_c - p_g}{L}} \quad (7)$$

The distribution field of pressure gradient and velocities remain constant everywhere in the layer. This is also seen in the above equations. Since in the case of incompressible liquids the law of conservation of matter can be expressed through the law of conservation of fluid volumes, the following equation will be taken in relation to the field of distribution of flow rates:

$$v_\times = -\frac{k}{\mu} * \frac{\partial \mathrm{p}}{\partial \mathrm{x}} \rightarrow \frac{Q}{F} = -\frac{k}{\mu} * \frac{\partial \mathrm{x}}{\partial \mathrm{x}} \rightarrow \frac{dp}{dx} = -\frac{Q * \mu}{k * F} \rightarrow dp = \frac{Q * \mu}{k * F} * dx$$

$$\int_{p_c}^{p_g} dp = -\frac{Q * \mu}{k * F} * dx \rightarrow p_g - p_c = -\frac{Q * \mu}{k * F} * L \leftrightarrow -(p_c - p_g) = -\frac{Q * \mu}{k * F} * L$$

$$p_c - p_g = \frac{Q * \mu}{k * F} * L \rightarrow \boldsymbol{Q = (p_c - p_g) * F * \frac{k}{\mu * L}} \quad (8)$$

As can be seen from equation 8, the incompressible liquid flow rate in linear flow is directly proportional to the pressure drop or the pressure difference between the contour pressure and the gallery pressure.

Bearing in mind that we are in the conditions of linear flow, in a horizontal layer which has a length L, and the other physical parameters mentioned above as well as bearing in mind the formula of the speed of fluid filtration in the porous medium as well as initial and boundary conditions the determination of the time needed by the fluid particle to describe the distance x from the feeding contour is reached.

$$v = -\frac{k}{\mu} * \frac{\partial \mathrm{p}}{\partial \times}$$

$$\frac{dp}{d \times} = -\frac{p_c - p_g}{L} \rightarrow v = \frac{k}{\mu} * \frac{(p_c - p_g)}{L}$$

$$\frac{dx}{dt} = w = \frac{v}{\emptyset} \rightarrow v = \emptyset * w$$

$$\frac{dx}{dt} = \frac{v}{\emptyset} = \frac{\frac{k}{\mu} * \frac{(p_c - p_g)}{L}}{\emptyset} \leftrightarrow \frac{dx}{dt} = \frac{k * (p_c - p_g)}{\emptyset * \mu * L}$$

$$dx = \frac{k * (p_c - p_g)}{\emptyset * \mu * L} * dt \rightarrow dt = \frac{\emptyset * \mu * L}{k * (p_c - p_g)} * dx$$

$$\int_0^t dt = \frac{\emptyset * \mu * L}{k * (p_c - p_g)} * \int_0^x dx \rightarrow \boldsymbol{t = \frac{\emptyset * \mu * L}{k * (p_c - p_g)} * x} \quad (9)$$

Flow systems in reservoir rocks are classified based on the time of their production. During the life of a well or reservoir, these systems of states in which the underground reservoir passes during the production of fluids on the surface, including here the transient, pseudo-steady and stable state, can change several times, therefore it is very necessary to know as much as possible about the flow system in order to use the correct model to determine the relationship between pressure and flow rate [9,10]. The study of fluid mobility in porous media requires a mathematical analysis depending on the conditions in which the filtration process takes place, the type of fluid that is filtered and the geometric symmetry of the flow that is created. Linear flow, cylindrical (radial) and spherical flow are the simplest forms. Fluid mobility and formation transmissibility for all three models in the case of linear, radial or spherical flow that dominate the mechanics of flow in oil and gas reservoirs, have great practical importance both in the way of exploiting oil reservoirs and in the preparation of development plans [8,11].

3. Conclusion

The determination of hydrodynamic parameters during the exploitation of an oil-gas field and the study of the geometry of the flow that can be taken into consideration are very important not only to approximate the behavior of fluids in different conditions in which they are found in underground oil reservoirs and gas, but also to make the modeling based on the relevant assumptions to achieve many engineering purpose. In this paper, the linear flow is studied and analyzed both in the physical and mathematical context, step by step to determine the different hydrodynamic parameters needed during the filtration process, considering the incompressible fluid and the uniformly isotropic layer. Analyzing the above formulas, both in physical treatment and in mathematics, we can say for the linear flow of incompressible fluid that the flow rate of the incompressible fluid is directly proportional to the pressure drop and on the other hand, the time it takes for the particle to of the fluid to move at a distance x from the feed contour is inversely related to the pressure difference.

4. Nomenclature

$\boldsymbol{\mu} \rightarrow liquid\ viscosity$
$\boldsymbol{L} \rightarrow length\ of\ layer$
$\boldsymbol{v} \rightarrow velocity\ of\ fluid\ filtration$
$\boldsymbol{Q} \rightarrow flow\ rate$
$\boldsymbol{F} \rightarrow cross - sectional\ area$
$\boldsymbol{t} \rightarrow time\ of\ fluid\ particle$
$\emptyset \rightarrow formation\ porosity$
$\boldsymbol{p_c} \rightarrow contur\ pressure$
$\boldsymbol{k} \rightarrow permeability\ coefficient$
$\boldsymbol{p_g} \rightarrow gallery\ pressure$

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Computer fraud

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Abstract

Recent developments in technology have brought significant changes to all aspects of human life, providing numerous opportunities for social, cultural, and economic development. Information systems and the internet are distributed in such a way that users can freely utilize them without necessarily understanding their internal functioning. However, despite the positive aspects, these technological advancements have also contributed to the emergence of new forms of crime that continuously disrupt the normal flow of social life. These new forms of unlawful behavior have created a new front in the fight for individuals involved in developing strategies to prevent criminal phenomena. One of these unlawful behaviors that has emerged as a consequence of technological advancements is computer fraud. As a result, many countries, including Albania, have implemented various measures to combat this phenomenon, including the criminalization of this unlawful behavior in accordance with international law.

In the Albanian Criminal Code, the crime of computer fraud, as defined by Article 143/b, is part of the computer-related offences that encompass all those unlawful behaviors committed as a result of the rapid development of computer technology. This criminal act was added to the Criminal Code through Law No. 10023, dated November 27, 2008, and is included in Section Two (Frauds) of Chapter Three (Crimes Against Property and in the Economic Sphere).

This paper aims to analyze the constituent elements of the crime of computer fraud while highlighting the differences that exist between this crime and the crime of fraud defined by Article 143 of the Criminal Code, due to the variety of opinions regarding the interpretation and application of these two criminal acts in practice. The paper will focus in detail on determining the object protected by the criminal act of computer fraud, identifying the unlawful behaviors that are punishable, analyzing the subjective element, and any other elements of the criminal act, based on contributions from doctrine and jurisprudence.

Keywords: Criminal law, computer crime, computer fraud, economic crime, international law.

1. Computer fraud according to the Convention of Budapest

The category of computer fraud does not have a clear legal definition even though it is mentioned in various international documents that contain legal provisions with the aim of preventing and punishing this phenomenon (Flor, 2012). One of the main reasons for this lack of clarity is related to the fact that this type of crime is continuously evolving, incorporating more and more new forms of criminal behavior. The existence of such a problem also affects the way specific criminal offences that are part of this phenomenon are interpreted, such as computer fraud, which is the subject of this paper.

In our opinion, the interpretation of criminal acts should be based on the intent for which these criminal acts were enacted by the legislator. If we analyze the intent of the Albanian legislator in adopting the criminal act stipulated by Article 143/b of the Criminal Code, we notice that our legislator approved this act based on the obligations that Albania must fulfill as a result of signing and ratifying the Council of Europe Convention, known as the Budapest Convention or the Convention on Cybercrime. This Convention is a crucial instrument and is recognized as the most significant effort made so far in the fight against cybercrime. The Convention has been signed by all member states of the Council of Europe, including the Republic of Albania, which has incorporated it into domestic legislation through Law No. 8888, dated April 25, 2002, on the Ratification of the "Convention on Cybercrime." The main objective of the Convention on Cybercrime lies primarily in the need to establish a minimum of rights to protect the subject being violated by the commission of these criminal acts, and secondarily, to create a fundamental minimum of strategies to combat these crimes, especially considering their generally transnational nature, which clearly requires the harmonization of law enforcement within different criminal systems (Mattarella, 2022).

Pursuant to Article 8 of the Convention, titled "Computer-related Fraud": *Each Party shall adopt such legislation and other measures as may be necessary to ensure that the following conduct is criminalized under domestic law, when committed intentionally and without right, resulting in the loss of property belonging to another, through: a) the input, alteration, deletion, or removal of computer data; b) any interference with the functioning of a computer system, with the dishonest intent of obtaining an unauthorized economic benefit for oneself or for another.* This provision emphasizes two types of illegal behavior: the manipulation of computer data and interference with the functioning of a computer system. Through the inclusion of this provision, the drafters aimed to criminally prosecute any wrongful manipulation of computer data or interference with the functioning of a computer system, with the intent to achieve an unlawful transfer of ownership. Illegal behaviors that should be punished by criminal law include the input, alteration, deletion, and removal of computer data, as well as interference with the functioning of a computer system. The act is considered completed at the moment when, objectively, "monetary harm to others" is caused by the commission of the criminal act. From a subjective perspective, in addition to the existence of intent in committing the criminal act, there must also be a specific aim to obtain an advantage "without right," for oneself or for others.

Analyzing the conditions for the application of this provision, it should be emphasized that the criminal act stipulated in Article 8 of the Convention requires the necessary existence of two very important constituent elements: a) from an objective standpoint, the commission of the criminal act must be done "without right," or in other words, without a legal basis; and b) from a subjective standpoint, it must be carried out "intentionally." The first element refers to those behaviors performed in violation of legal rules and lacking any justifiable reason (for example, the consent of the person holding the right, legitimate defense, or the state of extreme necessity). "Without right" means that the illegal act is carried out without any legal, executive, administrative, judicial, contractual, or consensual authority. This type of provision

gives states the flexibility to criminalize illegal behaviors without imposing restrictions on their implementation at the national level. Therefore, certain behaviors may be encountered which, if authorized and carried out by state authorities, would not be considered criminal acts according to the Convention. The second element refers to the fact that the illegal act must be committed intentionally, the form of which varies from state to state, and for this reason, the Convention has left its determination to the discretion of individual states. A component of the subjective aspect is the commission of the criminal act with a specific aim: the intention to secure an economic benefit, for oneself or for others (Arena, 2021).

For the explanation of the illegal behavior stipulated in Article 8 of the Convention, the definitions of "computer data" and "computer system" are significant. Article 1 of the Convention provides definitions for several important terms used within it, including those relevant to our discussion: A "computer system" refers to any device or interconnected group of devices, one or more of which, in conjunction with a program, perform automatic data processing. "Computer data" means any representation of facts, information, or concepts in a form suitable for processing in a computer system, including a program suitable for the operation of a computer system to perform a function.

In addition to material provisions, this Convention also includes procedural provisions that apply to any crime committed using a computer system or where evidence can be obtained electronically. These provisions establish common guarantees for all criminal acts specified by this Convention and set out basic procedural rules aimed at enhancing the efficiency of criminal prosecution.

2. Computer fraud according to Albanian and Italian criminal legislation

Pursuant to the Article 143/b of the Criminal Code (Computer Fraud), which states *that the entering, modifying, deleting or omitting computer data or interfering in the operation of a computer system, in order to ensure for oneself or for other parties, through fraud, an unfair economic benefit or to cause to a third-party asset reduction, are punishable by imprisonment from six months up to six years. This very act, when committed in complicity, to the detriment of multiple persons or more than once, or when it has brought about serious material consequences, is punished by imprisonment from five to fifteen years.* Meanwhile, Article 143 of the Penal Code (Fraud) stipulates that: *appropriation of private or public property for oneself or other persons, through submission of false facts or concealing of true facts, lie or abuse of trust, for oneself or others, shall constitute the criminal offence of fraud and it shall be punished by up to five years of imprisonment. This offence, when committed more than once or in complicity, shall be punished by two to six years of imprisonment. This offence, when causing serious consequences, shall be punished by five to ten years of imprisonment.*

Regarding the analysis of the criminal act of computer fraud as stipulated in Article 143/b of the Albanian Criminal Code, it should be noted that the legislator's intention was not to punish a specific form of committing fraud as outlined in Article 143 of the Criminal Code but to punish a different illegal behavior, the characteristics of which are defined in the Budapest Convention. Although the Albanian legislator

has titled the criminal act in Article 143/b as "Computer Fraud," there are significant differences from the criminal act of "Fraud" as outlined in Article 143 of the Criminal Code.

Based on the Budapest Convention, computer fraud involves a modification of the system that results in an "error" in the system: *"The input, alteration, deletion, or removal of computer data or interference with the functioning of a computer system... that causes economic harm to others with the intent of securing unjust benefits for oneself or others*."

Thus, if the fraud outlined in Article 143 of the Criminal Code leads the individual to make a mistake and deceives them through the cooperation the victim has with the perpetrator, the fraud involving computer reality, as specified in Article 143/b of the Criminal Code, does not require the "individual" but is instead linked to the "computer system." It involves a change in the data processing process that results in an altered outcome, a "system error" (which, in the fraud under Article 143 of the Criminal Code, corresponds to the victim's error) and subsequently produces an economic gain for the perpetrator or others, causing damage to the victim(s). From the subjective side, the criminal offence of computer fraud, provided for by Article 143/b of the Criminal Code, is committed with direct intent and with the aim of economic gain. The object that is protected by the criminal offence is twofold: the protection of the regular operation of IT systems and the protection of property. The active subject is general, or in other words anyone who commits illegal behavior intentionally with the aim of unfair economic gain.

According to Italian legislation, "Computer fraud" is provided as a criminal offence in Article 640 of the Criminal Code entitled (Frode informatica) and punishes "*any individual/subject who changes in any way the function of a computer system, or interferes without any right and in any way in the data, information or programs contained in a computer or telematics system, or related to it, obtaining for oneself or third parties an unfair advantage"*.

This provision also refers to the two categories of conduct provided for by Article 8 of the Budapest Convention: i) altering, in any way, the operation of the computer or telematics system, or ii) interfering, without authorization, in the data, information or programs included in a computer or telematics system. These behaviors are intended to change, without the knowledge of the owner of the system, the correct and logical operation of the computer tool, in order to subject it to the execution of operations other than those programmed and to produce results that are not desired by the owner its and at the same time useful for the author. In other words, illegal behavior, as understood in Italian legislation, includes manipulation operations of the physical component (hardware) or the logical component (software) of the system, which functionally produces a different computer process that compromises the generated results or diverts them from the predetermined scheme (normalcy). According to Italian doctrine, the criminal offence of "Computer Fraud" (Frode informatica – Article 640-ter of the Italian Criminal Code) differs from the offence of "Fraud" (Truffa – Article 640 of the Italian Criminal Code) because, in the latter, the fraud targets the will/belief of the victim, typified in terms of inducement through deceit, lie, or trickery, which constitutes the fundamental requirement in the object harmed. From the above, it is concluded that the main distinguishing element between "ordinary

fraud" and "computer fraud" is that, in the former, the criminal behavior involves deceiving a person, whereas in the latter, the fraud focuses on the deceptive use of the computer system (Bartoli, Pelissero, Seminara, 2022). This distinction has also been highlighted in practice by jurisprudence, which has reasoned that, *unlike the crime of fraud, in the case of computer fraud, the fraudulent activity of the perpetrator does not affect the individual who lacks any misconception but rather impacts the computer system belonging to the person/victim, which is manipulated precisely to gain undue advantage* (Decisions No. 44720, dated 11.11.2009; No. 43729, dated 03.07.2012; No. 17748, dated 15.04.2011; No. 48553, dated 10.09.2018 of the Italian Supreme Court). Before the Supreme Court, cases have been discussed in which the target of the attack is the bank credentials of individuals. According to this jurisprudence, *if the perpetrator of the criminal offence has obtained the victim's digital credentials by sending a fake email, link, or other equivalent behavior, the crime of fraud will be considered under the typical scheme of ordinary fraud as defined in Article 640 of the Italian Criminal Code. If the perpetrator has operated fraudulently by using self-installed programs on the victim's computer or telematic system, thereby altering the function of the victim's informational or telematic tool, then we would be dealing with Article 640 of the Italian Criminal Code.* (Decisions No. 54718, dated 1.12.2016; No. 41676, dated 20.06.2017; No. 21318, dated 05.04.2018; No. 10060, dated 09.02.2017 of the Italian Supreme Court).

3. Application of the Second Paragraph of Article 143/b of the Criminal Code

The second paragraph of the criminal offence outlines the existence of certain qualifying circumstances that would lead to an increased punishment. According to the second paragraph of Article 143/b of the Criminal Code, *this very act, when committed in complicity, to the detriment of multiple persons or more than once, or when it has brought about serious material consequences, is punished by imprisonment from five to fifteen years.*

When cooperation in committing the criminal offence is defined as a qualifying circumstance, the legislator intends to impose a harsher penalty on simple cooperation, excluding the application of this paragraph to special forms of cooperation. The specific forms of cooperation are outlined in Article 28 of the Criminal Code and include: a criminal organization, a terrorist organization, an armed gang, and a structured criminal group (Elezi, Kaçupi, Haxhia, 2006). According to paragraph 5 of Article 28 of the Criminal Code, *the creation and participation in a criminal organization, terrorist organization, armed gang, or structured criminal group are considered criminal offences and are punishable according to the provisions in the special part of this Code or other specific criminal provisions. 6. Members of a criminal organization, terrorist organization, armed gang, or structured criminal group are responsible for all criminal offences committed by them in pursuit of their criminal objectives.* In interpreting these provisions, we conclude that if, for example, several individuals were accused of committing computer fraud within the framework of a structured criminal group, then the charges against them would align with Articles 143/b, paragraph one, 28, paragraph four, 333/a, and 334, paragraph one of the Criminal Code. Based on the above reasoning, we believe that there cannot be a concurrence between paragraph two of Article 143/b and

paragraph four of Article 28 of the Criminal Code. In our opinion, the key elements distinguishing the specific form of cooperation in a structured criminal group (Article 28/4 of the Criminal Code) from simple cooperation as outlined in Article 25 of the Criminal Code are the involvement of three or more individuals in the commission of the offence and the non-incidental formation for committing the offence. Therefore, while the structured criminal group does not exhibit incidental cooperation, simple cooperation is found to be incidental. Even in cases where, beyond cooperation within a structured criminal group, the computer fraud offence is committed against *multiple individuals and more than once*, we believe that this provision is still encompassed by the definition of the structured criminal group in Article 28/4 of the Criminal Code. According to the jurisprudence of the Supreme Court (Decision of the Criminal College of the Supreme Court, No. 38, dated 11.03.2015), *the crime of "Structured Criminal Group" (Article 333/a of the Criminal Code) is considered a continuous offence...* In interpreting Articles 28/4 and 333/a of the Criminal Code, we can say that the legislator, through the provisions of these criminal norms, aims to protect public order, which is endangered by the existence of a permanent and stable criminal group among individuals bound by a common criminal plan/program of indefinite duration. The criminal plan/program implies not only the creation and indefinite existence of the structured criminal group but also the commission of one or more criminal offences against one or more individuals. In this context, the structured criminal group, in implementation of the criminal plan/program, may commit the same criminal offence multiple times and against several individuals. Thus, the second paragraph of Article 143/b of the Criminal Code is absorbed by the definition of the structured criminal group as provided by Article 28/4 of the Criminal Code. On the other hand, the punishability of the qualifying circumstance provided in Article 143/b/2 of the Criminal Code is absorbed by the punishment of criminal activity within the structured criminal group as provided in Articles 333/a and 334/1 of the Criminal Code.

When the criminal offence is committed against several individuals, the legislator aims to punish cases where the manipulation of computer data or interference in the operation of a computer system simultaneously harms multiple people. For example, person A.A., through interference in the operation of a computer system, has managed to steal money from several different individuals simultaneously. If computer fraud is committed by two individuals simultaneously harming several persons, then the simultaneous application of two qualifying circumstances would occur.

If the criminal offence is committed more than once, the legislator refers to cases where there is manipulation of computer data or interference in the operation of multiple computer systems. The perpetrator of the criminal offence, or the perpetrators of the criminal offence (when acting in the form of simple cooperation), initially interfere in one computer system and then in one or more other computer systems, committing the unlawful act more than once. For instance, in cases of *call center* fraud (cases that have impacted Albanian society), *call center* operators instruct victims (many in number) to install a device called *Any Desk* on their computer, allowing the operators to remotely control the victim's computer and perform actions on their behalf. In this way, call center operators manage to transfer money from victims' accounts

to accounts they suggest, deceiving and exploiting the trust of defrauded victims. In such a case, not only is there no offence of "Computer Fraud" for the reasons explained above, but even if the existence of this offence were considered, we still would not be in conditions where the manipulation of computer data or interference in the operation of a computer system simultaneously harmed multiple individuals. If interference occurred, it happened in different computer systems, which would qualify it as occurring multiple times rather than against multiple individuals.
The final qualifying circumstance for applying the second paragraph of Article 143/b of the Criminal Code involves cases where the commission of the criminal offence has resulted in severe material consequences. In our opinion, in such cases, it is up to the court to determine, case by case, whether there are indeed severe material consequences.

4. Conclusion

Rapid technological advancements have prompted the emergence of new forms of crime, thus creating a need for appropriate measures to combat and prevent them. One of the most widespread crimes today is computer fraud, through which offenders seek to unjustly benefit by inputting, modifying, deleting, or removing computer data, or by interfering with the operation of a computer system. This criminal behavior was initially defined as such by the Budapest Convention, also known as the Convention on Cybercrime.
This Convention became part of Albanian legislation through Law No. 8888, dated 25.04.2002, "On the Ratification of the Convention on Cybercrime." In the Criminal Code of the Republic of Albania, Article 143/b, titled "Computer Fraud," penalizes all unlawful behaviors defined as such by the Budapest Convention in its Article 8.
Regarding the analysis of the criminal act of computer fraud as stipulated in Article 143/b of the Albanian Criminal Code, it should be noted that the legislator's intention was not to punish a specific form of committing fraud as outlined in Article 143 of the Criminal Code but to punish a different illegal behavior, the characteristics of which are defined in the Budapest Convention. Although the Albanian legislator has titled the criminal act in Article 143/b as "Computer Fraud," there are significant differences from the criminal act of "Fraud" as outlined in Article 143 of the Criminal Code. Thus, if the fraud outlined in Article 143 of the Criminal Code leads the individual to make a mistake and deceives them through the cooperation the victim has with the perpetrator, the fraud involving computer reality, as specified in Article 143/b of the Criminal Code, does not require the "individual" but is instead linked to the "computer system." It involves a change in the data processing process that results in an altered outcome, a "system error" (which, in the fraud under Article 143 of the Criminal Code, corresponds to the victim's error) and subsequently produces an economic gain for the perpetrator or others, causing damage to the victim(s). This interpretation is also applied in Italian doctrine and jurisprudence.
When cooperation in committing the criminal offence is defined as a qualifying circumstance, the legislator intends to impose a harsher penalty on simple cooperation, excluding the application of this paragraph to special forms of cooperation.

When the criminal offence harms multiple persons, the legislator aims to penalize cases where the manipulation of computer data or interference with the operation of a computer system simultaneously harms several individuals.
If the criminal offence is committed more than once, the legislator refers to cases where there is manipulation of computer data or interference in the operation of multiple computer systems.
The final qualifying circumstance for applying the second paragraph of Article 143/b of the Criminal Code involves cases where the commission of the criminal offence has resulted in severe material consequences.

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Big Data Analytics Adoption: Insights from the Technology Acceptance Model in Albania

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Abstract

Adopting Big Data Analytics (BDA) is a significant issue nowadays, as it profoundly influences business performance by improving innovation, efficiency, and competitive advantage. As organizations become more dependent on big data for their decision-making processes, it is essential to comprehend the elements that affect the acceptance and adoption of these technologies. This study explores user perceptions and perspectives regarding the implementation of BDA through the lens of the Technology Acceptance Model (TAM) framework. By cultivating an environment that emphasizes user involvement, thorough training, and clear data practices, organizations can fully harness the capabilities of Big Data Analytics, thereby promoting innovation and making well-informed decisions in today's swiftly changing digital environment. Focusing on TAM, the paper aims to provide essential insights that can help organizations refine their adoption strategies for better outcomes. The analysis investigates the extent to which the choice to implement BDA is influenced by the perceived usefulness and the perceived ease of use of the technology. A structured survey was conducted to enable analysis between May and July 2024, targeting the most profitable firms in Albania's commercial sector. The findings indicate that, regarding the decision to adopt BDA, perceived usefulness substantially influences adoption, while ease of use has no impact.

