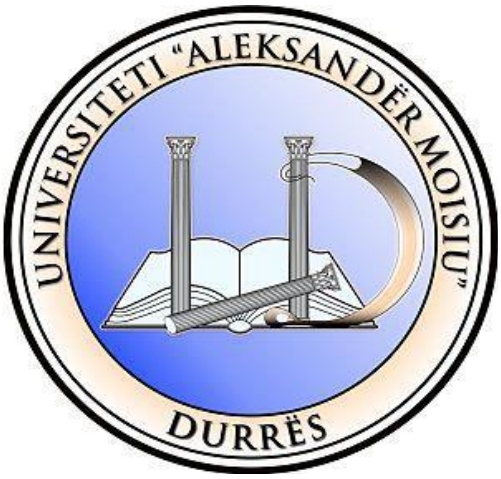

"ALEKSANDER MOISIU" UNIVERSITY OF DURRES

FACULTY OF POLITICAL SCIENCES AND LAW

CONFERENCE PROCEEDINGS

THE SEVENTH INTERNATIONAL SCIENTIFIC CONFERENCE

"The state, society and law: social, economic, political challenges and conditions to peace and security"

May 5 th, 2023

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The beginnings of the Cold War and NATO's approach to the Balkans

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ABSTRACT

The end of the Second World War, in addition to leaving great economic consequences and a great loss of life, also created a deep division between the Allies. This division will later create problems of different natures in the global aspect. Regardless of the influences, countries tended to side with one of two strong ideo-political blocs though Yugoslavia was also challenged in these dimensions. Its politics initially tended to be closer to the Soviet Union, but soon there would be a split aimed at political independence i.e. outside the influence of the Soviet Union. Undoubtedly, these circumstances also create security risk for Yugoslavia itself, which did not have the strength and readiness to face a military force like the Soviet Union. Yugoslav politics chose a different path, a "silent" cooperation with Western democracies, especially with NATO.

In this context, NATO will also have special approach to the policies of Yugoslavia so that it would continue to be as far as possible from any influence of the Soviet Union.

Key words: Politics, Yugoslavia, Soviet Union, NATO, Cold War.

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Introduction

After the end of the Second World War, the first division between the allied states against fascism appeared as the ambitions of some states for influence all over the world openly expressed their geopolitical move. This clash would be of an ideological nature, respectively capitalism vs communism, i.e. the West led by the USA and the Soviet Union on the other side.

Such a clash would reflect not only in the political and economic aspect, but also in the military aspect. As a consequence of the increasing influence of the Soviet Union in some countries, as well as its ideological imposition on those countries, the dose of insecurity, threat and distrust towards the Soviet Union increased in the Western countries.

One of the world collision zones would be the Balkans.

Taken in general, these political movements would lead to the final division such as the iron curtain, which refers to the political split, as well as the ideological inspiration that the Soviet Union tried to spread to some countries and this move brought to the formation of NATO in 1949 from the Western countries led by USA a protection measure. As a reflection six years later Soviet Union and some Central and Eastern Europe countries formed the Treaty of Warsaw.

This also represents the first phase of the Cold War, which will then be characterized by the rapid development of the nuclear arsenal for domination using tools such as embargoes, various propaganda, and even space races. Though the world was divided into two blocs, one led by the USA with liberal democratic orientation and the other by the Soviet Union with communist ideology. The Balkans, due to its geopolitical and geostrategic position will be the subject of clashes by the two camps as both claimed that they have the right to spread the influence.

It is understandable that in this area live different nationalities with different cultural background and apparently they were contradictory in many points. At this time, special emphasis would be given to the Yugoslav issue, which at the time of the conflict will withdraw and break relations with the Soviet Union. Likewise, the Albanian issue will be on the agenda of the opposing camps.

In such circumstances efforts are made to keep the influence of communist ideology as far away from this area as possible by offering food aid, especially in Yugoslavia, which they thought was more threatened both economically due to the drought, as well as militarily due to the ratio its relationship with the Soviet Union.