Keywords: Big Data Analytics, Technology Acceptance Model, Perceived Ease of Use, Perceived Usefulness.

Introduction

Big Data Analytics has emerged as a critical field of study due to its ability to significantly improve decision-making and operational effectiveness in various sectors. The rate at which organizations are adopting BDA is progressively rising, driven by the necessity to leverage large datasets for well-informed strategic decisions. Research shows that businesses employing BDA can boost their productivity by 5-10% relative to those that do not implement such technologies (Ilter, 2019). TAM guides organizations through the complexities of BDA adoption, emphasizing user perceptions and the need for tailored strategies to enhance acceptance and success. This model highlights perceived usefulness and ease of use as critical factors influencing technology adoption. Perceived usefulness (PU) describes the extent to which a user believes that utilizing a specific technology improves their job effectiveness, while perceived ease of use refers to the degree to which a user believes that utilizing a technology will re-

quire minimal effort. Based on the Technology Acceptance Model, these components impact user attitudes and intentions towards technology adoption. Perceived usefulness is a significant determinant of user acceptability since research indicates that elevated PU is associated with better adoption rates of business intelligence systems (Sandema-Sombe, 2019). In financial organizations, perceived usefulness was identified as a crucial factor influencing the adoption of BDA, especially among entities with a high intention to adopt (Eresia-Eke et al., 2023). Perceived Ease of Use (PEOU) is essential; individuals are more likely to embrace BDA if they assess it as user-friendly. Studies demonstrate that user engagement with technology is improved by ease of use (Bancoro, 2024). A comprehensive analysis of TAM features in multiple applications demonstrates that perceived usefulness and perceived ease of use are key factors for technology adoption (Dhingra & Mudgal, 2019). Understanding how users perceive new technologies can provide insights into their acceptance and usage patterns. The adoption of BDA has been empirically linked to enhanced firm performance across diverse industries. BDA not only improves individual benefits but also significantly contributes to overall organizational success. The simplicity of user interaction with BDA tools greatly influences their willingness to embrace these technologies (Chancusig & Bayona-Oré, 2019).

Literature Review

The literature reveals several insights into the application of TAM in the context of BDA. Research indicates that when people recognize the advantages of BDA, their tendency to embrace it significantly increases. Studies signify that BDA tools are more likely to be accepted when seen as user-friendly, particularly among individuals with a strong intention to adopt (Eresia-Eke et al., 2023). Furthermore, ease of use has been demonstrated to mediate the association between perceived usefulness and the decision to utilize technology, underscoring its significance in the adoption process (Syahri & Setyawati, 2023). The TAM is supported as a purpose-driven framework, suggesting that the intent behind adopting innovation is a strong indicator of its subsequent use (Pan & Jang, 2008). In the construction industry, TAM has been adapted to understand technology adoption, highlighting the importance of user perceptions in this process (Sorce & Issa, 2021). Although the TAM provides a robust framework for understanding technology adoption, it is essential to consider the dynamic nature of technology and the evolving landscape of user expectations and regulatory environments, which may necessitate adaptations to the model. Big Data Analytics enhances employee outcomes, which in turn positively affects firm performance, emphasizing the importance of data-driven decision-making (Mamakou & Manaras, 2024). Affirming perspectives on innovation, especially regarding customers' perceptions of utility and user-friendliness, constitutes a vital tactic (Shahid et al., 2021). Studies indicate that perceived usefulness significantly impacts the intention to use BDA, particularly in banking and auditing contexts (Sukma et al., 2023). Furthermore, studies highlight that perceived usefulness and ease of use remain central to BDA adoption, with additional factors such as trust and data security becoming increasingly relevant in the context of Big Data (Gupta & George, 2016).

While perceived ease of use is important, its influence can vary; for instance, it is less significant compared to perceived usefulness in the banking sector (Sukma et al., 2023). Research indicates that TAM can be tailored to specific sectors, such as agriculture and finance, to better understand the unique challenges and drivers of BDA adoption (Folkinshteyn & Lennon, 2016). The decision to adopt BDA is influenced by profitability analysis and user goals (Verma et al., 2019). Numerous firm-level studies across several domains have assessed the influence of perceived usefulness on users' goals to embrace new information technology (Wu & Chen, 2017). The methodical review of TAM characteristics across diverse applications substantiates that both perceived usefulness (PU) and perceived ease of use (PEOU) are critical for forecasting technology adoption (Dhingra & Mudgal, 2019). Perceived usefulness is often seen as a crucial factor in determining readiness for adoption, as it is closely linked to the benefits associated with Big Data applications (Moshi et al., 2024). On the other hand, perceived ease of use fosters user participation by reducing barriers to technology engagement (Sukma et al., 2023). While the TAM offers a solid foundation for comprehending technology adoption, it is crucial to take into account external influences and contextual factors that could affect user acceptance, as demonstrated in multiple studies (Ramayani et al., 2023).

Methodology

The methodology involves gathering data through a structured survey from May to July 2024. The survey was designed to coincide with the study's objective, concentrating on the commercial sector. About one-third of Albania's total business population consists of enterprises in the commerce sector, which yield the largest earnings. Approximately 250 surveys were disseminated to the intended population through the Google Forms platform, while the response rate is about 25% of these entities. The linear regression model was utilized to investigate the relationship between BDA adoption and the factors of perceived usefulness and perceived ease of use. The independent variables utilized for the investigation have been expressed as composite factors; six items were included in the survey for perceived usefulness, while three items were selected for perceived ease of use. The method of Exploratory Factor Analysis (EFA) using SPSS version 25 was applied to define the variables in operational terms. The dependent variable is the adoption of BDA, a qualitative variable constructed using the Likert scale. Businesses should express their level of agreement utilizing a Likert scale from 1 to 5 (1=Strongly Disagree, 2=Disagree, 3=Neutral, 4=Agree, and 5=Strongly Agree). Table 1 presents the study variables based on the TAM model, along with their respective descriptions.

Table 1. Variables included in the study and their measurement

Variable	Description
Perceived Usefulness	Composite component derived from EFA
Perceived Ease of Use	Composite component derived from EFA
Big Data Analytics Adoption	Likert scale – 1=Strongly disagree, 2=Disagree, 3=Neutral, 4=Agree, 5=Strongly Agree

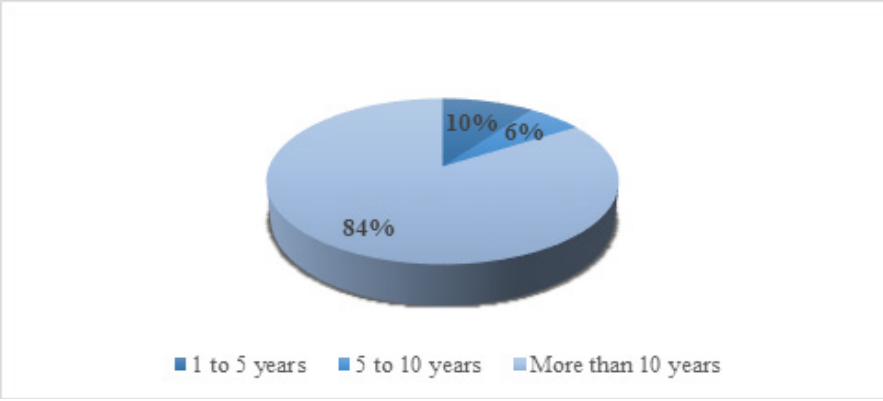
Source: Authors' Calculations based on the survey

Results and Discussion

Respondent Characteristics

In this study, the participants are the businesses selected for analysis. The demographic data for these businesses encompass the sector in which they function, specifically the trade sector, the duration of their market presence, and the size of the company, which is assessed based on the number of employees categorized into specific ranges. Additionally, it is important to highlight that approximately 56% of the businesses that completed the survey utilize Big Data Analytics, while 44% of them do not use it. The businesses that have not adopted BDA will serve as the basis for generalizing the results through the TAM in analyzing user perceptions about implementing BDA.

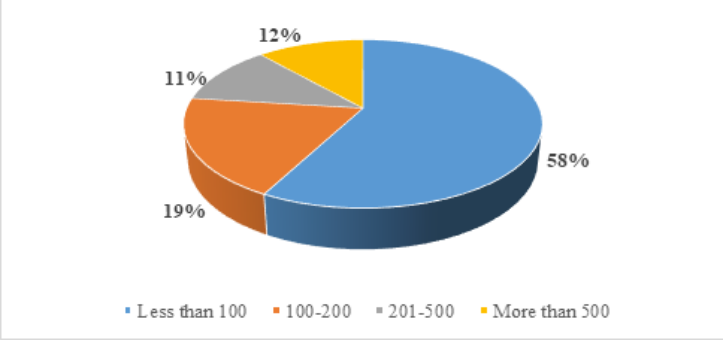
Figure 1. The Duration of the Activity



Source: Authors based on survey results

Figure 1 demonstrates that only 10% of businesses are newcomers to the market, with 6% having been active for five to ten years. The largest portion, around 84%, consists of enterprises that have been established for over ten years.

Figure 2. Firm size



Source: Authors based on survey results

According to the data presented in Figure 2, more than 58% of the most successful businesses in Albania's trade sector have a workforce of fewer than 100 employees. Approximately 19% have between 100 and 200 employees, while 11% fall within the 201 to 500 employee range, and about 12% employ over 500 staff members. This information highlights the traits of the most profitable businesses, often referred to as VIP companies, which are not necessarily the ones with the largest number of employees or those that are classified as large corporations. The statistics suggest that the size of a business does not determine its profitability within the trade sector.

Multiple Regression Analysis

After conducting tests using SPSS 25 software, the outcomes of the multiple regression analysis are displayed in the table below:

Table 2. Regression Results - Albanian Case

Variable	Estimated B	Std. error	t	Sig
Constant	1.489	0.187	7.96	0.000*
Perceived Usefulness	2.03	0.846	2.39	0.021*
Perceived Ease of Use	0.325	0.8	0.38	0.702
F statistic	41.089			0.000*
Adj. R^2	0.651			

Source: Authors' calculations * statistically significant at 5% level.

The regression analysis demonstrates that both independent variables have a positive coefficient B, indicating a positive relationship with the adoption of Big Data Analytics. However, a closer look at the t-statistic and significance (p-value) shows that only perceived usefulness reaches statistical significance, with a p-value of 0.021, which is below the threshold of 0.05. In contrast, perceived ease of use does not show significant results. Additionally, Fisher's value (F=41.089) confirms the overall significance of the model. The R^2 value of 0.651 suggests that 65.1% of the variance in the adoption of Big Data Analytics can be explained by the variables included in the model.

Conclusion

The Technology Acceptance Model is a framework that offers insights into how users accept and utilize Big Data Analytics across multiple industries. This model serves as an important instrument for examining and comprehending the adoption of Big Data Analytics, highlighting the significance of users' perceptions regarding value and usability. The TAM emphasizes two key factors: perceived ease of use and perceived usefulness, which play a crucial role in shaping users' intentions to adopt new technologies. Users exhibit a greater tendency to adopt BDA when they view it as advantageous and user-friendly. The importance of user perception in promoting the adoption of BDA is highlighted in various studies, which show that the rate at which

enterprises embrace BDA is influenced by both perceived usefulness and perceived ease of use. According to the analysis, 56% of the most profitable companies in Albania's trade sector, referred to as VIP businesses, utilize BDA for various purposes, while 44% of them do not use it. The regression model based on the responses of the businesses that do not use BDA indicated that the perceived usefulness of BDA significantly influences their decision to adopt it. Conversely, perceived ease of use seems to elicit a more neutral and indifferent reaction from the involved businesses. Regardless of the extent to which perceived usefulness influences the adoption of BDA, it is crucial to recognize that organizations encounter both external pressures and internal complexities that may obstruct this process. A comprehensive approach that takes into account both the perceived advantages and the obstacles is crucial for the successful implementation of BDA. It is important for organizations to address these challenges to fully leverage their resources and achieve the effective adoption of BDA.

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Reading comprehension in the situation context of learning in the Albanian language curriculum

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Abstract

In the framework of educational reforms to functional illiteracy, the competency-based approach constitutes an innovation and a new teaching experience for Albanian education. Referring to WB data, a significant proportion of students who receive basic education are able to write and read normally, can understand written information from everyday life, use ICT, but remain functional illiterates, mainly in scientific subjects.
Since the development of the ability to read meaningfully is directly related to functional literacy, in this paper, reading meaningfully is treated according to the text-based approach, an innovation that responds to the philosophy of social-cognitive constructivism for the development of competencies. The situational context of learning in reading comprehension is Examinined through the evidence of the relationship between the type and structure of the text in the learning outcome during the active interaction of the student with the content of the text.
The results of the paper are based on the quantitative and qualitative analysis of the findings of the research literature, on the analysis of the curriculum of the Albanian language as well as on the views of teachers about the influence of the type and structural elements of the text during teaching for the development of meaningful reading.
Research findings from the teacher questionnaire indicate a lack of coherence between the observed value of text structure compared to the observed value of text type on reading comprehension outcomes. It is also noted that teachers do not have high expectations about the impact of direct teaching on learning the strategy of text structure and improving the result of meaningful reading. These research findings lead us to the reasoning that teaching for the development of competences according to the functional systemic approach based on the text, is still a new teaching experience for teachers, who continue to be influenced by the traditional practices of the communicative structuring direction of language learning.

Keywords: Reading comprehension, situation, context of learning, Albanian language curriculum.

Introduction

With the curriculum reform of 2014 on the development of "learning skills" in the contextual situation of learning and their connection to real life, it is defined as a program that seeks to transform knowledge, into a program that creates the conditions and supports the development of competences, duke forcuar connexion mes lèsminit scollis dhe reale life Qasja me base compentetat i jep priority referenës socio-konstruktiviste në hartimin e dokumentacioni curricularir dhe processin e lèsmendès. Learning to develop meaningful vocabulary skills is based on the European standard for education and teaching. Recently, it has consolidated beliefs

that are generally built on a social level and are influenced by socio-cultural factors (Vygotsky, 1978, Rothery) and other factors socio-kognitiv (socio-konstruktivist) në mikrånet e të nxënit co-punues. School should help students to learn to control "the different formats of the language used in society, functionally differentiated" in a variety of genres of texts (Halliday), forming competent readers of texts, able to respond to them school dhe sfidave of the labor market.
The Sydney School consolidated the theory of the text-based approach to written discourse for mastering school knowledge. In the text-based linguistic approach, the types of texts were specified according to the principle of consolidation of school knowledge. Those types of texts through which knowledge is structured and transferred to other fields of scientific activity were defined as such (Gee 1990, McCarthy & Carter 1994, Jons 2002, Hyland 2009). Text types are taught as integrated units of discourse, and any "attempt to simplify language learning to selected vocabulary, learning grammatical rules and fragmentary phrases" is considered a wrong move. Each educational system defines text types in terms of with the general goals of education and the specific objectives of the teaching programs. PISA classifies the types of texts according to the main rhetorical purpose: descriptive, narrative, pragmatic and interactive texts. Critical pedagogy (Rothery, 1994. Rothery & Stenglin 1997. Macken-Horarik 2002) classifies the types of texts written in the subject of language and literature (grades 7-10) into a) pragmatic texts (factual genres) b) narrative texts (story genres) c) correspondence texts, which comment on other texts. Text types are social acts of repetition of social situations. In this sense, text types respond to concrete and repeated theoretical situations and serve certain communication needs. Although there are many classifications of text types, researchers adhere to a common classification typology in texts a) narrative b) argumentative c) descriptive d) procedural/pragmatological
Given that the study of the type of text in meaningful reading takes a special priority in the acquisition of meaning and in the development of critical thinking habits for the construction of school knowledge (Knapp & Watkins, 2005), in this paper the problematic question is posed: How does knowledge of text types and discourse types affect the Albanian language subject for the development of meaningful reading? Meanwhile, research studies show that the results in different types of text are not the same, but better levels of comprehension are observed in narrative texts, as it is the dominant textual genre with which children come into contact from a very early age. Life

Theoretical basis

Over the last three decades, the concept of text type has been at the center of study in many interdisciplinary fields related to language learning and teaching in education, beyond the tradition. During this time, the concept of text was detached from its long literary tradition, and the analysis and teaching of school literacy discourse was based on text types. In the text-based linguistic approach, two main linguistic tendencies are observed:
a.the linguistic-communicative direction, which conceives the text in the linguistic

theoretical aspect, as an independent element of linguistic analysis from the stylistic field and as a means of classifying different types of text (Jim Martin). Written discourse is treated statically and decontextualized from the social-cultural context. Communicative and structured language teaching involves the use of methods that help students develop their language skills in an effective and structured way. These methods include: Communicative methods focus on using language in real communication situations. Students are encouraged to use language to communicate their thoughts and ideas freely and creatively. Structural methods focus on the grammatical and syntactic structure of the language. Students learn grammar rules and ways of constructing sentences to improve their linguistic accuracy. The combined method uses elements from both of the above methods to ensure that students develop their communication skills and understand the structure of the language at the same time.

b. critical functional direction, which treats the type of text as a constituent element of the stylistic field and as one and not the only factor that exerts an influence on the structuring of the meaning of the text (genre-based literacy pedagogies), where the process is of special interest of learning and teaching text types in the school context. (genre as social process/practice model, Knapp & Watkins 1994, 2009). Critical reading goes beyond the functional text-based approach and highlights the social dimension of language. The typology of the text expresses the social-cultural context. to which it refers and may include more than one type of text. For example, advertisement is a type of text. As a type of text, it can contain textual elements of narration, description, argumentation, etc. In the text-based linguistic approach, some of the theses related to the development of meaningful reading are: a) The text is the basic element of the analysis and synthesis of meaning. b) The understanding of a text is conditioned by the micro-context (cotext) and the macro-context/situational context (context). c) Understanding and writing a text is a difficult process. In the text-based linguistic approach, any type of text can be conceptualized as polysemantic in terms of semantic interpretation. The student develops the awareness of understanding that each type of text represents a form of understanding of reality. The teaching approach based on the type of text is understandable, but not expressed in the curriculum of the Albanian language. In the curriculum of the Albanian language, the main place is occupied by the narrative text and less by the pragmatic text. In the new Albanian language curriculum, the non-literary text occupies almost 30% of the text type. Argumentative and comparison-contrast text begins to be studied in class VIII. In the Albanian language book class IX they are classified into Narrative text, Poetic text, Dramatic text, Descriptive text, Argumentative text, Informative-explanatory text, Instructive-commanding text and their subtypes

Methodology

The text-based language approach is a philosophy for teaching and learning rather than a method; involves an abstract concept based primarily on beliefs and attitudes about learning and teaching. Teaching and learning in reading comprehension according to the text-based approach examines a) the structure b) the language and

c) the content of the text. Having as a starting point these structuring elements of the content of the text, critical reading comes as a dynamic process of data interpretation depending on the type, structure and style of the text (Martin, 2000). Students skilled in constructing deep meaning and writing an effective communicative text possess textual competence. At the core of the development of the competence of meaningful reading is functional literacy, which aims to develop in the individual, beyond reading ability, reading for understanding at high mental levels and in complex contextual situations of the type of written text (Pearson and Raphael 1990).

From a review of the research literature, students' results in reading comprehension are not so much related to their reading skills as to difficulties in reading for comprehension. Researchers support the development of reading comprehension in complex learning environments. Such learning environments involve the student in sociolinguistic and cognitive processes during active interaction with the text a) placing him in an independent communication with the data of the text, such as content, structure, grammar, linguistic style of the text, intertextual connection, etc. . b) encouraging the student's cognitive processes, such as the use of learning strategies and intellectual skills during the processing and active construction of the contextual meaning of a text. The functional language approach based on the type of text (genre, text and grammar approach) supports the dynamics of students' learning from guided learning to independent learning: and from cooperative to autonomous learning; and relies on the four structural elements of text type: Content, Language, Structure, Grammar and Evaluation. The Albanian language program is designed in the spirit and philosophy of the new curriculum, which aims to build and develop key competencies and subject competencies in students. The subject content is conceived as a tool for the realization of key competencies and those of the subject through different learning situations. This means that students activate previous knowledge, build new knowledge and skills by interacting with texts (literary and non-literary), integrate and connect the ideas of the texts with their lives and the world around them, use the knowledge in situations new etc. The program defines the steps that the teacher must follow during the teaching and learning process to connect the subject competencies with the key competencies for each grade.

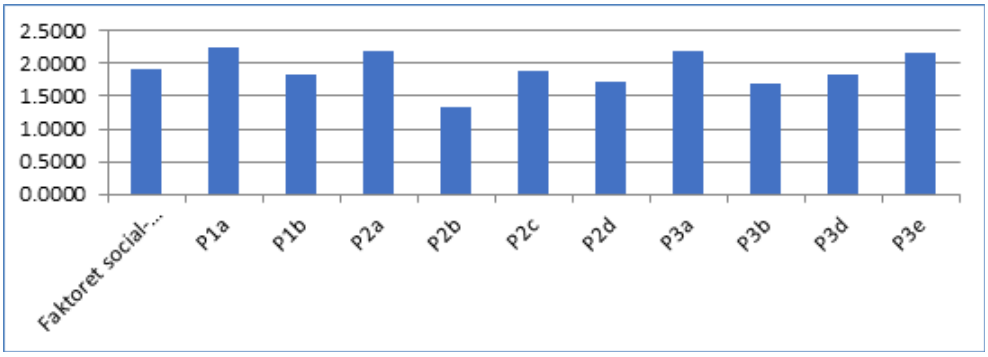
The descriptive analysis observed that the curriculum documents and textbooks of the Albanian language have a distribution of text types in accordance with the intellectual stages of learning by developing different textual skills, that is, different ways or strategies of presenting information in the text. These mechanisms are related, on the one hand, to the way of establishing textual coherence in oral and written text and, on the other hand, to the expectations that students have developed about the type of text. According to Cain, Oakhill and Bryant (2004: 31) text comprehension involves the formation of a meaningful representation of the text, often known as a mental model or a model that refers to a particular context. Mechanisms of linguistic cohesion and coherence of text structure are necessary for meaningful integration and overall understanding of a text. In the text-based language approach, teaching moves away from the simple understanding and processing of the text and now focuses on the relationship between the structure, type of text and the referential context of communication. It does not rest on exercises

with the reference unit 'sentence', since sentences do not function out of context, but their form and meaning are determined in relation to and in function of the rest of the text. One of the most popular models of text-based reading comprehension is the situational model of reading (Kintsch. & van Dijk, 1978 · Kintsch, 1988, 1998). According to this model, meaningful reading goes through three levels consecutive. Comprehension of a text is always constructed, developed and controlled by some prior cognitive mental schemas (the clear approach of cognitive theories), which, during reading, relate concepts, in "intertextual situations" as a sequence of distinct processing/processes, which are performed almost simultaneously and combined, in order to produce a reading comprehension result of the three-level reading approach (I. Simple Comprehension, II. Interpretive Comprehension, III. Critical Approach to Reading): I) Simple Comprehension is limited to the lexical/, syntactic and semantic processing of a phrase, sentence, to derive an acceptable, logical meaning "of limited plan", serially, through primary decoding, where visual stimuli of textual words and sentences become semantic representations . II) The interpretation extends its "interest" to the entire text or, more broadly, textual units, to the "textual base", III) the "plane" of critical reading opens and the reader uses factual knowledge and previous knowledge, i.e. the information related to the goals, the point of view of the text, the position, the general orientation and the intention of the author in relation to the textual genre, simultaneously processing the information related to the axis of microstructure and macrostructure of the text.

Poblematic questions that arise in relation to the development of meaningful reading according to the text-based approach: How do we help students draw out important ideas or themes while reading a text? How do we help them draw conclusions to complete the implicit information in a written text? How do we develop understanding at higher levels, to move beyond basic understanding to a level of critical examination of textbook content? In order to answer these problematic questions, this paper was based on the interpretation of the study literature and the curriculum documents of the Albanian language course at AMU, as well as the views of the teachers about teaching for meaningful reading, which resulted from the quantitative processing and data quality. In order to develop learning skills in meaningful reading, in the VI-IX curricula of the Albanian language, the following methodological directions are foreseen: • active interaction of students with reading content in terms of text types (This methodological approach is supported by the Sydney School). A basic and common assumption has been the belief that "learning new textual genres gives individuals the linguistic potential to engage in new domains of social action" (Cope & Kalantzis, 1994). cognitive awareness about the learner's use of learning strategies (functional text-based language approach, Halliday, versus traditional grammar). The teacher's questionnaire was designed based on social-cultural and social-cognitive approaches to learning in meaningful reading, which reflect the constructivist philosophy of the AMU curriculum and the Albanian language curriculum in particular. Through the questionnaire, it is intended to evidence the functional impact of some text structuring factors/elements on the development of critical thinking during meaningful reading. Graph 1 shows the distribution of the average values observed for each of the indicators that determine the value of the variable 'Social-linguistic factors' and the

average value observed for this variable. The measurement indicators were specified according to Rothery's (1994) systemic-functional model for language learning and teaching, which is based on Halliday's (1989) systemic-functional linguistic theory. The latter defines the basic components of building the meaning of a text: language, text, structure and context. Language produces meanings through actualization in types and types of text. Linguistic units of the holistic meaning construction of the text are the overall structure and organization of the text and not isolated parts, such as words and sentences. Meaningful negotiation i eaders with the text is realized through the style component, which establishes a systematic connection between the text and the context, or between the text and the social practice that the text actualizes

Chart 1. The distribution of the observed average values of the indicators for 'Social-linguistic factors'



Nga analiza e të dhënave statistikore përshkruese, rezultoi se vlerat më të larta për variablin Faktorët social-gjuhësorë (grafiku 1) kanë treguesit P1a Teksti letrar, P2a Teksti argumentues, P3a Përmbajtja dhe konteksti i tekstit, P3e Stili dhe gjuha stilistike. të tekstit, ndërsa P3b merr vlerën më të vogël krahasuese. Vihet re se faktorët "Struktura e tekstit" P3b dhe "lidhja ndërtekstuale P2b" janë treguesit me perceptimin më të ulët në krahasim me treguesit e tjerë. Si mundet studenti të zotërojë rolin e lexuesit kritik të një teksti? Mësuesit i vendosin studentët në mjedise komplekse mësimore dhe përballen me zgjidhjen komplekse të detyrave për të zhvilluar të menduarit kritik dhe aftësitë e zgjidhjes së problemeve. Njohuritë dhe aftësitë që zhvillojnë nxënësit për qëllimin e të shkruarit dhe llojin e tekstit (p.sh. për të informuar, për të rrëfyer, për të bindur etj.), njohuri për llojet e ligjërimit sipas qëllimit dhe kontekstit të komunikimit, studimin krahasues të teksteve. për nga përmbajtja dhe struktura, gramatika funksionale etj janë disa nga faktorët e të nxënit në lexim kuptimplotë, të cilët bashkërendohen për të zhvilluar nivele të larta të të kuptuarit të një teksti. Mësuesi vendos synime dhe zgjedh mjete mësimore që u shërbejnë qëllimeve përkatëse të mësimdhënies, në lidhje me standardet e të nxënit dhe rezultatet e arritjeve në lidhje me funksionin e strukturave gjuhësore, llojet e teksteve, të kuptuarit, strukturimin dhe vlerësimin kritik të llojeve të teksteve dhe konteksteve të ndryshme sociokulturore. Në këtë kuptim, mësimdhënia e leximit kuptimplotë është e shumëanshme dhe komplekse.

How does text type affect the development of comprehension and critical thinking

in reading? Text type develops understanding in relation to a number of functional factors: Text and context In the last few decades it has been accepted among linguists that human communication does not end at the point of the sentence. Communications can be accomplished with a single word or sentence, but they are mostly accomplished with larger units than sentences. Context is the unspoken, the implied meaning of what the text does not say. Text and discourse The process of text activation occurs by relating it to a context of use called discourse (discourse type), this contextualization is the receiver's reconstruction of the sender's intentions.
Text types - Descriptive type Treatment of phenomena in space. The sentences in the text of the text occur and describe them. Narrative type (narrative, narrative) Treatment of factual phenomena in time. This type of text deals with processes observed in time. With this type of writing, an event of a story is shown and the difference from a descriptive writing lies in the dimension of time.- - Expository type of text is a type of text communication, while facilitating either an integrated element or the mental construct of a phenomenon. The type of expository writing explains the nature, thought, purpose, condition, process of what it is about. So service to inform and clarify. Definition, interpretation of the text, are explanatory texts and can be general, analytical and synthetic. - Type of text argued for the purposes of an opinion facing the position against a phenomenon. This article aims at arguments. -Instructive type of text is a type of text, through communication, it is communicated or ordered about what needs to be done. Includes: orders, regulations, statutes etc. Knowledge and skills about text type develop life skills, e.g. for the students to write an article with a theme from narrative literature or a theme from sociology, a poster on the organization of an activity, etc. need to know how the text type is structured in the referential structure and social context. The development of constructive thinking in reading/writing does not claim only knowledge of grammatical rules, lexical skills, writing skills or reading skills, but also their skills. structuring the meaning of a text about authentic life. The textual type of the text in the reader and directs it to the concrete textual referential structure of the life situations (Kucan & Beck, 1996). Narrative texts seem to be more permeable to readers compared to informative or explanatory texts, due to different requirements in the past and their processing. In narrative texts, the weaving of events and main elements e.g. the place, the time, more permissible, the person before the writer, therefore they are more understandable by the readers; in the text more prior knowledge about the topic; more critical thinking strategies are needed in argumentative text (Beck & McKeown, 198).
In the teacher's questionnaire, a positive perception about the 'text structure' strategy (3b) in the development of meaningful reading is observed, but lower compared to the type of text. It does not result in a high perception of the teachers regarding the students' strategic ability in the use of "text structure" during meaningful reading. In the teacher's perception, the teaching of text structure (50.119β= −) exerts a negative influence on the reinforcement of meaningful reading. This can be explained by the fact that teachers still conceptualize text structure more in terms of organizing the content of the text. text, than from the functional structuring of its component elements. According to Minskoff (2005), the structure of the text is an important factor in meaningful reading, it is the way of organizing information to express the ideas

that the writer conveys. According to Brand & Bluth (1980) the structure of a text is the way of organizing the content, which helps the reader to identify the important information within a text according to the questions it poses as well as to improve comprehension. Comprehension of a text depends not only on the way the content is organized, but also on the cognitive and cognitive structures of the reader in relation to the structural elements of the text, which are known as schemas. According to Morrow (1987) readers first memorize the hierarchy of information placement in the text and then describe the content. EG The situational model of the narrative text refers to understanding about the heroes
The context, actions and events that structure the content of the text. Non-narrative texts convey pragmatic information, which is not directly related to the learner's personal experience (Mayer & Whedon, 2002). Several researchers suggest direct teaching of text structure strategy to students with learning difficulties, as knowledge of text structure (Armbruster et al, 1987. Carrell, 1985. Duke & Pearson, 2002) increases metacognitive control skills of understanding of a text, awareness of the writer's purpose and the function of the text's structuring elements.The study results have also shown significant improvements in the quality of understanding and writing a text, after the text structure scheme has been applied by the students themselves. Several research studies prove that text structure strategy skills can be transferred to other unfamiliar texts (Leon & Carretero, 1995). Smith (2006) considers the structure of the text as part of the general cognitive structure of the individual, that is, part of the way the individual organizes knowledge about the world and his experience. Text structures should be conceived as a basis for understanding the text and not as understanding itself. The organizational structures of texts do not require our voluntary attention. Children are taught text structures to help them understand less familiar and more difficult texts for children. For Smith understanding text precedes teaching text structures. Performance in different text genres is not similar, but better levels of comprehension are observed in narrative texts, as it is the dominant text genre with which children are introduced from an early age. At the end of primary education, it is observed that performance in informational texts will be lower than in narrative texts, but will not fluctuate at low levels. On the contrary, there are no argumentative texts in primary school textbooks, which are considered to be of a more difficult conceptual and structural level and their inclusion in school textbooks belongs to higher age levels of logical thinking.

Conclusions

Conclusions Educational curricula in Albania are based on constructive socio-cultural and cognitive approaches. According to the Sydney socio-cultural constructivist school, the development of cognitive literacy skills is not a simple psychological process, but primarily a text-based socio-psychological activity. The text was conceived as an interactive functional dynamic between content, structure, grammar and evaluation at each stage of understanding or writing a text. In this sense, the student, who will be able to master the knowledge of the rules of structuring different types of text in linguistic circumstances, is considered to develop the social ability of

adaptability to the demands of contemporary social and multimodal environments. In the situational model of reading, the context of understanding is expanded, enriched with new plans of the cognitive background (the perspective of multiple plans) and the "situational" or "cognitive" model of the text appears, which turns out to be a connecting, creative model , subjective mental representations resulting from the previous two levels of text-focused reading. In other words, the reader distances himself, as much as possible, from the textual environment predetermined by the author in order to give new interpretations, expanded ideas, independent of the author's intentions, but also in relation to knowledge, perceptions , the readings, the existing values of the readers themselves (intertextuality), or complementary, synthesizing or approaching, controlling and antagonistic to the textual world of the author. Text-based reading comprehension in the language subject goes beyond the development of language competences and, by examining the structure, language and content of the text type, aims to acquire school knowledge through the subjects. In this paper, referring to the study literature and research results, several conclusions were reached regarding the problematic questions posed: What is the relationship between the specific social role of the text type and its lexical-grammatical and stylistic characteristics? In the Albanian language curriculum for lower secondary education, the text-based approach is predictable in the development of meaningful reading. Meaningful reading is realized on the basis of the competences to read and understand texts of various literary and non-literary types. In order for the teaching of linguistic structures to be effective, in the function of meaningful reading, the grammar of words and sentences is taught in the context of textual types. In the curriculum of the Albanian language, it is underlined that "The student selects the text he reads depending on his purpose. He uses several strategies (before, during and after reading) to understand the text. The student demonstrates understanding of the text by showing the content and illustrating it with excerpts and details from the text. Students judge with arguments the ideas given directly or implicitly, distinguish elements of the form and structure of texts, compare characters, ideas, information, etc. It reveals the similarities and differences between the texts. The student reads, understands, interprets and judges a variety of literary and non-literary texts. Fusha "Gjuhët dhe komunikimi"

In this research paper, it was concluded that teachers of lower secondary education believe in the importance of studying mainly types of text genres for the development of meaningful reading, while P3b Text structure takes the least comparative value of textual elements. . Classifying text types is an important aspect of understanding the function and structure of texts. On the other hand, referred to Cain, Oakhill and Bryant (2004: 31) the understanding of a text is related to a meaningful representation of the text, often known as a mental model or a model of the text that refers to a certain context. The mechanisms of linguistic cohesion and text structure coherence are necessary for meaningful integration and overall understanding of a text. Brand & Bluth (1980) Smith (2006) considers the structure of the text as part of the general cognitive structure of the individual, as part of the way the individual organizes knowledge about the world and his experience. The results of the teacher's questionnaire can be explained by the fact that teachers still conceptualize the structure of the text more

from the cognitive side of content structuring than from the functional organization of its structural elements as a basis for understanding the content. Albanian language teachers also do not have high expectations regarding the teaching of text structure to reinforce meaningful reading for students with learning difficulties. This is due to the fact that the Albanian education curricula do not recognize the teaching practices of learning strategies for students with difficulties. Which types of text are most important and most frequent in each subject? The type of text has a significant impact on how the learner understands the content as it directs and orients the reader's awareness to the purpose of writing the content. The type of text determines other structuring elements, which clarify, organize and facilitate the process of interactive interdependence between the reader, the learner and the content of the text. Martin (2000:117) and his colleagues approach the disciplines as systems of textual genres, (Macken-Horarick 2000:77) defining the types of texts that students should study according to educational levels. From the Albanian language teacher's questionnaire, it turns out that more space is claimed in the curriculum for non-literary text in general and argumentative text in particular. Research studies show that the first place in the school subject should be occupied by the narrative-narrative text, since in the first years of development the child masters narrative thinking and then develops the logical-mathematical thinking of pragmatic texts, which are considered somewhat difficult for from the structure schemes and the notions they carry. As for argumentative texts, they are considered difficult, but of special importance for school knowledge (Kellogy 1994), as it directs thinking towards higher levels of deep understanding and critical thinking. The research literature suggests the inclusion of pragmatic and argumentative texts in the curriculum after the age of ten.

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The role of the Progeo Albania in advancing geoheritage and geotourism development

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Abstract

Earth's geological processes are happening around us all the time. Rivers cut their way down into their valleys, shed their sediment where they empty into the sea, thus forming deltas, and mountains rise imperceptibly as continental plates grind against each other. These processes shape the ground we stand on and the landscapes we see around us. [1] The Progeo Albania as part of Progeo[1] has long been at the forefront of geoheritage research, leveraging its scientific expertise to deepen the understanding of Albania's geological framework and significant geosites. Since 1996, Progeo Albania has actively supported studies on Albania's geoheritage and geotourism potential, focusing on areas such as the creation of the nation's first inventory of geosites, the mapping of geologically significant regions, and the establishment of a unified geoheritage inventory in collaboration with Albania's former Ministry of Environment. The Progeo Albania multidisciplinary approach, engaging geologists, paleontologists, stratigraphers, geographers, students and other specialists, has led to the recognition and scientific description of geosites across Albania.

These efforts have also positioned the Progeo Albania as a major player in the international geological community and in the Progeo. Through its participation in ProGEO symposiums and contributions to the Carpatho-Balkan Geological Congress, the Progeo Albania has fostered collaboration with national and regional geological organizations, promoting Albania's unique geoheritage mostly on the Europian stage. Its role includes not only research and preservation but also practical applications of geoheritage knowledge, incorporating Albania's geosites and geomorphological landscapes into national programs that recognize their scientific, educational, and economic value.

The Progeo Albania, reflect Albania's commitment to sustainable geotourism, with projects designed to highlight the geotouristic value of local geosites in every municipality level. This nationwide program aligns with Albania's recent territorial reform, aiming to balance regional development with the conservation of natural heritage. For this reason, the members of Progeo Albania in collaboration with the Geological Survey of Albania have jointed their efforts and expertise to support municipalities by providing them with detailed studies and guidelines for promoting geosites in a way that respects their scientific and ecological importance while contributing to local economic growth.

Progeo through its experts, emphasizes the need for a formalized legal and policy framework to protect and preserve Albania's natural geological assets. Recommendations include the establishment of a national geoheritage sector near the Geological Survey, including the geoheritage as a special course at Faculty of Geology and Mining, the formal adoption of the geopark designations in Albania's legal frameworks, and the training of local geologists and geographers as guides for geoheritage and biodiversity sites. The GSA advocates for comprehensive digital mapping, ongoing research, and broader public awareness of Albania's geoheritage, recognizing that these elements are essential for the sustainable management of geosites and the advancement of Albania's geotourism sector.

Through its enduring commitment, the Progeo Albania has demonstrated the scientific, didactic, and economic potential of geoheritage in Albania. Future plans include the promotion

[1] ProGEO, the European Association for Conservation of the Geological Heritage – an affiliated body of IUGS.

of prominent geosites and preparation of inspiring geoparks to UNESCO for inclusion in international geopark networks and a continued bossting of the touristic values of Albania besides others values [2]. The geology of Albania for its particularity can serve as an opena area museum for educational and eco-friendly geotourism.

Keywords: geoheritage, geomonuments, geotoursim, sustainable management, natural resources.

1. Introduction

Albania's rich geological landscape, shaped over millions of years, is home to numerous unique geological formations and features, collectively known as geoheritage. This natural heritage has intrinsic scientific, educational, and recreational value, contributing to the nation's geotourism potential. This article reviews Progeo Albania ongoing efforts to develop Albania's geoheritage and geotourism, discussing challenges, achievements, and recommendations for future progress.

2. Historical background of the Progeo Albania association

Progeo Albania's foundational studies on Albania's geological heritage began in earnest in 1996, emphasizing the value of the nation's natural monuments. Scientific activities on the geological heritage are developing within the framework of European Programs of ProoGeo (The European Association for the Conservation of the Geological Heritage), and due to the finnancial support by Geological Survey of Albania for preparation of the first inventory of geological sites in Albania on 1998 by a group of authors A. Serjani, A. Neziraj and N. Jozja [2] Early achievements include:

a) Establishing Albania's first geosite inventory, a comprehensive catalog of geosites with national and international significance.
b) Creation of detailed geosite maps in collaboration with the former Ministry of Environment, aiding scientific documentation and conservation efforts.
c) Active participation in regional and international geological conferences, notably the Carpatho-Balkan Geological Association Congress.

Progeo Albania'scommitment has led to a framework recognizing geoheritage as a valuable national asset, with geosites seen not only as historical artifacts but also as tools for education, research, and sustainable tourism.

3. Role of geoheritage in geoscience and education

Progeo Albania'sefforts underscore the importance of geoheritage in understanding Albania's geological past. Geoheritage involves natural formations and landscapes that reveal significant geological phenomena, including:

a) Stratigraphic and paleontological sites that are sites that provide insight into past sedimentary environments, climate, and biotic conditions.
b) Geodiversity and biodiversity intersections, regions where geological and biological diversity intersect, offering unique educational opportunities

Geoheritage thus serves a dual purpose, advancing scientific knowledge while

supporting educational initiatives. Progeo Albania has collaborated with institutions to include these geoheritage sites in educational curricula and create opportunities for field research.

4. Development of geotourism and economic impact

In recent years, geotourism has emerged as a growing field within Albania's tourism sector, driven by AGS's work in mapping and promoting geoheritage sites. Notable developments include:

a) Geotourism projects across municipalities, following territorial reform, AGS began developing tailored geotourism projects in all Albanian municipalities.
b) Economic and recreational value by leveraging geosites as tourism assets, AGS has contributed to local economies, particularly in rural areas with geologically significant sites.

Progeo Albania'sprojects align with international geotourism standards, offering educational tours, interpretive signage, and promotional materials aimed at attracting both domestic and international tourists.

Figure 1 Kamja'Stone

Figure 2 Langarica Canyon

5. Geoheritage management and legal frameworks

Efforts to manage Albania's geoheritage face several challenges, including the need for clear legal protections, defined responsibilities among institutions, and comprehensive site management strategies. Key areas addressed by Progeo Albania include:

a) Legislation and Protection Status, Progeo Albania has advocated for updated legislation to better protect geoheritage sites, including a reclassification of protected areas to account for geosites.
b) Integration with environmental policy, collaboration with government and environmental agencies aims to incorporate geoheritage into broader environmental policy frameworks.

Progeo Albania calls for a National Geoheritage Protection Network, which would coordinate efforts to monitor and maintain geosites and support their inclusion in

national and regional conservation plans.

6. Recommendations for Sustainable Geoheritage Conservation

Progeo Albania's efforts have highlighted several challenges in geoheritage conservation, primarily the need for legislative updates, improved site management, and increased community engagement. The following recommendations are proposed:

a) Digital mapping and inventory expansion through continued digital mapping of geoheritage sites for easier access, interpretation, and monitoring [3].
b) Enhanced geotourism education, by developing training programs for geologists, geographers, and local guides specializing in geotourism.
c) Community engagement, by increasing public awareness about geoheritage to foster community involvement in preservation efforts.
d) Establishment of a national geoheritage institute, a dedicated institute for geoheritage and natural monument protection to centralize conservation and management initiatives.

Implementing these recommendations would ensure the sustainability of Albania's geoheritage, transforming it into a well-managed asset for scientific research, education, and sustainable tourism.

7. Conclusion

The Progeo Albania's role in geoheritage and geotourism development represents a model for integrating scientific research with national conservation and tourism strategies. By championing the protection and sustainable use of geoheritage sites, Progeo Albania has not only preserved Albania's geological history but also paved the way for a new era of economic and educational opportunities centered around natural heritage. With continued support, Albania's geoheritage holds the promise of becoming a central pillar in both the scientific and economic landscapes of the country.

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The history of the village Vithkuqi at the 17th and 18th centuries, as a religious and economic center

Rozela Dhimgjini

Abstract

Vithkuqi is one of the areas of Southeastern Albania, which experienced a rapid economic and social development during the second half of the 17th century and the first half of the 18th century. Vithkuqi was an important center of the Albanian-Macedonian-Thessaly zone, known for their special history during the mentioned centuries. In our study we will try to explain the historical, political, economic and religious situation of Vithkuqi during this period.
A great help for this study is the historical treatment of the situation of Voskopoja in this period, as well as the fact, that Vithkuqi's history is the most similar one to that of Voskopoja. Vithkuqi's religious-political situation, as well as the whole surrounding area, depended on several factors: 1. the place that this village had in the system of the Ottoman Empire, 2. the situation of the Ottoman Empire in the seventeenth century, 3. the religious relationship that this village had with the Patriarch of Ohrid and that of Costandinople, and 4. the connections that this area enjoyed with the Western world, such as Hungary, Austria, Venice and so on. It was the inspiring interaction of all these influencing factors at a suitable moment, that enabled the rapid glamour of these areas, but also the drastically decline of this glamour later. The important political, economic and religious factors of this area in the mentioned period are the object of our study.

Keywords: History, village, Vithkuqi, 17th and 18th centuries, religious, economic center.

Introduction

Vithkuqi, a prosperous pastoral village, is situated in a remote geographic location. The natural resources of this area saw significant development in the latter half of the 17th century through trade opportunities and strategic maneuvers by local villagers. The religious and political situation in Vithkuqi, as well as in the surrounding area, depended on several factors, including the village's position within the Ottoman Empire's administrative system, the state of the Empire in the 17th century, Vithkuqi's relations with the Patriarchates of Ohrid and Istanbul, and its connections with the Western world, such as Hungary, Austria, and Venice. The productive interaction among all these influential factors in a shared historical moment enabled the rapid flourishing of these regions but also led to an equally swift decline. Here, we examine some key political, economic, and religious factors in the area during the aforementioned period.
By the end of the 16th century, craftsmanship had begun to serve as a new economic foundation in Albanian towns and villages[1]. The trades that advanced most rapidly were those related to processing agricultural and livestock products, such as leather tanning and wool processing. However, due to the still-low level of economic development, growth in these areas progressed at a relatively slow pace[2]. During this period, Vithkuqi remained primarily a pastoral settlement, maintaining a lifestyle shaped by the needs of pastoral life, with seasonal migrations from summer pastures

to winter ones and vice versa.

Vithkuqi, benefiting from the protective terrain provided by the surrounding mountains and its geographical position near trade routes,[3] was able to transition from a simple pastoral profile to a craft and trade center. The development of production and its circulation led to the creation of the first corporations in "our" region[4]—guilds that were associations of small producers, organized by profession, with binding rules for all artisans and traders.

From the mid-16th century, the villagers of these prosperous areas were no longer producing solely to meet the needs of the regional market. Through connections and caravan trade along the well-known Osum route, which led to the port of Durrës on the Adriatic, they also managed to reach the European market[5]. All social and commercial relations were organized through guilds, which played a significant role in villages and towns during this period not only economically but also socially and culturally.

The growth and development of these pastoral centers in southeastern Albania, along with the boom in the production and processing of raw materials such as wool and leather—initially sourced from local producers—began in the early 17th century to supply northern markets where demand was steadily increasing for decades[6]. In the northern periphery of the Balkans, the Habsburg Empire's border line was becoming increasingly fortified with Balkan border guards (including a significant number of Albanians) from Ottoman-occupied areas. The Ottoman Empire's focus on this intense conflict zone led to a form of temporary tolerance toward its occupied territories.

The Austro-Hungarian army, with its large columns (mainly of peasants) stationed for extended periods along the Austro-Turkish border, had significant needs for food, clothing, and warm woolen blankets[7]. Large quantities of raw wool became the primary export goods loaded onto Venetian ships by the end of the 17th century.[8] Wool and its products were actually considered war materials by the Ottoman Empire and were included in the list of prohibited goods, which were not permitted to be exported outside Ottoman territories. However, as the Empire's finances had been weakened by expansionist wars during this period, the Ottoman state tolerated this trade for the sake of the tax's wool traders would pay as "rajahs" to the Ottoman capital in Istanbul.[9] This network of interests, which functioned until the end of the 17th century, greatly benefited the economy of the mountainous villages around Korça.

[3] Vithkuqi, like Voskopoja, served as an internal hub that, dating back to at least Byzantine times, connected Korça basin with Berat, Vlora, and Durrës. S. Adhami, Të dhëna rreth fizionomisë urbanistike dhe arkitektonike të qytetit mesjetar të Voskopojës, *Monumentet 3*, Tiranë 1972, 103.