NATO AND THE WARSAW PACT

It is a fact that after the Second World War, even though a structure, such as it was in the world aspect, survived, we can say that the rest, when it comes to the system, remains unchanged. Four post-World War II trends are particularly important: the distribution of force, the

proliferation of issues, the proliferation of actors, and regional diversity.[3] From 1945 to 1949, concern appeared in the countries of Western Europe and North America as a result of political developments in the post-war world, characterized by the spread of force. There were many dilemmas, the end of World War II and the generally acrimonious start of the Cold War with a hostile ideological and strategic opponent, most Americans initially felt protected by the monopoly of the atomic bomb[4], and Western Europe by American policy. It was the Truman doctrine that opened a new path for Europe, offering aid to Greece and Turkey. It was not about charity aid, nor about purely economic issues, but about military aid, which was given in the form of combat equipment, accompanied by military experts, and this military aid had a deep political meaning.[5]

The imposition of non-democratic regimes, the declarations coming from the Soviet leadership, endangered peace and security in the world. In the period between 1947 and 1949, a series of political and dramatic events came into focus. These included direct threats to the sovereignty of Norway, Greece, Turkey and other Western European countries, the June 1948 coup in Czechoslovakia and the illegal blockade of Berlin, which began in April of that year.[6] A further step to deal with the situation and the created circumstances was the Treaty of Brussels, which was signed in March 1948, proves the determination of the five Western European countries - Belgium, France, the Netherlands, Luxembourg, the United Kingdom - to create a system of defense of common and to strengthen the ties between them in such a way that would enable them to face ideological, political and military threats to their security.[7]

After that, there will be talks that will finally materialize in the creation of the organization that will also be a model of how the states are protected. These talks will continue with the United States and Canada in the creation of the North Atlantic Alliance, based on guarantees of security and joint commitment between Europe and North America. Denmark, Iceland, Italy and Portugal were invited to join the Brussels Treaty and participate in the process. These negotiations culminated in the creation of the Washington Treaty in April 1949. The treaty had 12 countries as founding members.[8] As it turns out, the North Atlantic Alliance was created on the basis of the treaty between the member states, without forgetting the debate within the states themselves and their parliamentary determinations. At all times, they rely on their right and on the stipulations that emerge from the Charter of the United Nations. It had a clear purpose, the protection of the freedom and security of all its members, by means of political and military means, with the principle of common commitment and mutual cooperation between sovereign states, in support of common security.[9]

The reaction of the USSR was also immediate, which stood up forcefully against the created pact. In protest, the Soviets submitted a memorandum of protest, which contained five points:

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[3] Glenn P. Hastedt, *Politika e jashtme Amerikane, e shkuara, e sotmja, e nesërmja*, përkth. Tonin Beci, AIIS, Tiranë, 2015, fq, 5.
[4] Zbigniev Brzezinski, *Zgjedhja, dominimi global apo udhëheqje globale,* përkth.Adnan Kika, Zenith, Prishtinë, 2006, fq, 21.
[5] Jean – Baptiste Duroselle, Andre Kaspi, *Historia e Marrëdhënieve Ndërkombëtare, Vëllimi II, Nga viti 1945 deri në ditët e sotme*, përkth. Liliana Papa, Lira, Tiranë, 2011, fq, 75.
[6] Manul i NATO -s, botuar nga Dega e Diplomacisë Publike e NATO -s, Bruksel, 2006, fq. 17.
[7] Manul i NATO -s, botuar nga Dega e Diplomacisë Publike e NATO -s, Bruksel, 2006, fq. 17.
[8] Manul i NATO -s, botuar nga Dega e Diplomacisë Publike e NATO -s, Bruksel, 2006, fq. 17.
[9] Manul i NATO -s, botuar nga Dega e Diplomacisë Publike e NATO -s, Bruksel, 2006, fq. 18.