[4] Historia e Popullit Shqiptar 2002, 551; Xhufi 2010, 153; Peyfuss 1996, 36.

[5] Studiuesi austriak Peyfuss, sheh lulëzimin e tregëtisë së Voskopojës të lidhur ngushtë me tregëtinë e Adriatikut. Sipas tij, vetëm atëherë grumbullohej kapitali në Voskopojë. Me zhvendosjen e veprimtarive tregëtare në rrugët tokësore, e me ngritjen e selive të Voskopojarëve në vendet e Europës Qendrore, u zhvendos dhe kapitali i akumuluar prej tregëtisë në këto zona të sigurta të Europës. Peyfuss 1996, 38.

[6] Ibid., 300.

[7] Ibid., 307.

[8] Invoices preserved by the Venetian Consulate on shipments of goods loaded onto Venetian ships provide evidence of the large quantities of wool, along with other goods such as wax and felt. Z. Shkodra, *Dokumente mbi Shqipërinë në shekullin XVIII: letra të konsujve venedikas të Durrësit*, vëll. I (1696-1707), Tiranë, 1975, nr.7, 38-41; nr.8, 41-44.

[9] R.Mantran, *Historia e Perandorisë Osmane*, Tiranë 2004, 244.

While the organized advancement of trade within the borders of a Muslim-ruled empire is highly regarded, the actual driving force behind the prosperity of Vithkuqi and similar surrounding areas is still unclear.[10] It is evident, however, that in the latter half of the 17th century, many trading centers, like Shipska, Nikolica, Naousa, Siatista, Ampelakia, Kozani, and Kastoria, developed in similar ways to Vithkuqi and Voskopoja.[11]

Apart from their geographic position within the Albanian-Macedonian-Thessalian basin, a common factor linking these trading centers, and likely significantly influencing their development during this period, was that all these hubs of remarkably rapid growth were governed by the same overarching religious and cultural authority. This influential governing factor utilized the expanding economy to strengthen the local clergy and, within this framework, established a series of dignified religious and cultural structures.

A long series of Balkan cities, along with most Albanian towns, had by the 17th century largely embraced Islam, leaving only small Christian communities within their populations. However, unlike much of Albania, in the southern Albanian territories—specifically in the Korça district, which was connected to the Manastir Sanjak—a majority of residents retained the Christian faith. In Vithkuq and Voskopoja, the population was entirely Christian (Orthodox).[12]

A key factor related to this is that the Orthodox Church's activities in Albanian regions operated under more favorable conditions compared to those of the Catholic Church.[13] The main authority for Albanian and Balkan Orthodoxy as a whole was the Ecumenical Patriarchate of Constantinople. Since the Ottoman conquest, the Patriarchate had maintained a favorable relationship with the new rulers, securing a somewhat privileged status within the Ottoman Empire.[14] Through a sultanic decree, the Ecumenical Patriarch and his subordinate Orthodox hierarchy were assured the continuation of all privileges they had enjoyed under the Byzantine Empire, making the Patriarch the highest Orthodox authority before the Sultan.[15] The Korça Metropolis, which included the religious and cultural territories of Vithkuq and Voskopoja, was under the jurisdiction of the Archbishopric of Ohrid.

The German Byzantinist Heinrich Gelzer provides insights into the structure and policies of the Ohrid Patriarchate, primarily in two of his publications.[16] By the late 17th century, the reach and position of the Ohrid Archbishopric had become much

[10] Xhufi 2010, 58.

[11] Ibid., 58.

[12] *Historia e Popullit Shqiptar* 2002, 550.

[13] Ibid., 604.

[14] Immediately after the conquest of Constantinople and its declaration as the empire's capital, Sultan Mehmed II declared himself the protector of the Orthodox Church and appointed a new head of the Ecumenical Patriarchate. He placed Bishop Gennadios (known as Scholarios), a distinguished cleric opposed to the unification of the Eastern and Western Churches, in this high office. Thus, from its inception, the Ottoman Empire established ruling policies that favored the Eastern Byzantine Christian faith—specifically, Orthodoxy—over the Western Christian, or Catholic, faith. This approach would continue with the same strategy in the Ottoman-occupied territories over the following centuries. O. Mazal, *Zur geistigen Auseinandersetzung zwischen Christentum und Islam in Spätbyzantinischer Zeit*, Hrsg. A. Zimmermann; I. Cremer-Ruegenberg, Berlin, New York 1985, 17.

[15] *Historia e Popullit Shqiptar* 2002, 604.

[16] H. Gelzer, *Der Patriarchat von Achrida. Geschichte und Urkunden*. Leipzig 1902; H.Gelzer, *Vom Heiligen Berge und aus Mazedonien*, Leipzig 1904.

more stable than in earlier centuries.[17] Within the strategic framework of the Patriarchate, two opposing forces are noted to have continuously vied for influence: on one side was the local clergy, which, when able to gain control over the Patriarchate's power, tended to promote the Orthodoxy of neighboring regions; on the other were the supporters of the "Great Church" of Constantinople—the "Phanariots" of the Greek Patriarchate of Istanbul—who held distinctly pro-Turkish leanings.

In 1695, Zosimas, the metropolitan of Sisanion and Siatista, was chosen as the Patriarch of Ohrid[18]. The appointment of a local clergyman as patriarch was a significant achievement for the policies of the Ohrid Patriarchate. By the second half of the 17th century, when records became clearer, the Greek clergy dominated throughout the Ohrid Patriarchate, and Greek had become the ecclesiastical language. The selection of a few local clerics to the position of Patriarch of Ohrid was a major victory for the indigenous clergy.

"It is possible that Zosimas' appointment was influenced by his wealth, enabling him to meet the needs of the impoverished Patriarchate."[19] This representative of the autonomy of the Ohrid diocese clergy led the archbishopric in two separate terms (1695-1699 and 1708-1709). During his leadership, records show his connections with the Habsburg Empire for a joint anti-Ottoman action[20]. It is likely that his pro-Western stance and support for local metropolitan churches created a favorable religious climate in the mountain villages of Korça, which, like other areas within the same religious sphere, experienced a notable rise in Orthodox construction (such as the Monastery of Saints Peter and Paul in Vithkuq, which began construction in 1709).[21]

In 1718, Joasaf from Voskopoja was appointed head of the Patriarchate of Ohrid. He had previously been elected Metropolitan of Korçë and Selasfor in the 1709 synod at the Monastery of Saint Mary in Boboshtica, under the condition that he would improve the Patriarchate's finances[22]. "The Patriarchate of Ohrid enjoyed its best days of autocephaly when Joasaf, from the noble Godova family of Voskopoja, took the throne (1719-1745)."[23] This distinguished patriarch had been elected Bishop of Prespa in 1706, Metropolitan of Korçë on June 4, 1709, and Archbishop of Ohrid on July 5, 1718. From 1718 until his death on October 22, 1745, he simultaneously presided over both the Diocese of Ohrid and the Metropolis of Korçë. The New Academy of

[17] Gelzer 1904, 29.

[18] As early as the 16th century, and more prominently by the 17th century, clerics from the Greek Patriarchate of Istanbul were regularly appointed to patriarchal positions throughout the Ottoman-controlled areas. In 1669, Patriarch Dositheus of Jerusalem established the Brotherhood of the Holy Sepulchre, mandating that: 1) no native-born Palestinian could join this Brotherhood, and 2) all patriarchs of Palestine were to be selected exclusively from its members. A similar organizational structure was proposed for the major Bulgarian and Serbian patriarchates, requiring their subordination to Phanariot policies. Consequently, in 1767, Ecumenical Patriarch Samuel replaced both Slavic patriarchs, thereby subjecting these patriarchates to Greek hierarchy—a state of affairs that lasted, despite popular protests, for half a century among the Serbs and a full century among the Bulgarians.The occasional appointment of local patriarchs within the Ohrid Patriarchate can likely be attributed to the financial support these leaders could offer, alleviating the persistently poor financial state of the institution, as documented in preserved financial records.Gelzer 1902, 150.

[19] Gelzer 1902, 156.

[20] S. Barnaides, *O archiepiscopos Achridos Zosimas (1686-1746) kai e ekkliastike kai politike drases autou, Tessalonike* 1974, 79-92, 138 e vijim (cituar sipas: Peyfuss 1996, 190).

[21] Koch 1989, 198.

[22] Peyfuss 1996, 175.

[23] Xhufi 2010, 193.

Voskopoja, along with its printing press, was a result of his care and funding[24]. Joasaf significantly strengthened the culture and Orthodoxy in his region, as documented in numerous inscriptions in the churches of Voskopoja, Vithkuq, Boboshtica, and others[25]. "The name of Joasaf, who led the Patriarchate of Ohrid from February 5, 1719, to October 22, 1745, is also associated with considerable expenses made for public and religious works."[26]

In Vithkuq, Joasaf's name is linked to the most significant religious construction in the area, the Monastery of Saints Peter and Paul, which he built during his time as Bishop of Prespa, showing his early commitment to the religious culture of our region. Joasaf's influence and support were undoubtedly among the key factors contributing to the cultural flourishing of Vithkuq in the 18th century.

Vithkuq was a purely Christian village and enjoyed a higher level of self-governance compared to the Christian quarters in most other Ottoman cities.[27] The large number of churches built in this prosperous village during the 17th and 18th centuries attests to its well-being and cultural stature.

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[26] P. Pepo, *Materiale dokumentare për Shqipërinë juglindore të shek. XVIII-XX: Kodiku i Korçës dhe Selasforit*, Vëll. 1, Tiranë 1981, 9.

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The EU accession to the European Court of Human Rights

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Abstract

The current relationship between the European Court of Human Rights (ECtHR) and the European Court of Justice (ECJ) is very interesting to study, in particular, in relation to the interpretation of human rights. Being an interesting relationship, it is a great curiosity to study this relationship between these two jurisdictions. More interesting is this report and this study is done after the accession of the European Union (EU) to the European Convention on Human Rights (ECHR).
In such a hypothesis there arises for discussion the resolution of the issues of conflict of jurisdictions, the thing judged(res judicata) and litispendency or dependence. This phenomenon is of particular importance because the not too distant future promises a possible accession of the European Union to the ECHR, in a situation where legal prerogatives are sanctioned in both the ECHR and the Treaty on the Functioning of the European Union (TFEU).
The benefits and problems that may arise after EU accession are of particular importance at a time when it seems that the ECJ also represents a kind of resistance and it is not easy to separate from its jurisdiction some of the competencies, despite the fact that such a delegation would be in favor of a specialized treatment and would guarantee basic human rights and freedoms. These and not only will be part of the treatment of this modest article, occurred in the conditions when Albania is expected to be a member of the EU, while it has acceded to the ECHR.

Keywords: Accession to the European Convention on Human Rights, European Court of Human Rights, European Court of Justice, Treaty on the Functioning of the European Union, etc.

1. Introduction

The ECHR is the founding act that enshrined minimum standards for the protection of human rights and fundamental freedoms, signed in 1950 in Rome and entered into force in 1953. The monitoring system for its implementation, the ECHR, was established in 1959.
Today we are members of the ECHR 46 countries of the world, which have agreed to submit to the jurisdiction of the ECHR, through the ratification of the ECHR and membership in the Council of Europe[1]. Albania is also part of this structure[2], moreover it has given a special status to the ECHR in relation to the internal legal system, equating it with the Constitution in terms of limiting human rights.[3]
EU accession to the ECHR has been part of longstanding discussions which became legally binding in fundamental EU acts, only with the adoption of the Treaty of

Lisbon on 1 December 2009[4]. The Treaty of Lisbon was the first treaty to give full legal personality to the EU, thus enabling the organisation to sign international acts. A number of legal requirements for the implementation of the agreement were further sanctioned in the Lisbon Treaty[5]. On the other hand, the Convention was amended by Protocol No. 14 which entered into force in 2010, providing for the possibility of the Union acceding to the Convention by amending Article 59 of the Convention.[6]
We are currently facing an unusual situation, where all EU member states have ratified the ECHR and members of the Council of Europe, but surprisingly it is not understood why the EU as an organization does not yet have the full will to accede to this international act.

2. EU & ECHR report

At the founding of the European Community, it was not sanctioned in any of the founding acts, such as the Treaty of Paris (1951) or the Treaty of Rome (1957), principles on human rights and fundamental freedoms. This is probably due to the fact that the primary purpose of a *Union* was not about the social aspect and objectives of the states, but about the recovery of the economic situation after the Second World War. Notwithstanding this, the practice of the ECJ is reflected and based on fundamental human rights as principles of unwritten primary Community law[7]. We note that a part of the EU member states were also ratifiers of the ECHR, where the latter serves as a positive spirit for the understanding and enforceability of human rights under the EU activity.
In the case law of the ECJ for the first time we find cited indirectly the convention in the case J. Nold, Kohlen- und Baustoffgrosshandlung v European Commission (EC). In this case, the court stated that the fundamental rights are inspired by two main sources;

- The common constitutional tradition of the Member States as well as the
- International treaties on the protection of human rights to which Member States are party.[8]

The latter included the ECHR as an international act that had been ratified by part of the member states.
Her practice, despite acknowledging that she is not competent to assess whether the national rules of the states come into line with the ECHR, she has stated that when these rules fall within the area of community law and violate fundamental rights, the ECJ assesses taking into account the standards set for these rights by invoking the

[4] Treaty of Lisbon Article 6/*2 "The Union shall accede to the Convention".*
[5] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012E%2FPRO%2F08, accessed on 26.02.2024, Protocol (no. 8) in conjunction with Article 6(2) of the Treaty on European Union on the accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 1 provides for legal arrangements enabling the accession of the Union to the Convention "a) Specific arrangements enabling the Union's participation in the control mechanisms of the Convention; (b) Necessary mechanisms ensuring that proceedings initiated by non-member States and individuals are addressed to the Member States/the Union".
[6] https://www.echr.coe.int/documents/d/echr/library_collection_p14_ets194e_eng , accessed on 24.02.2024, Protocol no. 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Amendment of the Control System of the Convention, Article 17
[7] Case 29-69 Erich Stauder v City of Ulm; Case 11/70 Internationale Handelsgesellschaf
[8] Case 4-73. J. Nold, Kohlen- und Baustoffgroßhandlung v Commission of the European Communities, pg 13

ECHR's provisions as an act of specific, inspiring importance in this area.[9]
With the adoption of the Maastricht Treaty, we see for the first time in Article 6 the obligation to respect fundamental rights and freedoms under the European Convention on Human Rights.[10]
With the entry into force of this treaty, the ECJ was asked for the first opinion on the possibility of the Union's accession to the convention. Article 228(6) of the Treaty provides that the Council, the Commission or a Member State may take the opinion of the Court of Justice if an envisaged agreement is compatible with the provisions of the Treaty. According to the analysis submitted by the ECtHR, "*As the Community law now stands, the Community does not have the competence to accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms*".[11]
Until the adoption of the European Charter of Human Rights, which became binding only in 2009 with the Treaty of Lisbon, the ECHR played a key role in EU rights. However, this role continued to remain after the adoption of the Charter, which was reflected in the fact that the EU treaties themselves sanction the obligation of EU accession to the ECHR. This was followed by the amendments made to the ECHR for the admission of the Union as an international organization that could accede to it.
In the framework of obtaining and fulfilling the obligation already provided for in the treaty, the EU initiated the procedure for opening accession negotiations with the ECHR in 2010. Only in 2013, was it possible for the negotiating group to conclude a draft agreement, which provided for several key points in the framework of the accession process:

- Jurisdiction of the European Court of Justice in relation to the jurisdiction of the ECtHR.
- Establishment of legal mechanisms which make it possible to accede without prejudice to the competences of the Community.

Pursuant to Article 218 TFEU, the Commission has requested an opinion from the Court of Justice on the possibility of accession to the ECHR. This request is based on the draft agreement submitted by the technical body, assessing whether this act and the ECHR comply with the EU treaties.
In the reply given by the ECJ, after analyzing the provisions and amendments proposed by the technical group to the draft agreement, it was concluded that the latter violated Article 6/2 TEU and Protocol No. 8 to Article 6/2 TEU.[12] The ECJ's overall opinion was based on the following main points that made the agreement violate the treaties:

- Do not take into account the specific characteristics of European Union law.[13]
- Contrary to Article 3 of Protocol 8, the proposed accession agreement violated Article 344 of the TFEU, because it did not exclude the possibility of using the ECtHR to settle disputes between member states in matters of European Union law.[14]

[9] Case C-260/89 Monomeles Protodikeio Thessaloniki – Greece Pg 41-45. See also Joined Cases C-402/05 P and C-415/05 P.
[10] Official Journal C 325 , 24/12/2002 P. 0005 – 0032 Maastricht Treaty.
[11] Opinion 2/94, see the enacting clause, https://curia.europa.eu/juris/liste.jsf? pro=AVIS&num=c-2/94,accessed on 01/03/2024.
[12] Opinion, 2/13, dated 18.12.2014 https://curia.europa.eu/juris/document/document.jsf?docid=160882&doclang=EN accessed on 02/03.3024.
[13] Opinion, 2/13, dated 18.12.2014, pg. 179 – 200.
[14] See Article 4 of the draft agreement on EU accession to the ECHR, and Opinion, 2/13, dated 18.12.2014 pg. 214

- The co-responsibility mechanism, the procedure provided for in the draft agreement created the risk of extending the jurisdiction of the ECtHR to the interpretation of Community law in cases where the parties before the court would be both the Member State and the EU, creating a double liability, but this would also affect the reservations that the Member States may have made against the convention[15].
- The procedure for the preliminary inclusion of the ECJ was contrary to Community law, because despite providing for the preliminary inclusion of the ECJ, it does not make clear what happens in cases where we have a precedent created by the ECJ on the same issue, whether it will stay connected with this ECHR jurisprudence or extend jurisdiction and adjudicate and the positions of the ECJ, the latter would violate the competences of the EU institutions by violating the provisions of the treaty.[16]
- The specific features of European Union law relating to judicial review in matters of the Common Foreign and Security Policy (CFSP), while the ECJ itself has limited jurisdiction in these matters, cannot another court extend jurisdiction in this area.[17]

If we go back to the first opinion given by the ECtHR on accession to the Convention, it was foreseen that there are no legal preconditions for making this process possible, changes to treaties were needed for this to be achieved. While these changes were achieved, it seems difficult for the ECJ to agree to cede its competences in the field of human rights, this is also noted in the fact that it states about the jurisdiction related *to the CFSP, "if I cannot have jurisdiction, there cannot be another court"*. He is an individualist in this regard.

2.1 **References made between the two courts.**

In the long-standing case law, both international courts have referred to human rights positions or interpretations related to the ECHR or the European Charter of Human Rights.

***First*, we are presenting the references made by the ECJ to the convention**. Practically the need to make such referrals was encountered in those cases where the ECJ did not have a consolidated jurisprudence, unlike the cases where the ECJ had established a court case and it was not necessary to go beyond its "*case law*". In *the* case McB, the referring court and Article 53 of the Charter, emphasized that the latter contains rights corresponding to those of the ECHR and therefore their meaning is the same as[18] that of the convention and the meaning that the ECHR gives in its practice to these rights.

In the decisions of the ECtHR, in the framework of the interpretation of the charter, the ECHR directly referred to the practices of the ECHR. In one of the cases related to the right to data retention, the ECtHR, in addition to the postulate in the interpretation of Article 53 of the Charter,[19]mentions in its reasoning the practice of the ECtHR that

[15] Opinion, 2/13, dated 18.12.2014, pg. 215 – 235.
[16] Opinion, 2/13, dated 18.12.2014, pg 236 -248
[17] Opinion, 2/13, dated 18.12.2014, pg 249 – 258.
[18] C-400/10 5 October 2010, pg. 53, Case C-450/06 *Varec* [2008], pg 48;
[19] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX: 12012P/TXT, accessed on 02.03.2024, European Charter of Fundamental Rights, Article 53 "*Nothing in this Act shall be construed as restricting or adversely affecting the fundamental human rights and freedoms recognized in their fields of application, by Community law,*

has dealt with this aspect of the right.[20]
The reference of the ECtHR in the Convention is noted to be found mainly in cases where it lacks its jurisprudence, since in cases where there is a consolidated practice such as in the case of discrimination and equality it does not make such a reference.[21] Although in its practice the convention does not accept as a binding act in many cases it has been the main leader of the ECJ to determine the resolution and interpretation of conflicts over fundamental rights before the ECJ.
Secondly, we present the references made by the ECHR in the Community Law. In the practice of the ECtHR, we find reference not only to the European Charter of Fundamental Rights, but also to its Community law. It is important to present the interpretation made by the ECtHR in relation to Article 12 of the Convention using in the reasoning and provisions of the Charter regarding the right to marry. Based on the spirit of the charter, he managed to make a dynamic interpretation of the convention by acknowledging that the right to marriage nowadays should not be limited to marriage between a man and a woman, but that same-sex marriages should be accepted.[22]
In addition to the Community legislation in the jurisprudence of the ECtHR, there are references and practices of the ECtHR, a typical case is that presented in the case Ullens de Schooten and Rezabek v. Belgium, where the ECHR interprets Article 6 of the Convention, has referred to the position taken by the ECJ in the case of Ullens de Schooten AND REZABEK v. BELGIUM.[23]
We note that a "dialogue" between the ECtHR and the ECtHR is present against mutual citations in the case-law of both courts.

3. Accession to the council and the consequences that may arise

In analyzing the history and steps taken so far by the EU on the road to accession to the ECHR, we find that the journey towards this objective is problematic, both from the aspect of agreeing the relevant legislation to regulate this jurisdictional relationship, and from the will of the ECtHR itself to become aware of the importance of accession to this act, as a priority against the individualistic "wishes" of the ECtHR to maintain judicial power and monopoly over the EU.
Adherence to the merger in this act would seem to limit the jurisdiction of the ECtHR in the field of human rights to a scenario where the ECtHR would cede this part of its jurisdiction to the ECtHR. And yet it is noted that such a thing does not seem possible as long as the ECJ expresses in its opinion that the jurisdiction of the court should not be violated according to Article 344 TFEU, and on the other hand does not accept that the ECJ's own practice can be subject to ECHR verification.[24] On the other hand,

international acts and by international agreements to which the Union or all Member States are parties, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the constitutions of the Member States."
[20] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62009CJ0092, accessed on 02.03.2024 Joined cases C-92/09 and C-93/09. Pg 51 and 52.
[21] https://op.europa.eu/en/publication-detail/-/publication/e8711e0f-767c-466e-9fae-325dd6d2544f accessed on 02.03.2024, see case law published in 'Compilation of case-law on the equality of treatment between women and men and on non-discrimination in the European Union'
[22] https://hudoc.echr.coe.int/ Schalk and Kopf v. Austria *Application no. 30141/04*. Pg.24-26
[23] ULLENS DE SCHOOTEN AND REZABEK v. applications from BELGIUM . 3989/07 and 38353/07. PGs. 59
[24] Opinion, 2/13, dated 18.12.2014

opinion 2/13 of the ECJ contradicts the views held by the EU institutions, the EC, the Member States or the European Parliament, has a higher acceptance on accession, an obstacle for which the ECJ itself is presented.
In the analysis of this case, issues related to the jurisdictions of international courts are presented with reference to various acts on the basis of which they operate.
If the assesion is made, the following issues are rised for solution:

- What will be the jurisdiction that will have the final say on human rights?
- While the ECHR has jurisdiction only for the assessment of the convention, what will happen to those fundamental rights that are provided by the charter beyond the rights of the convention, does the ECHR have jurisdiction to rule on these cases, or will they remain in the jurisdiction of the ECJ?
- Can we have a hierarchy of community norms in relation to the Convention and what will this report be like?
- Determination of the EU's participation in ECHR structures, and the manner of decision-making in this framework should also be determined to enable equal EU rights in relation to the ECHR ratifying States, etc.

These are problems that need to be solved in order to have an accession, which will be in favor of the protection of fundamental rights and freedoms in relation to EU acts and activities.
Accession remains one of the main objectives of the EU, and work continues to reflect the issues put forward by the ECJ in its opinion. Despite this, nothing guarantees us that the ECJ and reflecting on these issues will agree with the accession, considering that going back in time it was the ECJ itself, which in its first opinion on this fact said that the provisions in the treaty for such accession were missing. At the time when these changes were made, it was the same ECJ that brought other obstacles to the process, contrary to the positions of other structures within the EU.
In a situation presented by the position of the ECJ in the latter's opinion, it seems that the difficulties increase in the implementation of the accession agreement, therefore it would be easier for the EU to undertake changes in its treaties to enable the progress of the accession process.[25]However, such changes remain in the will of the EU, the last meeting of the technical group on accession was held in March 2023, the 46th meeting of the technical group discussed during this meeting the issues raised by the opinion 2/13 dated 18.12.2014. An update was made to the agreement on EU accession to the ECHR. During this meeting there was a unanimous agreement on the first 3 issues raised by opinion 2/13, namely regarding :

1. EU-specific procedural mechanisms before the European Court of Human Rights (Court
2. Implementation of Article 33 of the Convention and Protocol 16
3. The principle of mutual trust between member states
4. EU acts in the field of the Common Foreign and Security Policy (CFSP) that are excluded from the jurisdiction of the ECJ.

The fourth issue is still under discussion.[26]

[25] J. Nergelius, The accession of the EU to the European Convention on Human Rights: A critical analysis of the Opinion of the European Court of Justice, Swedish Institute for Policy Studies, 2015, p. 50, https://www.sieps.se/en/publications/2015/the-accession-of-the-eu-to-the-european-convention-on-human-rights-a-critical-analysis-of-the-opinion-of-the-european-court-of-justice-20153/sieps_2015_3? , accessed on 03.03.2024.
[26] https://rm.coe.int/steering-committee-for-human-rights-cddh-interim-report-to-the-committ/1680aace4e

4. Conclusion

The European Convention on Human Rights was adopted after the Second World War as a response to the violations committed during that war, to attach primary importance to human rights and fundamental freedoms. This was at a time in the 1950s when EU states had not yet begun to unite to create the European Community. In the regulatory framework of the latter, inspiration on the rights undoubtedly played out by the Convention, which continued to accompany the community even during the further activity where the structures of the union were more stable.

In the continuation of their activity, it is noted that the ECHR and the ECHR have been based on each other's jurisprudence over the years, creating a mutual communication with each other in the interpretation of human rights.

With a focus on the protection of these rights as we analyzed above, it remains a key objective of the EU to accede to the ECHR, a process which although with slow steps has been progressed, this is reflected by the changes that accompanied the EU treaties, the ECHR, but also the work of the EC and the Council of Europe for the realization of this process.

Despite the obstacles that seem to have been created by the ECJ, the work continues intensively, but considering that the ECJ has the right to veto in these cases, we consider that the process may be more difficult than it seems.[27] Therefore, we consider that it would be more feasible to undertake changes to the treaties than to continue the usual path where every draft agreement will be subject to evaluation by the ECJ, from which it is not known whether we will be able to have a positive assessment on the case, or further delays.

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[27] The Treaty on the Functioning of the European Union, Article 218/11 "*A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an envisaged agreement is compatible with the Treaties.* ***Where the Court's opinion is negative, the envisaged agreement may not enter into force unless it is amended, or unless the Treaties are revised****."*

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Non-contractual damages caused by the illicit administrative actions of public entities

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Abstract

The administrative activities of public institutions are diverse. However, it is a fact that the administrative action exercised through the administrative act brings the consequences that the law has foreseen. The purpose of this paper is about the non-contractual damages caused by the actions taken by the public entities. Non-contractual damage, which refers to harm or loss outside of a contractual relationship, is an essential institution of civil law in general and the law of obligations. The causation of damage is one of the forms by which non-contractual relations arise. The meaning of causing non-contractual damage can be found in the Civil Code. This paper focuses on the treatment of some problems related to non-contractual damage, as mentioned in administrative authorities whose activity has brought about the birth of this legal relationship of obligation. The current judicial practice and the different opinions among legal professionals have presented problematic issues worth discussing, reasoning, arguing, and reflecting on in the doctrine. This paper will reflect on non-contractual damage, its elements, the conditions for determining civil liability according to the legal provisions in force, the measure of compensation and aspects that we must consider for its reward in material terms. A critical, debatable moment is the beginning of the prescription deadline periods of the lawsuit in the award of non-contractual damage caused by these entities. It is worth treating with a particular interest the statute of limitations of the lawsuit for the compensation of non-contractual damages because of the illegal decision-making of the administrative authorities and the position held by judicial practice. This paper calls for reflection and debate on these issues, as they are crucial for the development of our legal system.

Keywords: Public entities, compensation, non-contractual damage, time barred time barred, administrative actions, illegal consequences, fault.

1. Introduction

The Albanian historical period is essential in analyzing the first establishment of administrative entities. The administrative activity starts from the Kingdom of Arbëria, the medieval city. The function of the functionaries was not to perform actions beyond the rules of the time, which would bring civil results such as the return of changes to the previous state. From the various documents of the collection and published by multiple authors, I refer to this paper to understand the result of mentioning the discourse that there were no differences between civil and administrative delict, which is essential, personally, for each of his illegitimate sins which has the grave position of citizens with his place.[1] This brings us to the fact that non-contractual responsibility for the administrative authorities didn't exist, a significant absence that shaped the evolution of administrative law. It was the same with the responsibility of the head of the administrative entities. That means that the official holds against the damages caused to the citizen. Another essential period we

mention is the period of the rule of the Ottoman Empire, in "Sanxhak" of the Albanian state in the period of the middle of the 15th-18th century, where there were court decisions in which they are based on citizen complaints due to crimes against them for justice. The year after the Declaration of Independence in 1912, we approved the Appropriate Canon of the Civil Administration of Albania, the first regulation of the administrative law of the first independent Albanian state[2]. This law did not provide for that of the administration authorities and even less for extra-contractual ones. However, you can find parts of the disciplines that are popular in the administration in case of damage protection and between the disciplines that pass for them. Thus, Art.11/2 of the Canon provides that if part of the administration's administration makes a mistake by harming the victims, the prefect, if they are the category of a person whose name is obliged to withdraw his hand and renounce him. Appointed by the central administration and addressed to the regions. The acts committed in the state administration then go up to some disciplinary measures. If this behavior of the crime is committed for criminal acts, it is forwarded to the court. The Constitution of the Communism regime 1946 had special protection against the illicit activity of the state administration. The injured person had the right to address and complain about the illegal activity of the state administration. Referring the article 32, in the chapter on rights, it was foreseen that: "Citizens have the right to submit requests and complaints to the state authorities. Citizens can complain about all illegal or irregular decisions made by state administration authorities and when officials misbehave." Thus, a more direct provision of citizens' rights is observed against the unjust actions of the state administration authorities as an entity or even when their employees act unjustly. For this reason, they could be addressed to the competent court (Article 33), and compensation could also be requested (Article 34). In Albania, there is a Law no. 8510, "Law on non-contractual liability of state administration authorities"[3]. Although the administrative law makes the difference between state and public administration authorities. It is essential to make this distinction. Even in the Constitution [4], and in the Code of Administrative Procedures of 1999[5] also the law no.,8510/1999, notes that the terms public administration, state administration, and public authorities need to consolidate, and both concepts are mistakenly or intentionally found in the texts of the laws, as mentioned earlier[6].

Methodology

Methodological diversity in a scientific paper is significant as its results are reflected in the conclusions and findings of this paper. comparative method is used in this paper. It consists in reaching conclusions only in cases where the comparison is made with the judicial practice of international jurisprudence, especially with the

[2] (Krisafi, Ballanca, Luarasi, Gjika, Zaganjori, Elezi, Nova, Omari, Hysi, Brozi, Gjilani,)("Juridical acts of tourism for the History of the State and Law in Albania refered by (Rezarta MATAJ, 2017) p.9.

[3] See (Law no. 8510 "Law on non-contractual liability of state administration bodies, 1999).

[4] See Articles 23 and 44 of the Constitution (Law no.76/2016 Constitution of the Republic of Albania, 2016).

[5] See Code of Administrative Procedures Act 1999.

[6] Article 69 of the Law no.76/2016 Constitution of the Republic of Albania (Law no.76/2016 Constitution of the Republic of Albania, 2016).

jurisprudence of the European Court of Justice. The analysis is done by referring to the legal provisions made by the European Convention on Human Rights to deduce how this court awards damages. The historical methods or historical observation is a significant method which aim to observe the Albanian legislators' approach to the state's civil responsibility towards the citizens in a general way. Afterwards, the normative analytical methodology is essential when analyzing a series of laws, where it is worth mentioning the Code of Administrative Procedures, and especially the law on "Out-of-contact Responsible of State Administration Authorities" law no. 8510/1999 "On extra-contractual liability of state administration authorities", law no. 49/2012 "On the organization and functioning of administrative courts and administrative disputes". To achieve this study's goal, we analyzed the normative part and the position of the Albanian jurisprudence of the Administration section of the Supreme Court. International comparison methods, literature research methods, national and international jurisprudence, international acts, and courts of various organizations such as the Court of Luxembourg and Strasbourg have brought conclusions about our legislation's achievements and shortcomings. The suggestions in this paper may be valid in the future due to the stability of time and the resolution of disputes that may arise due to misinterpretation of the norms of law.

2. State/public administrative authorities subject to non-contractual liability

Private and public legal entities can be subject to non-contractual civil liability. The question is what is the difference between state and public administration authorities? It is essential to make this distinction. Even the terms public authority, public authority, public servant, or public entity did not exist in administrative law before 1990. According to Article 3/6 of the Administrative Procedure Code, it means: "any entities of the central government, which performs administrative functions, any authority of public entities, to the extent that they perform administrative functions, any authority of the local government that performs administrative functions, any authority of the Armed Forces as long as they perform administrative functions as well as any natural or legal person to whom the right to exercise the functions of public administration has been granted by law, by-law or any other form provided by the legal framework in force. The meaning of the public administration authority is broad and includes the state administration[7]. The notion of public administration is broader than the notion of state administration because it includes in itself, in addition to the activity of the state administration, the activity of the relevant institutions which do not have the expressive character of state authorities but perform the work of a public nature"[8] The notion of Public Administration referring to the legal changes achieved with the New Code of Administrative Procedures, is also included natural or legal person who, by law or other by-laws, exercises public administration functions, e.g. A private educational institution established by law. And performs public and general functions where the right to exercise public administration functions is granted. In this way, when we talk about public authorities, we will understand 1) authorities

[7] See Article 3/6 of " (Law no.44/2015 Administrative Procedure Code of the Republic of Albania, 2015).

[8] (Sokol Sadushi, 2013) Series of lectures on "General Principles of Public Administration", Non-Public High School ", p. 15 referred (Rezarta MATAJ, 2017) P. 40.

of public administration and any legal person to whom the right to exercise has been granted by law, by-law or any other form provided by the legislation in force of public administration functions, but also 3) any natural person who acts as an employee of the state police, inspector of the regional tax directorate, registrar or any other employee employed in public authorities of the local or central government [9].

3. Jurisprudence of the Albanian Supreme Court regarding non-contact damage caused by the activity of public authorities

The Albanian Jurisprudence has a considerable number of issues on non-contractual damages caused by public authorities. It is worth verifying the decisions that the courts on resolving certain issues. The Administrative College of the Supreme Court, on the case between the P.N and the National Construction and Urbanism Inspectorate, on these conditions states that "State administration authorities are responsible for the damages they cause to private natural or legal persons in the following cases: a) when they commit acts or omissions of illegal; b) when they perform legal actions or omissions, but which result in damage to the legal interests of private natural or legal persons; c) when, although they perform legal actions or omissions, they cause disproportionate damage to the subjects to whom this action or omission is directed; ç) when, due to the malfunctioning of the technical means with which the state administration authorities exercise their activity, private natural or legal persons are infringed on their legitimate interests; d) when they cause a continuous risk to private natural or legal persons; dh) when they commit a corrupt act while exercising their functions"[10]. So the provision of Article 3 of Law no. 8510, dated 15.07.1999 "On extra-contractual liability of state administration authorities", amended, entitled "Cases of state authority liability", to determine the responsibility of state administration authorities, it is necessary to fulfil them cumulatively, the conditions provided for in this provision, which must be in harmony with the conditions provided for in Article 608 of the Civil Code, which are: The existence of property damage; The Illegality of action or omission; The existence of guilt; and . Causation. These four elements make the state authority liable for non-contractual damage. The absence of even one excludes the authority from this type of responsibility. These criteria are derived from Article 608 of the Civil Code, which provides that:" The person who, illegally and culpably, causes damage to another's person or property, is obliged to compensate for the damage caused. The person who caused the damage is not liable when he proves he is not at fault[11]. The damage results from the violation of the interests and rights of others, guaranteed by the legal order or good customs." Suppose the person's activity and behavior are contrary to a mandatory norm of the law. In that case, those behaviors that conflict with one of the rights or interests provided for and protected by the law and the law do not justify will be considered illegal. An exculpatory condition, in legal terms, is a circumstance that may be considered to reduce the defendant's liability. In this case, it is worth

[9] See (Ermir Dobjani , 2016)"Administrative Law, General Part ",f. 177 referred by (Rezarta MATAJ, 2017), p.39.

[10] See para. 28 and 29 decision no. 123, March 1, 2016, of the High Court Administrative Chamber.

[11] See article 608 (Law no.7850 "Civil Code of the Republic of Albania", 1994).

noting that the demolition of the building resulted from the actions carried out by the defendant unjustly and unlawfully violated the plaintiff's right to ownership. The Constitution of the Republic of Albania precisely states that: "Everyone has the right to be rehabilitated or compensated following the law, in case he has harmed due to an illegal act, action or inaction of state authorities"[12]. When it was proved that the actions performed by the defendant were committed with fault, against the law, the defendant must compensate the plaintiff in the value of the damage suffered. Based on these findings, the Tirana Court of Appeal, when it upheld the decision of the Tirana Judicial District Court, reasoned that: "...the damage caused to the plaintiff is a consequence of the adoption of an illegal act and its execution, execution that brought about the demolition of the plaintiff's apartment, causing real damage, specifically in the value determined. The respondent's actions are culpable based on an illegal act. Also, there is a causal connection between the defendant's unlawful actions and the damage caused to the plaintiff since the damage is a direct and immediate consequence of the defendant's action. Finally, the High Court the Administrative Chamber finds that, there is a causal connection between the actions of the defendant party and the damage caused to the plaintiff party, P.N, because of the demolition of the construction subject to review[13].

4. Reflections on the non-contractual damage elements of the public administration

Talking about non-contractual damage to the public administration is a matter that requires an in-depth analysis. This analysis involves the study of several elements, which collectively lead to a classification as non-contractual damage. The doctrine plays a huge role finding the non-contractual liability of legal persons are fault, illegality, and causal connection. We are faced with the task of precisely defining what we mean by an illegal action. The concept of illegality must be connected to specific case that are clearly defined as contrary to the legislation in force. The definition of illegal situations should be clear to leave no space for i extended interpretation and abusive situations. The Court emphasizes that the concept of illegality, as defined in Albanian and foreign legal frames, should be related to cases of construction without permission approved by the competent authorities or with non-compliance (exceeding, changing, etc.) of the construction permit granted by the competent authorities, and not with the validity of the license as an administrative act[14]. The definition of the fault or guilt is the same even in the criminal doctrine, which considers intentional or negligent guilt. The causality is an element without which the damage does not come to the injured party. So, there may be damage if there exists a connection between the actual action or inaction and the damage; there must be a direct and determining connection in the arrival of the consequence that connects the illegal fact and the damage; there should not even be a broken connection[15]. The damage is the result of the action

[12] See Article 44 of the Constitution of the Republic of Albania.

[13] See paragraphs 33 and 34 of the Decision No. 123 of the Supreme Court of the Republic of Albania (Administrative Chamber) refeered (Rezarta MATAJ, 2017).

[14] See Decision no.25/2014 of the Albanian Constitution Court.

[15] Rezarta Mataj "Theoretical and practical aspects of non-pecuniary damage and its compensation in the Republic of Albania, Tirana: School of Magistrates, (2007) p. 49 taken from R. Mataj" http://magjistrat.al/dokumenta/1604050953Rezarta_Mataj_tema_e_doktoratures_pdf .pdf, p. 68.

or inaction of the damage, we need to consult the so-called statistical adjustment is used if based on a probability, this inevitable and predictable consequence can appear. Determinant causes differ from other simple raster causes[16]. Damage is a loss or diminution of property, physical or mental health, psychological, reputation, and name. The resulting consequence affecting the property and the person is before the non-contractual damage. Referring to the position of the Unifying Decision of the High Court regarding damage is divided into moral damage, existential damage, and, of course, property damage[17]. The Civil Code is the legal framework for determining civil legal liability and non-contractual damages of public authorities. The article 14 Ex-Administrative Code. As a reminder, this article provides that: "Public authorities and their employees bear responsibility for the damages they cause to private persons through: - taking illegal decisions; - illegal refusal to make decisions; - providing incorrect written information to private persons, as for any reason or other case provided by law." The institution of non-contractual liability of administrative authorities is a combination of liability regulation non-contractual in the civil field with extra-contractual responsibility of the public authorities. Hence, the jurisprudence, the doctrine of extra-contractual liability in civil law, also applies to civil liability cases of public administrative authorities against injured persons. Therefore, in this topic, the entire law no. 8510/1999 was analyzed by articles 608-652 of the Civil Code and practice judicial of the Administrative College, Civil College, unifying decision no. 12/2007 of United Colleges of the Supreme Court, etc., on the institute of lawsuit aquiline, the forms of damages and the compensation method for pecuniary and non-pecuniary damages[18].

5. Judgment of the claim against an illicit action of the public entities in Albania

The lawsuit in the administrative process, is primarily regulated, and examined by the court, according to the law on resolution of the administrative disputes[19]. The lawsuit against an administrative action is submitted to the court according to the deadlines provided by the law, are based on the dates specified in the regulations foreseen in article 18, respectively. The terms mentioned in this provision are characterized by barred time The above deadlines are fixed. If an interest party miss the deadline, he will not be able to sue a claim, this fact underscores the importance of a specified deadline. These terms are primarily reviewed by the court, emphasizing the need for precision and accuracy in your work. Another essential aspect in the administrative case is the burden of proof, which is required to establish the illegality of an administrative action. As a rule, the one who claims a right must prove the facts which support the claims. The plaintiff has the obligation in an administrative process to prove when he was seriously aware of the damage caused by this activity. In an administrative process, the burden of proof is only sometimes on the plaintiff. The public institution charged with the burden of proof in all those claims that have

[16] Francesco Galgano. "Private Law", Tirana, Luarasi Press, 1999 p.361 (Francesco Galgano, 1999).

[17] See Article 608 of the Albanian Civil Code. Law no.7850 "Civil Code of the Republic of Albania".

[18] (Rezarta MATAJ, 2017) (Doctoral Disertation "Non contractual liability of public bodies in Albania, 2017) p.212.

[19] See article 18 of the Law no.49/2012 "For the administrative court and the resolution of the administrative disputes" (up dated).

in their object of the lawsuit the objection of the administrative act or action (issued on the initiative of the authority itself), disputes arising from labor relations, etc. Therefore, the legal framework guarantees the right to sue, in order to change the administrative act, determination of its absolute invalidity, detection of illegality, etc. In these cases, the burden of proof passes to the administrative authority. In other cases, the plaintiff must present the evidence, facts, and reasons that the party requires the commitment of the administrative authority to perform or not perform a specific action[20]. Regarding the deadline of the lawsuit, the law has some specific deadlines. The interest parties must fill a claim against the administrative action to the court within 45 days, and the term starts from the date of the notification, as defined in the law, or in the administrative act of the superior authority that examined the administrative appeal. The term in some acts may also be related to the date of its promulgation in cases where the law provides the obligation of publication in the official journal. For Example, paragraph" ç of Article 18 of the law mentions the awareness of the public administration's illegal intervention in the rights and legal interests of the subject, with any action that is not according to the conditions and form of the administrative act, etc. If the administrative act does not determine the term of the lawsuit, it is one year. The second paragraph of the Article 18 does not refer to when this one-year term begins. This period begins from the date of the administrative act, from the date of notification or becoming aware, or when the act begins to bring about harmful consequences for the opposed subject. We cannot examine this by analogy, and we cannot conjecture about the beginning of this term because another convincing argument refutes each argument. The legislator must clarify the first sentence of this paragraph. It means that the interested parties can file a lawsuit even after one year, but in any case, no later than 30 days from the day when the plaintiff became aware of the existence of the right to sue and only when the plaintiff provides plausible explanations for these circumstances in his lawsuit. Therefore, in these cases, the situation is entirely uncertain. The plaintiff's right is not guaranteed. The court will judge according to the circumstances. That's why we recommend the arguments that avoids doubts. If we are in such a situation, the solution must be practical. It is recommended that we file a lawsuit within 1 year in any case. I estimate that the beginning of the time if the administrative act has a date and has not brought consequences, the interest subject cannot wait for the consequences to arrive so that the court decision is ultimately unenforceable. If he needs to pay attention and the consequences have begun, then he must file a lawsuit as soon as possible without waiting for the approach or fulfilment of the 1-year deadline. This argument is valuable when the party is not sure if the court will decide in his favor.

6. **Non-contractual damages in cases of public interest expropriations in Albania**

The most popular cases in Albania when administrative entities are responsible for

[20] See article 17 of Law no.49/2012 "For the administrative court and the resolution of the administrative disputes" (up dated) In interpreting this provision, referring to specific paragraphs, we note the term repeal. We are finding an amendment to the Administrative Act. Exceptionally, we have cases where the burden of proof can pass from one party to the other when the subject of the lawsuit may be the obligation of the public authority to perform or not perform a specific action.

non -contractual damages, are the expropriations cases for public interest. Referring to the ECHR, "Every natural or legal person has the right to the peaceful enjoyment of his property. No one can be deprived of his property except for reasons of public interest and under the conditions provided by the law and by the general principles of law. However, the preceding provisions do not affect the right of States to enact laws which they deem necessary to regulate the use of property following the general interest or to ensure the payment of taxes or contributions or other fines"[21]. The property rights are protected in the constitutional level too. The law may provide for expropriations or limitations in the exercise of a property right only for public interests. The expropriations or limitations of a property right that are equivalent to expropriation are permitted only against fair compensation. For disagreements connected with the extent of the compensation, a complaint may be filed in court[22]. We know two situations of expropriation for public interest. These are de jure deprivation and de facto deprivation of the property. The public authority (Council of Ministers) decides the expropriation for public interest of the property in which a work of public infrastructure will be built, in whole or in part. That is the de jure expropriation Cases brought before the European Court of Human Rights concern a violation of property rights due to the illegal expropriation and demolition of the building in violation of the legal framework and the failure of the authorities to pay compensation to the injured parties. The authorities had ignored the temporary measure and accelerated the expropriation procedure with the aim of demolition. The expropriation order was approved on November 27, 2013, and the following two days were holidays. The expropriation procedure had lasted only three days. The disregard of the procedural protective measures in the law had made it impossible to present their case to the competent authorities, opposing the interference in their property rights[23]. The consolidated jurisprudence of The European Court of Human Rights has determined that "de facto deprivation of property" means that the owner is not expropriated according to the procedure, but that his ability to exercise property rights is violated and he effectively no longer owns. In the absence of a formal expropriation, that is a transfer of ownership. The Court must look behind the appearances and investigate the realities of the complained situation. Since the Convention aims to guarantee rights that are "practical and effective", it must be ascertained whether that situation amounted to a de facto expropriation, as argued by the petitioners"[24]. In another issue the Court has dismissed the case and have ordered the retrial to the Administrative Court of Appeal, with a different panel. As the matter of the Decision of the Council of Ministers has expropriated the plaintiff for the land area of 1190 m2 and the construction area of 290 m2, according to the ownership documents of the plaintiff, the courts of fact have assessed that we are facing a de facto deprivation (for the part of construction outside the expropriated area of 290 m2) carried out by the plaintiff according to the construction permit. Under these circumstances, the court assesses that, the first instance and appeal courts have not reasoned what is the origin of the plaintiff's ownership to recognize the "status" of

[21] See article 1 Protocol 1 (European Convention of Human Rights , 1950).

[22] See article 41 of the of the Law no.76/2016 Constitution of the Republic of Albania, 2016.

[23] See para 151 (Sharxhi and others vs Albania (Application no. 10613/16), 2018).

[24] See para 63 (Application no. 7151/75; 7152/75) Case Sporrong vs Lonnroth vs Sweden.

the de facto deprivation subject. The defendant due to the lack of title ownership related to the actual surface was not recognized according to the expropriation value. The court also evaluates the claim raised in recourse regarding the legitimacy of the defendant, the Council of Ministers, in the context of not examining the reasons for the appeal concerning the passive legitimacy. The Court must answer the reasons raised in the appeal regarding the legitimization after concluding reasonably that in the case subject to the trial, we are facing a factual expropriation, or it has considered the proportionality between the Decision of Council of Ministers for the expropriation and the actual price of the property and more after justifying to whom the subject is charged with the obligation[25].

7. **Claims for compensation of the non-contractual damages**

The public entities express their will among the administrative juridical acts. However, it is a fact that the administrative juridical action brings positive and negative consequences. Because of that, public entities may violate the right towards the subjects affected by them. Opposing these administrative acts by requiring compensation, thereby empowering the affected subjects. Analyzing all factors regarding public entities activity and the lawsuit we conclude some questions. Can the lawsuit be for the compensation of non-contact damage without seeking it in the same lawsuit or with separate lawsuits for the finding of the illegality of the administrative action or inaction? The second question concerns the moment of filing a lawsuit for compensation for non-contractual damage. The claim for compensation for non-contractual damage according to the specific law has not any provision so we refer to the civil code. The example of a case law for claims compensation of the non-contractual damages is judged in Hight Court, in the lawsuit of compensation for non-contractual damages, the burden of proof passes to the plaintiff, a fair and just process, who to prove the existence of the conditions, that the mother has suffered from the wrongful actions of the damage and there is a causal connection between the actions[26]. According to the doctrine, legal provisions, and judicial practice, state responsibility arises when the existence of the damaging fact, as well as a causal connection between the action or inaction and the resulting damage, exist. Responsibility arises for the mistakes of any public authority or person exercising a particular state will, including illegal or abuse of discretion. The Civil Code is the cornerstone in determining non-contractual damages. It requires the completion of several elements. These elements include the existence of damage, the illegality of the defendant's actions or omissions, the existence of a causal relationship (the damage is a direct and immediate result of the action or omission), and finally, the existence of fault for the elements of the existence of damage[27]. Non-contractual liability cam be without fault too. The public administration is culpably responsible. The burden of proof in the event of non-contractual damage does not fall on the injured party. The public administration must prove the opposite to overturn the presumption of guilt.

[25] See para 28, 29 Decision no.00-2024-4334 (380) of the High Court (Administrative Chamber)

[26] See the (Decision no.273 date 28.05.2015 of the Supreme Court of the Republic of Albania (Civil Chamber), 2015).

[27] See Article 3 of the Law no. 8510 "Law on non-contractual liability of state administration bodies, 1999).

Thus, the fault in the actions of the administration, except for any intentional case (action with complete desire or intention), appears mainly in the form of carelessness, negligence, inaction, excessive slowness, broken promises and especially in the case of illegal promises[28]. The high court, in cases of violations committed through the fault of the public, brings a lawsuit for compensation by fulfilling certain conditions, which are mainly related to the damage and the cause. First, the damage must have necessarily occurred and affected the property aspect. In this sense, the damage will include disorders and psychological or moral damages of such a degree or size that it carries the responsibility for the compensation. The damage may be actual or future, specific and not hypothetical damage. In addition, the cause-and-effect relationship proves that the public administration's actions are the cause of the claimed damage [29]. The jurisprudence of the European Court in two cases have confirmed the cumulative existence of three conditions for the existence of the administrative responsibility of the public authority. The damage suffered, the causal connection between the damage and the institutions as well as the special and unusual character of the damage[30]. The claim for the payment of damages and the responsibility of the public administration authorities has been sufficiently consolidated by the influence of the decision-making of the European Court of Justice and the European Court of Human Rights[31]. In these decisions, the court has affirmed its authority to compensate for damages and outlined the methodology for the guilty party's compensation. The ECHR's stance on deadlines for filing lawsuits, in the context of the right to an adequate defense, is a testament to the court's commitment to upholding human rights. The court ensures that these deadlines do not hinder the parties from using the tools at their disposal or prevent the substantive review of the claims, thereby inspiring confidence in the court's dedication to justice[32]. The party who expects to cause damage has the right to file a lawsuit to restore rights regardless of the means used [33]. According to the interpretation of the court's position, let us understand that the party may seek compensation independently of the claim for invalidity of an administrative act which has caused unavoidable damage. The party may also decide on its request for invalidity of the administrative act and the request for damages. In all cases, parties will exercise the right to sue for a certain period in this case. The European Court of Human Rights once again takes the position that " the court must consider the limitation periods according to the domestic legislation must be taken into account, but must take care in calculating this period, which begins at the moment when the party has had the necessary knowledge or the possibilities to ascertain the nature of the damage caused[34]. The importance of this institute lies precisely in this fact.

[28] See para 40 of the Decision no. 00-2024-01494 (154) of the High Court of the Republic of Albania (Administrative Chamber).

[29] See the paragraph 41of the Decision no. 00-2024-01494 (154) of the High Court of the Republic of Albania (Administrative Chamber).

[30] (C-237/98 "Dorsche Consult Ingenieurgesellschaft mbH vs Council and Commission, , 2000).

[31] See paragraph 54-59 (Aplication no.54268/00 Qufaj Co shpk vs Shqipërisë, 2004);, (Aplication no. 7352/03 Beshiri and others vs Albania, 2006).

[32] See the paragraph 33, 34 (Aplication no.38366/97 . Miragall Escolano etj vs Spain, 2000).

[33] See (Application no. 22083/93 Stubbing etc vs United Kingdom, 1996).

[34] See Decision no. 00-2024-01494 (154) of the High Court of the Republic of Albania (Administrative Chamber) , 2024).

What will be the moment when the right holder can exercise the right to sue? Judicial practice needs to maintain a clear position regarding this issue. The exact moment to exercise the claim for the compensation of non-contact damage is not the same for all cases. The court assesses that not in all cases can be defined as the moment for the compensation. It depends on the information, fact when occurred the damage. Meanwhile, the victim's knowledge of the actual damage (or the circumstances that caused the damage), as well as the entities that caused this damage, remains a defining moment. As a result of the convergence of judicial practice, the High Court states that: " the moment when the defendant have the right to require for non-contractual damages is directly related to the moment when the injured party received or should have to become aware of the existence or discovery of concrete and not hypothetical damage (or of new illegal circumstances that caused the damage). The damage might be caused by the actions or inactions of the public authority identified as the cause of the damage [35]. In addition, the public authorities must prove that their actions were legal.

8. **Conclusions**

This paper provides a brief historical overview of the civil responsibility of public authorities in our country. We undertook a comprehensive approach to interpret and analyze the legal framework for the responsibility of the non-contractual public administration. We analyzed the provisions of the civil code in this domain. We also consider the decisions of the Supreme Court of the Republic of Albania. We expanded our view on this topic in the jurisprudence of the European Court of Justice and Human Rights. Is the claim for non-contractual damages independent from the claim for invalidity of the administrative act? This is the dilemma about the claim of requiring compensation for non-contractual damages. It must be dependent or independent from the claim to establish the invalidity of an administrative action. In terms of the legal process, these two lawsuits are separate. However, if the illegality of the administrative action is a significant factor in the claim for damages, the two claims are related. They can be combined in a single lawsuit. The process for claiming non-contractual damages begins after the claim for the illegality of the administrative action. According to the Supreme Court's decisions, the lawsuit for the illegality of an administrative act affects the lawsuit for non-contractual damages if it is accepted or dismissed. The lawsuit for declaring the invalidity of the administrative act does not affect the time limit for filing this lawsuit. When the damage is due to the absolute invalidity of the administrative acts of the public authority, we can file a lawsuit for compensation for the damage within 3 years from the time the injured party becomes aware of it. In cases where we have difficulties in identifying the specific authority that caused the damage, it is necessary to initiate a judicial process in advance to have the opportunity to prove the degree of responsibility of the administrative authority. In such cases, a criminal or administrative judicial process is when the responsibility of the administrative authority is evident. Only then does this process serve as the

[35] See the paragraph 82 (Decision no.273 date 28.05.2015 of the Supreme Court of the Republic of Albania (Civil Chamber), 2015)

basis for calculating the deadline for filing a lawsuit seeking non-contact damages. The basis for starting the calculation of the term will be enabled if, because of the investigations and conclusions of the court, both in the criminal and administrative process, the time when the criminal offence was consumed is evidenced, as well as the responsible entities are identified, which will be conditioned from the conclusion of the above cases with a final decision. In addition, there are a few cases when the injured party turns to him directly to the public authorities to request compensation. People need to be more informed about the law and this right. The optimal would be the authority when it sees that a decision brings damages. I must return the injured party to the situation on its initiative, the previous one, and compensate all damages resulting from this new situation without leaving it the opportunity to address the court or superior authority. The changes made by law no. 8510/1999 are minimal, with only one change. That result is that the law mentioned above is not too applicable and that the administrative judicial practice is so "lukewarm" that only one has brought about its necessary change times. In Article 3 of the law, point "dh" has been added for recognition as a case of non-contractual responsibility for damages resulting from corrupt actions of employees, public administration, and the authority itself. For this reason, It is suggested a campaign to acquaint citizens with this law and their rights to be compensated in case of financial or non-financial consequences from the actions of injustices of public authorities. The information campaign can be done through publicity media, social media etc., information boards about the right to compensation in any institution for their right, but also increases the responsibility of the public servant who is informed with the option to personally pay the damage through a recourse lawsuit.

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How to connect "the two islands"? - Effectiveness of Rule of law Toolbox prior and after EU accession

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Abstract

The effectiveness of rule-of-law conditionality within the EU varies before and after a country's accession, depending on countries' preparation, incentives, the rule of law reforms and enforcement mechanisms in place. In past enlargement rounds, candidate countries had to meet EU Copenhagen Criteria making rule of law as a fundamental principle of accession. However, the democratic backsliding in some of the EU new member states brought again into question the effectiveness of EU rule of law conditionality applicable prior and after accession. Although the current EU rule of law toolbox, offers some protection for rule of law within the Union, they often lack immediate impact and their effectiveness in practice has provided contradictory results. On the other hand, for Western Balkan countries the instruments envisaged in the new Enlargement Methodology and Growth Plan for Western Balkans, such as Scoreboard for Reform Agenda, or Rule of law Report as condition for progress in negotiations process are yet to be tested. At this stage of the process Western Balkans countries still need to behave as a functional democracy and to show their commitment for rule of law reforms. Bridging the rule of law prior and post accession is like "connecting two islands", which will require a consistent framework that ensures robust EU oversight and holistic approach as to rule of law reform targeting Western Balkans Countries.

Keywords: EU enlargements, EU rule of law toolbox, rule of law conditionality, growth plan.

1. Introduction

The rule of law is fundamental for the new and future member states of the European Union (EU) to remain functioning democracies. Yet, maintaining the rule of law is also essential for the European Union itself: on the systemic level – to maintain a legal union; on the structural level – to solve problems by effectively applying EU law; and on the political level – to ensure democratic accountability (Skóra, 2023). For the EU, the rule of law has been a fundamental principle since its inception. It is enshrined as fundamental value of the Union in Article 2 of the Treaty on European Union (TEU) and it is recognized as a core value defining EU membership under Article 49 TEU. Neither treaty obligations nor conditionality have made the EU member states immune to rule of law backsliding. The situation with Poland and Hungary provoked a rule of law crisis in the EU, which forced the Commission to seriously rethink on responses for enforcing the rule of law within the EU and within enlargement candidate countries.

The so-called EU toolbox on rule of law is a set of measures (soft and hard measures) to be deployed by EU institutions in case of rule of law crisis in the EU and in the WB region. This article will analyse the role of law toolbox available in the EU and synthetise their effectiveness from scholars' perspective comparing them with the rule of law instruments deployed for Western Balkan countries. As the rule of law of

WB still needs to be tested, some of the conclusions derived from the EU toolbox can serve as lessons learned for WB rule of law mechanism.

2. Rule of law as fundamental value for current and future EU

The importance of the rule of law for our societies has long engaged scholars in extensive discussions. There has been a shared understanding that the rule of law refers to a principle of governance in which all individuals and institutions, are held accountable to laws that are equally enforced, independently adjudicated, and aligned with international human rights norms and standards (UN, 2004). The rule of law is a dynamic concept; the more it is enriched it with new elements, the more it contributes to its proper meaning. As such, the rule of law serves as a guiding principle, offering directions both now and in the future. (Stein, 2019).

In 2019, the European Commission described the rule of law as "a well-established principle" with a "well-defined core meaning" that is "consistent across all Member States" under which all public powers always act within the constraints set out by law, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts (European Commission, 2019). Rule of law has traditionally been elaborated by the Court of Justice of the EU (CJEU). In several old and recent cases, the CJEU has reminded the EU institutions and its Member States that the very *raison d'être* of the Union is to uphold the rule of law, by guaranteeing judicial independence, separation of powers and effectiveness of EU legal order (Lenaerts, 2019).

EU enlargement is based on upholding and respecting key values, including the rule of law. The inclusion of the rule of law as a condition for EU membership under the Copenhagen criteria in 1993 (European Council, 1993) did not mark the beginning of its historical significance (Marktler, 2006). In fact, upholding the rule of law as a membership condition was referenced earlier. In 1978, the Commission interpreted Article 237(1) of the Treaty of the European Economic Community in the case of *Mattheus v. Doego*, stating in its submission that a state's accession is permissible only if "that state is a European State and if its constitution guarantees […] the existence and continuance of a pluralistic democracy and […] effective protection of human rights" (ibid).

Nowadays, the EU sees rule of law as the core of its democratic function since both EU and candidate countries faces common challenges and threats (Ognjanoska, 2021). This was particularly so due to the diversity of the Member States has been increasing with the numerous successive rounds of enlargement, incorporating many newly democratised and post totalitarian states seeking democracy, the rule of law, and political stability in the Union. The issue of enforcing the values of the EU in cases of eventual breaches was becoming more and more acute: the tradition of a democratic rule of law-based state in these new Member States, so engrained as the basis of EU law, was largely lacking (ibid).

On the other hand, the rule of law must not only be respected by a state that is to become a member of the EU, but it must also be actively promoted (Craig, et al, 2019). This is particularly the case for the WB integration process as the EU aims to address

two issues: avoiding problems of past accession such as the case with Romania and Bulgaria and remaining an inspiring model for democratic transformation of the WB (Hogic, 2024).
The general perception is that further improvements to the rule of law in WBs are needed and that EU' transformative potential is uncontested and still not fully utilized. Despite significant advances in government transparency, corruption remains high, judicial independence is not fully achieved, and citizens still lack trust in institutions. A recent European Court of Auditors study has concluded that the support to the rule of law provided to the Western Balkans between 2014 and 2020 has been largely inefficient in responding to these challenges.

3. EU Rule of law toolbox and its effectiveness

The situation in Hungary and Poland provoked rule of law crises in the EU. In response, the European Commission introduced a "rule of law toolbox," which reflects recent experiences and suggests potential paths forward (European Commission 2019). This toolbox includes actions on (1) promoting and (2) preventing breaches of the rule of law, and (3) responding effectively when such breaches occur within the Union (Skora, 2023). Preventive measures include primarily reporting tools which serve as early warning signs, helping to determine if corrective measures should be implemented (ibid).
The Rule of Law Report is part of the broader Rule of Law Mechanism, monitoring four issues: justice independence, media pluralism, check and balance and anticorruption (European Commission 2019). The judicial independence component of the rule of law is taking stock from the European Semester (2010) which provides an annual overview of the efficiency, quality, and independence of justice systems through the EU Justice Scoreboard (European Commission 2013). On the other hand, the results of the scoreboard deliver useful input for the application of the Rule of Law Conditionality Regulation (European Council and Parliament 2020). The Rule of law conditionality regulation as a financial sanction mechanism complements the "failure" of the implementation of article 7 of TEU which is nicknamed the "nuclear option" as it foresees the ultimate political sanction available to discipline member states (Kochenov, 2021). The main difficulty in applying Article 7 of TEU, it is that it requires unanimity (excluding the member state in question). So far, this instrument has not been used successfully (ibid). The above listed measures regardless of being preventive or responsive are of political nature, as the final verdict remains with European Council *i.e* member states.
The EU can also deploy other judicial measures such as infringement actions (258+259 TFEU), preliminary reference (267 TFEU), annulment action (263 TFEU) to uphold rule of law issues (Grabowska-Moroz, 2003). Indeed, the judicial mechanisms are considered effective as they rely on straightforward actions of supranational institutions such as European Commission and CJEU, limiting political interference by EU Member States. Moreover, through the preliminary reference to the CJEU direct involvement of national courts is ensured, enhancing their role in guaranteeing rule of law as EU fundamental principle (Holesch, Portela, 2024). The studies show that

the fewer the opportunities for political influence in the decision-making process, the stronger the credibility of sanctions mechanisms (ibid).
To determine the effectiveness of EU rule of law toolbox in practice two elements need to be taken into consideration: the effects of sanction as such, and the impact of the sanctions in shaping domestic politics within the target state. In case of ineffectiveness to shape domestic politics, sanctions might indirectly affect society to push the targeted changes. (Holesch, Portela, 2024).
To combat rule of law breaches in the EU, there must be severe consequences enough to discourage governments from undermining the democratic order. From the point of view of technical and legal implementation criteria, building more complementary synergies between rule of law instruments can improve both their effectiveness and efficiency. To maximise the potential of the EU's rule of law toolbox, more attention is needed when it comes to monitoring its effectiveness. Additionally, it is essential to view the rule of law as a political phenomenon, transcending its legal core and entrenching it in political discourse (Skora 2023).

4. Rule of law "toolbox" in pre-accession phase

The EU has not envisaged a rule of law toolbox for Western Balkan countries however if one considers the development of conditionality instruments under the new enlargement methodology (European Commission 2020) and New Growth Plan (European Council and Parliament 2024) parallels can be drawn with EU rule of law toolbox (Rule of Law Report, EU justice scoreboard).
In the new enlargement methodology, the European Commission evoked for a credible, and predictable enlargement process, focusing on rule of law reforms for success on the EU path. The rule of law reforms is central in the accession negotiations as they determine the overall pace of negotiations (European Commission 2020). For the first time through this enlargement methodology the concept of irreversibility of the process was emphasized. In other terms, the negotiation can be put on hold in certain areas, or in the most serious cases, suspended overall. Already closed chapters could be re-opened or reset if issues need to be reassessed. Moreover, the scope and intensity of EU funding could be adjusted downward, except for support to civil society. The Commission monitors and evaluates the progress in rule of law through its Annual Country Reports part of enlargement package. (ibid). In any event it is the EU member states (Council) who decide unanimously for the pace of negotiations.
To incentivize the reforms for EU integration of the WB countries, a growth plan was launched in 2023 and it is being operational. Acceleration of rule of law reform remains at the heart of the Growth Plan as increasing financial assistance is conditioned by the success of these reforms. The disbursement of EU support is conditional on compliance with the payment conditions and on measurable progress in the implementation of reforms set out in the National Reform Agendas assessed and formally approved by the Commission. The Commission plans to establish a Facility Scoreboard (the 'Scoreboard'), which shall display the progress of the implementation of the Reform Agendas of the WB countries (European Council and Parliament 2024). Again, any decision to freeze the funding must be taken by Council (ibid).

The EU has expanded the rule of law mechanism to the candidate states, and WB countries are part of the Rule of Law Report. The EU has not included the WB countries under EU justice Scoreboard; however, WB countries are familiar with similar evaluation as part of CEPEJ evaluation cycle (CEPEJ 2012) and they also contribute to the Dashboard of the Western Balkans (CEPEJ 2018).

The effectiveness of the rule of law instruments is yet to be tested and it is too early to draw conclusions. Rather than focusing on rule of law monitoring mechanism, scholars still raise concerns to the approach taken by the EU when it comes to rule of law reforms in the WB countries as they can be reshaped and better linked with socio economic policies (Hogic 2024).

However as highlighted above the key feature of the current enlargement process is that accession and access to funds is strongly conditioned by a set of general preconditions for support, as well as a set of selected rule-of-law reforms based on the implementation of Reform Agendas (Mihajlović and Macek, 2024). It is worth mentioning that all the rule of law instruments introduced during the pre-accession phase qualify as political steering, as the final decision remains to the EU member states.

Table: Mapping EU rule of law instruments

EU rule of law toolbox	EU member states	WB countries
Promoting and preventing		
Rule of Law Report		Albania, Serbia, Montenegro and North Macedonia
Recovery and Resilience Facility/ European semester		Reform and Growth Facility/ Reform Agenda
EU Justice Scoreboard		CEPEJ evaluation cycle/ WB Dashboard on justice system
Responding		
Infringement procedures TEU		x
Article 7 of TEU		x
Funding conditionality	Conditionality Regulation	New Enlargement methodology (IPA funds) and Growth plan

5. Conclusion

Upholding the rule of law is crucial for the EU as it ensures democratic functioning of the Member States and protects EU citizens and businesses. Over the past years, the EU's rule of law instruments have enriched, but their effectiveness in preventing and sanctioning rule of law breaches need to be improved. EU is not helpless in the face of challenges to the rule of law – just that it needs to utilise its tools in efficient and effective way. One way of addressing it is by limiting the political influence of the

EU Member States in the implementation of such tools. In addition, indirect impact of sanctioning tools should be pushed forward targeting different layers of the society and not limited to political elite.

Rule of law backsliding remains an issue as Western Balkan countries move towards EU accession. On one had the EU has deployed new instruments of monitoring and it is gradually integrating the Western Balkan Countries on the existing ones (such as Rule of law report), yet it is too early to assume that these tools will guarantee that the rule of law is and will be preserved.

This gradual integration of the WB countries in the existing EU rule of law toolbox applicable only to Members State should continue (e.g. the integration of the WB countries in the EU justice scoreboard) mainstreaming to the extent possible the existing EU toolbox applicable to both EU Member States and WB countries.

In addition, the effectiveness of the rule of law conditionality tools should be translated into more accelerated accession process. It is essential for EU to embrace a more holistic approach where rule of law conditionality and monitoring mechanisms are coupled with tailor made rule of law reforms in the WB countries.

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WIPO's and EPO's approach to artificial intelligence and intellectual property

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Abstract

The evolution of artificial intelligence is surely on the fast track and as these systems advance, traditional intellectual property (IP) law frameworks begin facing challenges: who can be considered the author of the AI work, who owns it, whether it can be patented, etc. Two key entities, such as the World Intellectual Property Organization (WIPO) and the European Patent Office (EPO) have begun taking steps to resolve the issues. The objective of this research is to analyze how WIPO and EPO take on similar approaches in battling the intersection of AI and IP regulations.

Their evaluation on the need to amend intellectual property laws due to AI impacts and AI's copyright issues in works has been WIPO's main priority. The organization has initiated events like WIPO Conversation on Intellectual Property and Artificial Intelligence, as one of the steps to determine if the current IP laws can effectively cope with AI-generated content. This paper analyzes WIPO's activities aiming at establishing standardized policies on patent AI applications and the attribution of AI inventors.

On its side, the EPO has also participated in the drafting of guidelines concerning AI patents, but its focus has been the originality and inventiveness of AI product evolution. The organization has taken the lead in setting the scope of AI innovation patenting by integrating AI and machine learning technologies into existing patent laws. This paper addresses the issue of seeking coexistence between the ideas of intellectual property and the requirements arising from the new technological developments.

Moreover, this paper shows how the policy initiatives of WIPO and EPO are shaping the future of intellectual property in the age of AI technology, regionally and internationally. Their approaches are the foundation for creating legal benchmarks which not only promote innovation, but also adapt to the creative landscape shaped by advancements in AI.

Keywords: Artificial Intelligence (AI), Intellectual Property (IP), World Intellectual Property Organization (WIPO), European Patent Office (EPO), AI-generated content, copyright, patent, innovation, policy initiatives, legal benchmark.

Project objective

The objective of this research is to explore how the World Intellectual Property Organization and the European Patent Office are addressing the issues raised by artificial intelligence in relation to intellectual property legal frameworks. As AI technology progresses, there arises a necessity for modifications to be made in IP laws.

This study aims to examine the strategies employed by WIPO and EPO in addressing issues and proposing policy suggestions.

This study focuses on analyzing methods and strategies to highlight how WIPO and EPO policy standards influence the development of intellectual property regulations in response to advancements in AI technology.

Methodology

In this paper, it's used a combination of qualitative and quantitative methods, with a particular focus on comparative analysis. Qualitative methods are used in the form of case studies, allowing for an in-depth exploration of specific examples and contextual understanding related to the approaches of WIPO, EPO and judicial systems around the world. Additionally, the quantitative approach is incorporated through statistical analysis to support findings with empirical data. However, the main approach driving this study is the comparative technique, which provided a systematic examination of the differences and similarities in how WIPO and EPO address AI-related challenges within intellectual property law. By using these methods, in combination with each other, it was possible to thoroughly examine both the qualitative observations and quantitative information leading to a complete understanding of the topic.

I. Intellectual Property (IP) challenges arising from Artificial Intelligence (AI)

Artificial Intelligence (AI) is a branch of computer science which is increasingly gaining popularity and is becoming a subject of global discourse. This is not without reason, but rather because it is speeding up technological progress, it's revolutionizing industries and reshaping the way we interact with each other and the information around us. Advances in AI models are reshaping many areas of our lives and proving to be a powerful tool for how we innovate and create. (World Intellectual Property Organization [WIPO], n.d.). AI has been a part of our lives since at least the 1950s, when its work began. Yet, there is no doubt that we know little about how it will really affect our future.

For some time now, AI systems have appeared to be inventors or creators, and that's something on the rise. This change has brought serious challenges to current intellectual property systems in a number of major aspects.

To begin with, one of the center challenges is originality. In order for an AI-created work to be qualified for copyright protection, it needs to be original, and with original, in most jurisdictions, it is understood the creative input of an author. In other words, the work should show evidence of a human intellectual effort, which is not easy to claim for works produced by AI. This leads in the question: Is a work created by AI "original", and if so, who owns that originality/who is credited with authorship?

Thus, in patent law, among the challenges to mention is the one with regard to the clear inventor and ownership of AI-generated inventions. From the study of intellectual property laws, it results that they're traditionally based on the idea of one (or several) human creator(s). (European Patent Office, n.d.). However, AI inventions are now challenging this principle by asking whether an AI system can be an inventor.

Without a clear decision on whether AI can be considered an inventor, complex questions arise regarding the allocation of rights and responsibilities, such as who should own rights to an invention or a creative work (for example: the AI developer, owner or user of the AI), or who should be held liable for violations (misuses or failures of the invention/creation).

Another challenge emerges in the form of the patentability standards. The rules in most jurisdictions link the patentability of inventions to particular characteristics such as novelty, inventiveness, and a "technical contribution" by a human inventor. (European Patent Convention, 1973). When it comes to the standards for the inventive step, it's highlighted the need for a human inventor behind the invention. This means that when an AI system creates an invention, it directly goes against these standards. Therefore, it may be necessary to redefine the concept of "innovation" by AI, to determine whether an AI-generated invention truly meets these standards.

Furthermore, recognizing AI as an inventor could have implications across various sectors, including the economic sphere. It is actually believed that if AI-systems are allowed to be the inventors for patents, this might lead to the weakening of the incentive structures that support and reward human creativity and innovation. Clearly, these incentive structures are what allow individuals and companies to spend their time, energy and money to create or invent and know that they will gain recognition and perhaps financial reward. Therefore, if AI systems are recognized as inventors or authors, their ability to produce inventions or creative works faster than humans could lead to human demotivation, a less human-inclusive approach and fewer moral or financial rewards.

Finally, legal fragmentation represents another threat. Different countries have different approaches to IP law and artificial intelligence, creating a complex and fragmented legal landscape. (S. Hess, 2023). Countries such as the U.S. and EU currently prohibit recognition of AI as an inventor or author, whereas others such as South Africa and Australia have allowed it in limited situations only recently. Such diversity leads to legal fragmentation, making it difficult to maintain and enforce patents or copyright protection involving AI worldwide.

II. WIPO's initiatives and its position on AI and IP policy

The World Intellectual Property Organization (WIPO) and the European Patent Office (EPO) are two significant organizations that generally operate the patent and IP system. Both play significant roles in shaping the IP framework, regionally and internationally.

Through some of its AI and IP activities, WIPO highlights its strong role in adapting the global IP system to the opportunities that AI raises. Since AI frameworks can now autonomously create innovations, aesthetic works and plans, conventional IP frameworks based for the most part on human creation and imagination are put to challenge. Therefore, the fundamental challenge for WIPO is that the IP regimes we have are pre-AI and need to adapt to these new realities.

With continued international dialogue and cooperation, WIPO is positioning itself as an important stakeholder in ensuring that IP legislation evolves in a manner that encourages innovation and progress, whilst also providing transparency and security for all stakeholders within the AI system.

WIPO has been working for years on assessing the impact of AI on IP and implementing several initiatives to influence AI and IP policy. One important initiative is the Conversations on Intellectual Property and Artificial Intelligence. This initiative,

which includes meetings, discussions and reports, seeks to unite stakeholders from diverse sectors such as governments, industries and academia, to discuss the impact of frontier technologies on all IP rights and to bridge the existing information gap in this fast moving and complex field. (World Intellectual Property Organization [WIPO], n.d.). This initiative began in 2019 and this year, its 10th session took place on November 5-6, 2024. (World Intellectual Property Organization [WIPO], 2024).
Besides the Conversations, in the year 2019, WIPO released the WIPO Technology Trends Report[1]. (World Intellectual Property Organization [WIPO], n.d.). To sum up, these Reports, which are almost released on an annual basis, center around AI, presenting the patterns in AI patent applications, top innovators and progressions in various fields. Moreover, they offer perspectives into the impact of AI technologies in shaping intellectual property, as well as monitoring intellectual property submissions across different industries.
Another document which was published by WIPO in 2019 was the Draft Issues Paper on Intellectual Property Policy and Artificial Intelligence[2]. (World Intellectual Property Organization [WIPO], n.d.). This document, similar to the purposes of the other initiatives, tries to provide feedback on the challenges posed by AI to IP systems. This paper was updated based on input from stakeholders and served as a basis for discussions during WIPO Conversations sessions.
There are also other initiatives of WIPO in this matter, with similar purposes as the ones above, such as: WIPO Revised Issues Paper, Online Tool for Public Consultation on AI and IP, Global Dialogue on AI and IP, Technical Assistance and Capacity-Building Programs, AI for Development and Innovation (AI4D), etc.

III. EPO's approach to AI patents. Key aspects of EPO's guidelines on patenting AI-related inventions

The European Patent Office (EPO) has developed specific guidelines regarding the patentability of innovations created by artificial intelligence (AI). While AI continues to push the boundaries of technology, this raises the question of how these progressions find their place in the existing framework of patent law. In this regard, EPO guidelines aim at clarifying under which specific circumstances will patent protection of AI related innovation be feasible.
According to the European Patent Convention (EPC), under current patent law, only human inventors can be recognized as inventors on patent applications. The EPO[3] claims that while AI can be used in the invention process, the application should show some evidence of a human inventor. Despite this approach, the EPO has recognized that there's still a need for guidance on how to determine the role of AI in the invention process.
Furthermore, it should be emphasized that for any innovation to be patentable, under article 52 of EPC, it needs to fulfil certain requirements, such as: it must be novel, it should include an inventive step and must be subject to industrial application. Let's explain each of these briefly.
When it comes to novelty, this implies that the invention must be original and has not been shared with the public in any way, to the patent applications submission date. However, not all the technology of an invention needs to be novel. It is now stated

that an idea may be an invention if existing technologies are combined in a way that is novel, or used in a way that is novel. (European Patent Office, n.d.).
As per the invention, it needs to show its inventive step, independent of its AI aspect. The EPO explains it further, requiring that the contribution of the AI must be significant enough to satisfy this requirement.
Lastly, much like any other invention, AI based inventions need to define an innovative approach to a technical problem. This means that the invention must be the answer to some technical problem and not just a mathematical algorithm or a business method. If we refer to article 52 of EPC, it sets out the categories of inventions which are excluded from patentability, such as mathematical methods, business methods and aesthetic creations, unless they provide a technical solution to a technical problem. This differentiation also allows EPO examiners to assess whether such an AI-related invention is hypothetical or can answer real-life problems. This strategy of the EPO aligns with the larger principle that patents should protect tangible advances in technology and not abstract concepts.
Another thing that the EPO emphasizes is that when submitting a patent for AI innovations, it's important to share a clear and detailed description of how AI functions and which is its role in the proposed invention. This involves detailing the algorithms, datasets and training methods employed.
Interestingly, despite the fact that AI is bringing a lot of challenges to the EPO, this hasn't stopped the latter to actually start integrating AI technologies into their patent examination procedures. This helps EPO to improve efficiency in reviewing patent submissions and to identify relevant prior art.

IV. WIPO's and EPO's approach on recognizing AI as an inventor. DABUS case and legal interpretations of human inventorship.

As already emphasized in this paper, there is an active debate happening within the intellectual property community over whether AI-driven technologies can be qualified as inventors under current patent law and in regard to giving a clear definition of the "inventor", which is satisfactory in the times of AI. These questions have posed challenges for both WIPO and EPO.
Court cases have been among the influencers of these debates or the raising of these questions. DABUS case is an important case involving AI systems because it highlights that though AI generated inventions can receive patents, only a natural person can be credited as the inventor.

To summarize the case briefly, DABUS, an AI system developed by Dr. Stephen Thaler, was capable of creating new ideas and inventions in an autonomous way. As a result, Dr. Thaler submitted two patent requests and proposed that DABUS be acknowledged as the inventor.
As already mentioned, until now, legal frameworks recognize a natural person as an inventor and do not provide a concrete answer regarding an invention produced entirely by an AI system or an invention where an AI made a significant contribution - although this may logically follow. For example, the European Patent Convention (EPC) requires that the inventor must be a human being. But it is the EPO which has explicitly stated that while artificial intelligence can help in the process, it cannot be

recognized as an inventor. They rely on the fact that AI systems lack legal personality and that they're unable to possess rights. This argument is mainly given to encourage human creativity by granting humans exclusive rights to their innovations.
Judiciary and professionals worldwide have expressed different opinions on the matter. Supporters of acknowledging AI as creators contend that AI systems are becoming increasingly autonomous and capable of producing innovations without human involvement. Given this reality, they're sure that existing laws should be adapted to accommodate the advancements. Regarding how this can be accomplished, they propose that it can be by either granting patents to the owners or developers of AI systems or by establishing new ways of guaranteeing protection to innovations generated by AI.
However, there are several individuals who oppose extending the scope of inventorship to include AI. They claim that recognizing AI as inventors could harm the patent system's purpose, as it would give exclusive rights to inventions made by machines, instead of by humans. Considering the high efficiency of AI compared to humans, making it possible for AI to grant patents could flood the patent system with AI-generated licenses.
In conclusion, as WIPO and the EPO do not currently acknowledge AI as inventors or creators, the discussion on AI generated advancements is still ongoing. With the progress of AI, there is an increasing need for legal reforms that align better with the changing landscape of innovation. Currently, human inventorship remains a pillar of patent law, nevertheless cases like DABUS are expected to push against this principle in the future.

V. Ethical and policy considerations in AI-driven IP systems. WIPO's and EPO's management of these concerns.

WIPO and the EPO both believe that AI has the potential to improve efficiency at intellectual property systems, but at the same time, they understand the risks, ethical dilemmas and uncertainties which are presented by automation and AI-driven decision making.
First, the most important ethical problem is the bias in the AI algorithms that are used for patent searching and examinations. In this regard, the concern lies in the fact that AI could subconsciously favor certain invention types or sectors that have historically thrived at patenting. This risk has the power to create a cycle where specific groups or varieties of innovation are always left behind, leading to disproportion in the IP system. In light of such concern, WIPO and the EPO highlight the importance of transparency and accountability in the advancements of AI tools. Moreover, both are trying to make sure that these systems are being audited often and that if there are identified biases, they are corrected.
The automation of IP enforcement is another immediate worry. In this direction, WIPO and the EPO have made great efforts to ensure that AI tools are used in a contributory role under human supervision. To explain this further, there are currently many tools that identify breaches of copyright & trademark online. There is no doubt that in many cases these tools help, but on the other hand they also come with a risk. These

systems often overlook some aspects that a creative human examiner or a legal expert could capture, potentially placing limits on creativity and free expression.
Additionally, there are further policy considerations regarding AI's role in IP regulations. Indeed, the use of artificial intelligence in IP processes lessens human importance or human expertise in key parts of the IP system, that's the reason why policymakers must find the balance between using AI's advantages, while maintaining human oversight in decision-making.
Together the WIPO and the EPO are working on the same line towards addressing these ethical and policy challenges. For this reason, the WIPO has initiated various programs on these ethical issues, one of which is the "Conversations on Intellectual Property and Artificial Intelligence", as discussed earlier in this article. In the meantime, the EPO is also working towards ensuring that AI tools are used responsibly, with transparency and fairness through its guidelines.
Moreover, in 2021, the European Commission proposed the Artificial Intelligence Act, designed to encourage AI developers in Europe to keep transparency and user safety front of mind by assigning applications of AI to three risk categories (unacceptable, high-risk and non-high-risk). (J. Godefroy, 2024).
The positions of WIPO and the EPO on inventions to be performed by AI seek a middle road between encouraging innovation and providing legal certainty. Still, it can be argued whether these approaches help or hinder AI innovation.

VI. Conclusion

The rise of artificial intelligence (AI) has posed challenges for intellectual property regimes. Principles known traditionally focus on human intellectual efforts, without making a prediction that at a certain time, AI would be able to make inventions or produce works with little, if any, human involvement.
Academia, practitioners and policy-making circles have been discussing the need to amend the current IP laws in order to make them suitable for addressing the challenges posed by AI. As we tide over change, WIPO and the EPO being at the forefront of world IP, have been addressing these challenges and have suggested a few changes that shall allow IP laws to be current within AI-driven innovation. The findings and conclusions are the result of different initiatives that EPO and WIPO have undertaken.
The EPO and WIPO highlight the need for clearer definitions of inventorship where AI has played a significant role in the creation of an invention. Although existing intellectual property laws attribute inventions only to human creators, WIPO has examined that AI can also be seen as a tool or collaborator, but with human involvement still important. This strategy recognizes the importance of traditional inventorship principles, but also the importance of adapting to new developments.
Alternatively, another approach provided by WIPO is to establish a form of sui generis rights, a kind of intellectual property designed to protect AI-generated works that recognizes the unique character of these works but also the lower level of human involvement usually required.
In particular, the EPO is modifying its examination practices to take into account

the value of patent applications involving AI, especially for machine learning and data intensive inventions. According to both the WIPO and the EPO, it is essential to establish criteria or standards to determine inventive step, novelty and technical contribution in the context of AI. This ensures that AI-generated inventions are evaluated on the same basis as human inventions, leaving no room for judgment on the quality of the patents issued.

Moreover, WIPO encourages the application of ethical principles, including transparency and accountability into the framework for the use of AI for IP applications. The EPO, as well, promotes responsible AI use, especially for AI-assisted patent examination processes. It is suggested that better guidelines and ethical standards be set for the use of AI in such processes, so that automated systems do not amplify bias and undermine fairness in intellectual property.

Lastly, WIPO unequivocally promotes international harmonization of IP policies. The EPO is also working with WIPO and other regional offices to establish common standards, especially on AI-related matters in the IP field. It's logical to say that harmonization is needed not only to create a global approach to IP protection and enforcement, but also to make everything clearer and simpler for innovators and businesses.

Both organizations, WIPO and the EPO, understand the importance of training and aiding of IP offices and stakeholders in managing the challenges in relation to AI. WIPO provides technical assistance to its member states, especially the developing countries, to help them deepen their understanding of the relationship between AI and IP. The EPO also offers specific training for patent examiners and stakeholders to equip them adequately for this new challenge.

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Photographic Works Under the CJEU Lenses: Copyright vs. Other Human Rights

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Abstract

There is a legal debate about the copyrightability of a photograph, but since its recognition as a work by the Berne Convention, there is no room for discussing its protection. The reproduction and communication of photographic works to the public have brought conflicts of copyright with other fundamental rights that are guaranteed by the EU Charter of Fundamental Rights. Further, these conflicts have driven the national courts to request answers from the CJEU. Through the preliminary rulings, the CJEU has not only answered the questions of national courts but has also considered the tension between copyright and other fundamental rights. This article focuses on the four most important CJEU case laws regarding photographic works. Even though the national courts' requests for preliminary rulings have usually been concerned with the interpretation of a few articles of the *InfoSoc* Directive, especially "the communication to the public" of the work, the CJEU has interpreted the alleged claims in the main proceedings concerning the implication of the Charter of the EU. The rightsholders' actions, considered copyright infringements, have been disguised by other parties, not only within the exceptions and limitations of copyright but also as necessary not to violate the EU's other fundamental rights. The analysis of the case law will seek to reveal the CJEU approach to copyright infringements and the relevant use of the "balancing concept" that found its way from the CJEU case law to the EU copyright law and that essentially contains the demand for fundamental rights to be weighed against each other.

Keywords: EU Charter, Photographic work, CJEU, InfoSoc Directive, Fundamental rights, Communication to the public.

1. Introduction

The foundation of the EU is based on the Treaty of the European Union and the Treaty on the Functioning of the European Union, both of the same legal value (Treaty of European Union, art 1). It is founded on the principle of high consideration of human rights (*Ibid.*, art 2), and the EU recognizes all principles, freedoms, and rights presented in the EU Charter of Fundamental Rights to be as legally effective as the TEU and TFEU (*Ibid.*, art 6). The Charter is a binding document that promotes human rights within EU territory and serves as the primary source of fundamental rights in the EU (Douglas-Scott, 2011, p. 646). Initially, due to the lack of binding legal effect, the CJEU did not cite it in its judgments, favoring referring to the ECHR (*Ibid.*, pp.650-651). Ten years after its proclamation, the Charter developed into a compelling authority in litigation in the European Courts. Therefore, it was incorporated into

European constitutional law (Anderson & Murphy, 2011, p. 1). Article 17(2) of the EU Charter establishes IP protection. IP rights are placed in the same article as the right to property, thus conveying the idea that it deserves and enjoys the same protection as any other "classic" or tangible property. The EU's *acquis* for copyright and neighboring rights comprises regulations and directives to harmonize the fundamental rights of legitimate copyright holders (EU Commission, 2022). The 2001 Copyright Directive is the primary legal instrument governing copyright (European Parliament, 2018). The CJEU decisions interpreting the provisions of the EU legislative acts have substantially contributed to steadily applying the copyright provisions through the European Union (EU Commission, 2022).

"Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States shall constitute general principles of the Union's law." (Treaty of European Union, art 6) It is not surprising that the CJEU has increased its consideration of the impact of the Charter in the copyright sphere (Griffiths, 2019, pp. 35-36), and it has used Article 17(2) to neutralize conflicts among diverse essential human rights (Husovec, 2019, p. 845). The CJEU, through its decisions, has confirmed that the copyright *acquis* must somehow be understood to express a "fair balance" amid competing rights of the EU Charter of Fundamental Rights (CFR) (Rendas, 2021, p.18).

The courts often struggle to avoid tension between copyright and other human rights. Copyright owners, authors or not, are provided with temporary, solid economic rights that are misunderstood as monopoly rights. Economic rights guarantee that the copyright owner is the decision maker in the work's exploitation. The reward is fair compensation for transferring economic rights over works considered essential contributions to the public interest and the right incentive for producing other intellectual products. In such a manner, the incentive function of copyright is twofold (van Deursen & Snijders, 2018, p. 1080). The author's pecuniary rights, along with being subject to infringement resulting from the unauthorized use of the works, exceeding the authorized rights, or misuse of the authorized rights on the work, also "suffer" a variety of legal exceptions and limitations (E&L) established to avoid tensions between the enjoyment of other fundamental rights and copyright. As property rights are absolute, the balance of possibly conflicting interests was legally translated into an exception to intellectual economic rights (Blázquez et al., 2017, pp. 9-13). Initially, Article 9(2) of the Berne Convention, referring exclusively to the right of reproduction, authorized the conditions that apply on a cumulative basis to permit (without prior authorization by the rightsholder) the reproduction of said works *"in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author."* Although the Convention recognized the discretion of the countries of the Union to domestically provide for the specific E&L, its three conditions, known as the "three-step test," still govern copyright's exceptions and limitations under international and EU law (*Ibid.*, pp. 9-13). However, E&L's exclusive pecuniary rights, despite the interests they protect, should be narrowly interpreted and never understood as a "lawful" scapegoat to infringe copyright and diminish the interests of rightsholders.

This article focuses on the CJEU and its case law regarding photographic works. The national courts' requests for preliminary rulings are usually concerned with interpreting a few articles of the *InfoSoc* Directive (Directive 2001/29), especially "the communication to the public" of the work. Beyond the questions referred to by national courts, the CJEU has interpreted the alleged claims in the main proceedings concerning the implication of the EU Charter. The actions that were considered copyright infringements by the rightsholders have been disguised by other parties not only within exceptions and limitations of copyright but necessary so as not to violate the EU fundamental rights. The paper seeks to analyze some critical CJEU case law on photographic works while trying to explain the CJEU approach to copyright infringements and the overclaimed tension between copyright and other rights. The balancing concept originates initially from EU copyright case law and later became an integral part of EU copyright law. As the 2001 Copyright Directive came into effect, the notion that the rights should be weighed against each other was explicitly expressed in recital 31 of the Directive (Teunissen, 2018, p. 585).

2. **The CJEU on Photographic Works**

The Berne Convention (BC) Article 2(1) asserts an all-embracing protection principle for literary, scientific, and artistic production. However, the works expressed represent a list of pure examples and a non-exhaustive one, providing several guides for national lawmakers (World Intellectual Property Organisation, 1978, p. 13). The unlimited list of protected works was initially supplied by Article 4 of the BC and lacked photographic works. The 1948 Brussels Revision of the BC introduced *"photographic works"* and *"works produced by a process analogous to photography."* BC aimed to ensure protection not only for works realized through traditional photographic methods but also through chemical or technical processes, then known or undiscovered (*Ibid.*, p. 16). The Merriam-Webster dictionary explains photography as *"the art or process of producing images by the action of radiant energy and especially light on a sensitive surface."* This is a sophisticated definition of "photography," whose etymology combines Greek words, meaning "light and writing or painting," according to Oxford Reference Online.

The photograph inevitably displays whatever happens before a camera using an automatic device, thus "asserting" that it lacks creativity (Kogan, 2015, pp. 871-872). However, since its inclusion as an artistic work from BC, this debate will be overlooked for the purpose of this paper. Nevertheless, BC leaves open the possibility of refusing copyrightability and protection to specific categories of photographs (World Intellectual Property Organisation, 1978, p. 16) resulting from technological operations that do not require the intervention of a human person (Strowel, 2012, p. 7).

The national courts have referred essential questions to the CJEU that require the Court's interpretation regarding the alleged infringement of copyright on photographic works. In all the cases mentioned and clarified below, along with the answers to the questions, the CJEU has also ruled about possible tension between copyright and other rights. The IP right laid down in Article 17(2) of the EU CFR can collide with other fundamental rights of different actors as their underlying interests are often contradictory (Teunissen, 2018, p. 582). It is important to notice both

parties' claims in the main proceedings because the party that made the copyright infringement simultaneously with other arguments claimed that its actions either fell within copyright's exceptions and limitations or another fundamental right of the EU charter must be respected with precedence.

2.1 *Eva-Maria Painer v. Standard Verlags GmbH*

In 2011, in the *Painer* case, *Handelsgericht* Wien brought up four questions to the Court. Ms. Painer was a freelance photographer. She especially photographed children in nurseries and daycares. She got some shots of a little girl called Natascha K. Over the years, she put her name on all her photos, in diverse ways but always in a way to indicate her as the author. Ms. Painer sold many photographs but always kept her rights over them, including the right to publication. In 1998, when Natascha K. was ten years old, she was abducted. The national authorities launched a search appeal where Painer's shots of the little girl were used. The defendants, who were newspaper and magazine publishers, published the Painer's shots of the girl in their newspapers, magazines, and websites without, however, attributing the photographs to Painer or any other person. Moreover, in some of the defendant's publications appeared a portrait created from software that used Painer's shots of Natascha K. to show the changes in her appearance in the years she was abducted (Case C145/10, EU: C:2011:798, paras. 27, 28, 29, 30, 33, 34, 36).

The fourth question that the Court found appropriate to answer the second regarded the defendants' approach, who claimed that they did not need Ms. Painer's consent to publish the created photo fit. They defend themselves regarding the type of photo. The photo fit was created based on a portrait photograph. Since it is believed that there is little or no creativity in portrait photos, consequently, even copyright protection is minimal or absent (*Ibid.,* para. 85). The Court referred to a previous case, *Infopaq International* (2009), in which it had already decided that copyright is liable to apply to an original photograph, meaning that said photograph is its author's intellectual creation. The author's creativity is evaluated through his choices during the creative process. In this case, the Court stated that even when a photographer shoots a portrait, he can make numerous free choices throughout the whole production process. These choices show his creative skills and, at the same time, mark the portrait photograph with the photographer's "personal touch." Therefore, exercising creative abilities through choices, despite the work being a portrait photograph, does not necessarily have to be understood as absence or little creativity (*Ibid.,* paras. 87, 89-93). Article 2 of *InfoSoc* Directive provides that each author of a protected work, including photographic works, is, under that, entitled to, among other rights, *"the exclusive right to authorize or prohibit its direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part."* A portrait photograph is a work, and the protection granted by the *InfoSoc* Directive is at the same level as that enjoyed by all copyrighted works (*Ibid.,* paras. 95, 98).

The principle is that prior authorization is needed from the rightsholder for the reproduction of the work is the principle. The derogation from it is to be strictly understood and applied. Article 5(5) of the *InfoSoc* Directive requires an exception to the principle; thus, the reproduction of the work without authorization must be subject to the three-step test.

In *Painer*'s case, the defendants represented the media. Nevertheless, they cannot be allowed to give themselves the mission of protecting public security. That is why the representatives of the media, beyond their purpose, cannot willingly use a copyrighted work by infringing copyright in the name of public security. Public security protection is one of the primary responsibilities of the state and its competent authorities. The media can help and contribute to fulfilling the objective of public security, but only in specific cases because its right to inform the public is subject to strictly necessary restrictions (*Ibid.,* paras. 109-113). It is considered that CJEU was quick to assume that copyright and copyright owners' interests must trump the freedom of the press. Also, its approach seemed much more strict and less balanced than the Austrian Supreme Court (van Eechoud, 2011, para. 11). In light of all considerations, the Court ruled that Article 5(3)(d) of Directive 2001/29, read in the light of Article 5(5) of that directive, must be interpreted as meaning that its application is subject to the obligation to indicate *"the source, including the author's name, is indicated and that their use is in accordance with fair practice, and to the extent required by the specific purpose."* (Case C145/10, EU: C:2011:798, para. 139)

2.2 *Land Nordrhein-Westfalen v. Dirk Renckhoff*

In 2018, the CJEU answered a sole question regarding the *Renckhoff* case. The German *Land Nordrhein-Westfalen* was responsible for the educational supervision of the Waltrop secondary school and the employer of the teaching staff working there. Mr. *Renckhoff* was the author of the photograph used by a Waltrop pupil. The work was previously posted on an online travel portal that *Renckhoff* had authorized. The pupil made unauthorized use of the photograph, first by downloading it and then by using it to illustrate a school presentation, although a reference to the online travel portal was included. Moreover, the school posted the presentation on its website, including the copyright-protected photographic work. *Renckhoff* explained that using the work from the travel portal was exclusively authorized, but posting the photograph on the school website infringed his copyright (Case C161/17, ECLI:EU: C:2018:634, paras. 2, 6-8). The German Federal Court of Justice essentially asked whether "communication to the public," within the meaning of Article 3(1) of the *InfoSoc* Directive, must be understood to cover the posting on one website of a photograph that has been previously published without restriction and with the consent of the copyright holder on another website (*Ibid.,* para 13).

Following Article 5(3)(d) of the *InfoSoc* Directive, Member States may exempt quotations for review or criticism from the author's exclusive right to reproduce his work under the following conditions: (i) *"they relate to work or another subject-matter which has already been lawfully made available to the public"*; (ii) *"unless this turns out to be impossible, the source, including the author's name, is indicated"*; and (iii) *"their use is in accordance with fair practice, and to the extent required by the specific purpose."* It must be noted that Article 3(1) of Directive 2001/29 does not define the concept of "communication to the public," and the meaning and scope of this concept must be determined in relation to the objectives pursued by the directive and the context in which the provision is to be interpreted. Accordingly, it is important to remember that according to recitals 4, 9, and 10 of Directive 2001/29, the directive is primarily

intended to establish an important level of protection for authors, allowing them to receive fair remuneration for the use of their works, including when they are published. For an *"act of communication"* to exist, it is essential that the work must be made available to the public in a way that the people who constitute that public can access it regardless of whether they make use of that opportunity. This is clear from Article 3(1) of Directive 2001/29. Posting a photograph on one website, following its previous posting on another, may be considered *"making available,"* thereby constituting an 'act of communication' within the meaning of Article 3(1) of Directive 2001/29. A posting of this type allows visitors to access the photograph on the website where it is located. Considering that the visitors represent an indeterminate number of potential recipients, it is reasonable to assume that numerous individuals are concerned. In that case, the act of communication can be considered a communication to the "public" (*Ibid.*, paras. 17, 18, 20- 23).

In light of established case law, a work is considered to be "communicated to the public" if it is disseminated using distinctive technological procedures divergent from those previously used or if a "new public" is reached, that is, an audience that the copyright holders did not already consider when they authorized the initial distribution of their material. In *Renckhoff*'s case, it was agreed that the work's initial publication on one website and then on another was accomplished using the same technological means. The Court of Justice of the European Union has consistently held that, except where limited by Article 5 of Directive 2001/29, all acts of reproduction or distribution to the public of a work require the author's prior permission and that, pursuant to Article 3(1) of Directive 2001/29, authors may intervene between potential users of their work and public distribution, preventing such distribution. If it were to be ruled that posting a work on one website that had previously been posted on another website with the copyright holder's consent did not constitute communicating a work to a new public, the right of preemption would be reduced to impotence. An uploaded work on a website other than the one where it was initially posted might make it impossible or at least harder for the holder of a preventive right to require the removal of the work, if necessary, by revoking the consent previously given to a third party or by removing it from the website where it had been initially posted with his consent. Furthermore, it was obvious that even if the copyright holder chose no longer to post his work on the website, he had initially posted it with his consent, the work would remain on the website where it had been newly posted. The issue arose as to whether the copyright holder's or website's rights would prevail in such a case (*Ibid.*, paras. 24, 25, 29).

Article 3(1) of the *InfoSoc* Directive establishes that the communication to the public right referred to in Article 3(3) is not exhausted by any act of communication to the public or of making works available to the public. It would be an incorrect application of the exhaustion doctrine if posting a work on one website, with the copyright holder's prior consent, from another website was deemed not to involve making it available to a new public. According to Article 3(1) of Directive 2001/29, the notion of "communication to the public" must be interpreted as covering the posting on one website of a photograph that was previously posted, with no limitation on its being downloaded, and with the consent of the copyright holder, on another website (*Ibid.*, paras. 32-33).

The Land Nordrhein-Westfalen argued that in balancing interests, Article 14 of the Charter, which guarantees education, must be considered. The Court found that its decision on the *"new public"* concept was not reliant on whether the pupil's picture as part of her school presentation was educational but on the idea that the picture was posted on the school's website and thus accessible to all its visitors. Article 3(1) of Directive 2001/29 emphasizes a fair balance between copyright holders' interests in protecting their intellectual property, as guaranteed by Article 17(2) of the European Union's Charter of Fundamental Rights, and users' interests and fundamental rights, particularly their freedom of expression and information, as guaranteed by Article 11 of the Charter, allowing such a post without the copyright holder being able to rely on these rights would be inappropriate. The Court noted that in the light of Article 5(3)(a) of Directive 2001/29, the EU legislature provided for exceptions or limitations to the rights set out in Articles 2 and 3 of that Directive, so long as the purpose was to illustrate for teaching or scientific research and was limited to the extent necessary to achieve the non-commercial goal (*Ibid.*, paras. 42, 43, 47).

2.3 *BY v. CX*

The appellant *BY* and the respondent *CX* operated websites. The appellant's website was included in the evidence of the judicial proceeding between individuals when a copy of a page of text containing a photograph was seized as evidence by the respondent and sent before the Swedish courts. It was sent by email to the court as an electronic copy. The respondent was asked to pay damages for copyright infringement since *BY* allegedly held the copyright to that photograph. In the first instance, the court determined that the respondent in the main proceedings had distributed that photograph to the public but dismissed the appellant's claim since it was not established that he had suffered harm. Despite Recital 35 of Directive 2001/29 referring to some instances of exceptions or limitations, an essential criterion for fair compensation for the work's use would be whether the act in question would harm the rightsholders (Case C637/19, EU: C:2020:863, paras. 10-12).

The Svea Court of Appeal referred four questions to the CJEU. The national court asked if, considering Articles 3(1) and 4(1) of Directive 2001/29, the term *"public"* could be interpreted as having a uniform significance in all EU Member States. The national court asked that the "court" be viewed as being within the scope of that term despite its uniform or different definition in those provisions (*Ibid.*, para. 18).

Article 3(1) of Directive 2001/29 provides that the authors must be provided with an exclusive right to authorize or prohibit their work by being communicated to the public "*by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them."* The CJEU initially noted that works other than physical copies distributed to the public are caught by the *"communication to the public"* concept in Article 3(1) of the *InfoSoc* Directive. The Court simplified the national court's questions, stating that Article 4(1) could not be applied in that case. Through its established case law, the CJEU has determined that the concept of *"communication to the public"* consists of two cumulative criteria, namely, an act of communication of a work and the communication of that work to the public (*Ibid.*, paras. 21-22).

Directive 2001/29's recital 23 defines giving access to protected works as an act with full knowledge of the consequences. Through this approach, the author's right to communication to the public is sought to be harmonized. This right protects all forms of communication, including those disseminated to a broader public that were not delivered at the place where the communication originated. The works must be communicated to the public to meet the second requirement, meaning *"an indeterminate number of potential recipients and implies, moreover, a fairly large number of persons."* The CJEU observed that "an indeterminate number of potential recipients" can be understood as persons, not restricted to a private group of specific individuals. The photograph was sent via email to a clearly identified and closed group of persons holding public service functions within a court system. It is therefore concluded that the electronic transmission of a protected work as evidence in court disputes between individuals cannot be regarded as a *"communication to the public"* according to Article 3(1) of Directive 2001/29. The Court pointed out that the right to IP must be safeguarded, but at the same time, that right must be balanced against the other fundamental rights (*Ibid.,* paras. 26-29, 31). The CJEU determined that the disclosure of evidence to a court to balance the situation would severely undermine the right to an effective remedy guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union if a copyright holder were able to oppose its disclosure on the sole ground that it contained subject matter (*Ibid.,* paras. 32-33).

2.4 *VG Bild-Kunst v. Stiftung Preußischer Kulturbesitz*

VG Bild-Kunst, a visual arts copyright collecting society in Germany, filed suit against *Stiftung Preußischer Kulturbesitz* ('SPK'), a German cultural heritage foundation that operates the *Deutsche Digitale Bibliothek* (DDB), a digital library focused on culture and knowledge, which connects German cultural and scientific institutions. In this case, VG Bild-Kunst refused to enter into a license agreement with SPK to use its work catalog unless SPK, as a licensee, was obligated to use adequate technological measures to prevent third parties from framing protected work or material. In SPK's view, the existence of such a clause in the agreement was deemed unjustifiable considering copyright legislation (Case C392/19, EU: C:2021:181, paras. 2, 9).

The only question referred to CJEU for a preliminary ruling from the German Federal Court of Justice, in essence, was whether Article 3(1) of Directive 2001/29 must be interpreted as implying that embedding, using the method of framing, works that are copyrighted and freely accessible on a different website with the permission of the copyright holder, in a third party site, where that framing bypasses the copyright holder's protective measures against framing, would be considered a public communication (*Ibid.,* para. 19).

The parties agreed that *VG Bild-Kunst's* copyrighted catalog was an act of communication to the public as defined in Directive 2001/29 Article 3(1) and that *VG Bild-Kunst's* storage of thumbnails derived from works in the catalog was an act of communication to the public. An author's preventive right allows him to stand between potential users of his work and the public communication of his work, thus prohibiting such communication. Considering *SPK's* refusal to put in place safeguards to prevent those thumbnails from being framed on third-party websites,

whether such framing constitutes *"communication to the public"* under Article 3(1) of Directive 2001/29 is a question that must be answered. *VG Bild-Kunst*, as a copyright-collecting society, might then demand that *SPK* implement such safeguards (*Ibid.*, paras. 21, 23, 24).

A work protected by copyright may only be deemed a *"communication to the public"* if it is transmitted using unique technological means or, failing that, to a newly included audience, that is, an audience that was not already accounted for when the copyright owner authorized the initial release of their work to the public. According to the Court's rulings, framing, which divides a website page into several frames and posts an internet link (online linking) or a clickable link within one of them to conceal from a website's users the environment in which an element comes from, is considered to be communicating to the public since it makes the posted element available to all potential users of the website. In contrast, the Court's prior decisions indicated that if a work was framed using the same technological means as those used to communicate the work to the public on the Internet, namely the Internet, and if no new public was reached, Article 3(1) of the *InfoSoc* Directive would not be applicable. Thus, copyright holders would not be required to authorize such communication. The main proceedings precisely concerned a situation in which the copyright holder sought to make licensing contingent on implementing measures to restrict framing to limit access to their works from websites other than those of their licensees. It is implausible that a copyright holder would agree that third parties can freely communicate their works to the public in such circumstances. When a copyright holder adopts or forces licensees to use methods to restrict framing to limit access to their work from websites other than their licensees', the act of making available on the original website and the act of making available using framing constitute different communications to the public, and each such act must, consequently, be authorized by the rights holders concerned (*Ibid.,* paras. 32, 35, 36, 41, 43).

Taking these factors into account, it follows that the embedding of a work protected by copyright, using the framing technique, in a third-party website page that is made freely available to the public on another website with the permission of the copyright holder must be regarded as *"making that work available to a new public."* Despite these restrictions, a copyright holder must still be considered to have consented to any act of communication of the work to the public, even if they have introduced measures limiting the framing of that work. Following Articles 3(1) and 3(3) of Directive 2001/29, it would be incompatible for a third party to communicate that work to the public for the benefit of all internet users. The consequence would be that the need to safeguard a fair balance, as outlined in recitals 3 and 31 of Directive 2001/29, would be undermined by the possibility of embedding, using the framing technique, without the copyright holder being able to rely on the rights outlined in Article 3(1). In the digital environment, the interest of the holders of copyright in their IP protection, guaranteed by Article 17(2) of the Charter, and the protection of the user's freedom of expression and information, guaranteed by Article 11 of the Charter, would be disregarded. Essentially, Article 3(1) of the *InfoSoc* Directive should be interpreted as meaning that embedding, using the framing technique, in a third-party website page of work that is protected by copyright and which is freely accessible to the public with

the authorization of the copyright holder is a communication to the public within the meaning of that provision. If the embedding circumvents measures adopted by the copyright holder to protect framing, it constitutes a communication to the public (*Ibid*., paras. 48, 50, 54).

The CJEU, in the case mentioned above regarding photographic works, has explained mainly the *"right to communication to the public"* and the *"right of reproduction,"* highlighting the need for prior authorization of the rightsholders. In the *BY v. CX* case, the Court clarified that the concept of public requires an unspecific number of persons and not a private, closed group. In *Renckhoff*, the Court explained the importance of a new public, which is another possibility to make available the work following the non-exhaustive nature of the communication to the public. In the case of a copyright-protected work embedded in a third-party website page using the framing technique as in *Bild-Kunst*, the Court ruled that embedding a copyright-protected work that is freely accessible by the public on another website with the permission of the author must be viewed as *"making that work available to a new public."* The CJEU established in *Painer* that regardless of the main goal, even for public security, the media or others cannot be responsible for fulfilling that objective, mainly using and reproducing a copyrighted work without authorization.

3. **Conclusion**

Due to the high demand to respect human rights, every court faces difficulties taking a strictly balanced position when there is "a clash" between them. The CJEU cases show that the Court has not only considered that the author's rights are human rights but has always rationally protected them. There are no secondary human rights.

The court has referred to the EU Charter to answer every claim regarding fundamental rights. The Charter is not merely a proclamation of rights. Its importance is not only expressly recognized but has also become the point of reference for the CJEU interpreting the directives in light of the Charter's articles. The Charter is a modern document that contains classic rights and other new rights. These rights listed in the Charter, as in any other similar document, do not rule out one another. They can coexist by accepting the establishment of a system of limitations and exceptions, which by nature should be reasonable and serve to maintain the balance of interests. The exceptions and limitations are the only measures that legally limit copyright. Even though they seem to limit the relationship of the rightsholder with the work while expanding the space of the third parties, the *ratio* behind them is different. The high goal of balancing interests, which has been accepted by the rightsholder in exchange for solid but prescriptible economic rights, cannot be misinterpreted to invalidate copyright. The Court must apply in every case the "three-step test" against the arguments of third parties, thus not allowing the disguise of the infringement with the claim that another fundamental right should prevail. The Court maintained A balance of interests in the case law mentioned regarding photographic works, rejecting claims that violate copyright for the sake of public security, freedom of expression and information, educational purposes, or particular institutions' interests, as stated in the case law cited.

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Detection of a rare parasite in a cat in Albania

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Abstract

The food-borne parasite (FBP) Linguatula serrata, the so-called "tongue worm" is a nasal parasite belonging to the Phylum Pentastomida, found worldwide. Dogs and also other canines serve as the main definitive hosts and herbivores, including ruminants (sheep, cattle, camel, goat) and lagomorphs as its intermediate hosts. L. serrata during larval stages lives encapsulated in different visceral organs and as adult living in the nasal fossae or paranasal sinuses. Linguatula serrata has a zoonotic importance, causing in humans visceral and nasopharyngeal linguatulosis. Human infestation is acquired by the consumption of insufficiently cooked lymph nodes, liver and other internal organs of Linguatula serrata infested ruminants cause a well-known clinical syndrome named halzoun or marrara and there are several reports on human visceral pentastomiasis. There are a limited number of publications regarding Linguatula.serrata in Europe. This publication reports the first case of a Linguatula.serrata nymphal stage infestation in a domestic cat from Albania. Starting from the consultation of an extended literature and the discussion carried out for this case, we can confirm that cats can serve as accidental intermediate hosts in the life cycle of L. serrata, when ingested the parasite's eggs and can develop in some visceral organs the nymphal stage of the parasite.

Keywords: Cats, Linguatula serrata, nymph, lungs.

Introduction

Linguatula serrata or "Tongue worm" member of the subclass *Pentastomida*, order *Porocephalida* and *Linguatulidae* family is known as a cosmopolitan endoparasite affecting humans and animals. The tongue worm has indirect life cycle including stages like eggs, larvae, nymphs and adults.

The adults form usually is located in the nasal airways, tympanic cavity and frontal sinuses of domestic and wild carnivores acting as definitive host (dogs, cats, wolves and foxes) while the larval stage is located in the mesenteric lymph nodes, liver, lungs, brain and intestine of the various herbivorous mammals (sheep, cattle, goats, camels) which act as intermediate host.

Linguatulosis occurs accidental in humans via ingestion of eggs from infected dogs

or by consumption of raw or insufficient cooked infected viscera. Publications regarding *Linguatula serrata* manifestation in animals are in limited numbers in Europe but during the first period of the 21th century there has been a significant increase in publications that report cases with *Linguatula serrata* infestation in local dogs in various countries like in Romania, Bulgaria, UK, Spain, Albania, Greece and Italy (Negrea 2005, Bello Gavete et al. 2013, Kirkova et al. 2013, Bordicchia et al. 2014, Shukullari et al. 2015, Campbell and Jones 2023, Lefkaditis et al. 2023) and also in wild canids in Greece, Italy, Romania and Northen Macedonia (Gherman et al. 2002, Diakou et al. 2014, Raele et al. 2022). The Balkan Peninsula is generally mentioned in publications as a potential endemic region for *Linguatula serrata* and this growing number of publications in dogs and wildlife species indicate the existence and the circulation of this parasite among the target animals.
The role of dogs is well determined, serving as a definitive host for *Linguatula serrata*, but the exact position for cats is still not well defined in the parasite life cycle. Various publications describe cats as intermediate or definitive hosts of *L.serrata* (Neveu-Lemaire 1928, Atti et al. 2017, Lefkaditis et al. 2023, Marchetti et al. 2023).

Case description

Lungs of 73 cats were examined for lungworms in a survey study done for detection of helminth parasites in domestic cats in Tirana (Knaus. Al. 2012). Airways of the lungs were opened and helminths were collected in tracheas and bronchi. The lung tissue was totally grounded and underwent to a peptic digestion thereafter all the material was examined under a dissecting microscope. (Rehbein and Visser, 2002).
A nymphal pentastome was collected after the examination of the digest material belonging to a one-year-old male mixed-breed cat examined in Jully 2010.
After morphological examination, the nymph had 73 culicular annuli, a body length of 4.3 mm and bady width of 1.2 mm. The specimen isolated from the lungs of the one-year-old cat based on the morphological characteristics corresponds to the description of *Linguatula serrata* nymphs (Panaiotova et al. 1999, Rezaei et al. 2016, Barton et al. 2020, Jitea et al. 2023).

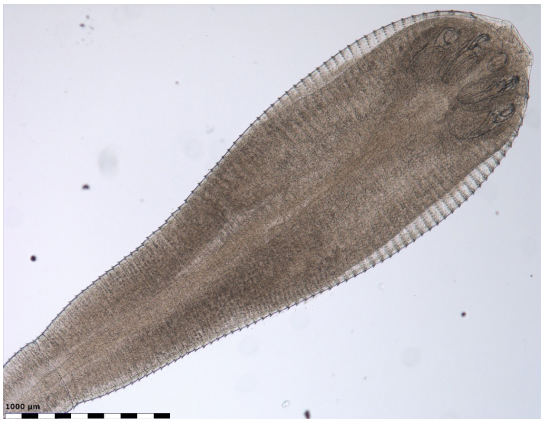

Figure 2. Nymph of *L. serrata* founded in the lungs of a cat

Discussion

This publication is the first case reporting a cat infestation at a nymph stage with *Linguatula serrata* in Albania adding to the total number of reported cases of L. serrata infection in cats. There is a publication from Egypt (Khalafalla 2011) reporting for the identification of *Linguatula serrata* in stray cats after the examination of 113 cats' fecal samples. There was not well clarified in that case at which stage *L.serrata* were and which technique were used to recover the parasite.

In the case reported here *L. serrata* was isolated by peptic digestion of the lung tissue and is the same technique used to identify *L.serrata* in ruminants (Rezaei et al. 2012, Esmaeilnejad et al. 2017).

In Albania a survey study was conducted for endoparasites in client owner dogs (602 dogs) and in one dog from Tirana was found shedding *L.serrata* eggs (Shukullari et al. 2015). To the best knowledge of the authors this dog recorded with *L.serrata* eggs is the first and unique report of *L.serrata* in dogs in Albania, anyhow there are previous reports of *L.serrata* nymphs detected in cattle, sheep and goats in Albania (Kakarriqi and Dervishi 1952) which confirm a circulation and the presence of the parasite in the country.

Compare with the cases reported in the literature, the infestation level with a nymph stage in the case reported here is very low (Erlich 1938, Rahman et al. 2009). The nymph described in this report corresponds in size with measurements of *L.serrata* nymphs isolated from cats and various herbivorous species (Erlich 1938, Negrea 2003, Barton et al. 2020, Jitea et al. 2023).

The authors are not aware of any report in the literature of adult parasite which will sustain the position of domestic cats in the parasite life cycle as a definitive host for L.serrata as is mostly determined the role of the intermediate host for cats. In addition, a study from Romania (Nesterov et al. 1991) reports adult stages of *L.serrata* only in canids wolf, red fox and felid lynx the authors consider the anatomic dimensions of the nasal cavities playing a role in the infestation of this parasite, in cats the upper respiratory ways are smaller compared to that of carnivores.

In conclusion, this report of a *Linguatula serrata* nymph stage in a one year old domestic cat from Tirana is the first report in cats from Albania added to the limited report for *L.serrata* in cats worldwide. This report in cats goes in parallel with the presence of *L.serrrata* in domestic herbivours and also in dogs in Albania which serves as the main intermediate host and the main final host at the parasite life cycle. Cats can be infested with this parasite by consuming food contaminated with *L. serrata* eggs spread by the final host dogs.

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