The Atlantic Pact is completely aggressive and directed against the USSR; The Pact openly contradicts the Charter of the United Nations; The pact conflicts with the 1942 Treaty of Aid and Friendship signed between Great Britain and Russia; It also contradicts the Franco-Soviet aid and friendship treaty of 1944; It contradicts all agreements and treaties signed between the USSR, the United States and Great Britain at Yalta, Potsdam and elsewhere.[10] Starting from these, the socialist states of Eastern Europe (with the exception of Yugoslavia), at their meeting in Warsaw (May 11-14, 1955) approved the Agreement on friendship, cooperation and mutual assistance, with which a political structure was created - military, which was supposed to serve as a counterweight to NATO, and which essentially made the division of Europe into two antagonistic groups a reality. [11]The dividing lines will pass through the Balkans. A Yugoslavia that in terms of the total number of its ethnic composition was dominated by the Slavic element, with a number of Albanians who differed from the majority of Slavs in terms of culture, language, nationality and past, had a policy that removed it from the Soviet Union . Surprisingly, Albania remains among the countries that joined the Warsaw Pact, perhaps due to the very fact that the text of the agreement resembled that of NATO. This means that the Warsaw Pact was not against the emerging principles from the UN Charter. It is worth emphasizing the principles derived from the agreement of this pact: the prohibition of threats of force or the use of force, the peaceful resolution of international conflicts, cooperation in ensuring international peace and security, and taking measures for the general reduction of armaments, for the prohibition of nuclear weapons and weapons of mass destruction.[12]

Political maneuvers West – East and the beginning of the Cold War

With the end of the Second World War, a division was made between the states participating in it. Some countries emerged as winners and some as losers. In this regard, the USSR emerged as a great force that consequently had the successes during the war, as well as its political and strategic-military influence after the war. The weakness came in economic terms, in the labor force that the Soviet Union had lost a large number of men, as well as the infrastructure of the state. Stalin, the leader who managed to take control of decisions and become a leader in the field of internal and external policy of the USSR, began with his movements for internal consolidation and external influence. He will say that the character of the Second World War was specific and that this war differed from all previous wars, because, "the one who conquers the country, he also establishes his own social system. Each places his own system where his army reaches. Maybe it can't be...[13]

In other words, according to Stalin, the starting point of political influence starts precisely from the places where the Soviet army had stepped. Starting from this idea, the USSR created a real zone of influence in Eastern Europe, which, in the spring of 1948, extended to East Germany,

[10] Jean – Baptiste Duroselle, Andre Kaspi, *Historia e Marrëdhënieve Ndërkombëtare, Vëllimi II, Nga viti 1945 deri në ditët e sotme,* përkth. Liliana Papa, Lira, Tiranë, 2011, fq, 111.
[11] [11] Zejnullah Gruda, *E drejta ndërkombëtare publike*, Universiteti i Prishtinës, Prishtinë, 2003, fq, 353.
[12] Zejnullah Gruda, *E drejta ndërkombëtare publike*, Universiteti i Prishtinës, Prishtinë, 2003, fq, 353.
[13] Radovan Vukadinoviç, *Marrëdhëniet ndërkombëtare nga Lufta e Ftohtë deri te rendi global*, përkth, Sabri Mehmeti, Kolegji Universitar Victory, Prishtinë, 2007, fq, 97.

Poland, Czechoslovakia, Hungary, Yugoslavia, Albania, Bulgaria and Romania.[14] As it turns out, the first phase of the Cold War has begun. Two large blocs of states, one led by the United States and the other by the Soviet Union, will face each other in a series of crises aimed at guaranteeing their security by all means, except for a direct confrontation of the two great powers. Almost all the lectures of both camps are ideological.[15]

In this direction, there were two factors that influenced, the first has to do with the treaties of a political nature signed (which also date during the war), and the factor of regimes that were devoted to Moscow, with the establishment of communist regimes. He started the political maneuvers with the support of the big communist parties in Italy and France, without forgetting the state of Israel that could serve as a kind of communist center in the Near East [...] referring to the tradition of Pan-Slavism, which was present especially in the years of the Second World War, Soviet policy had already managed to establish alliance relations with the Czechoslovak Government-in-exile of Benes (1943), to then create the pro-Soviet Polish Provisional Government, meanwhile, supporting Communist Party of Yugoslavia (PKJ) and Tito, the elimination of corruption in Yugoslavia was helped. [16]The signed treaties were aimed at helping against any possible German aggression, as well as the satellite states of Germany, and had the issue of defense as well as non-participation with any other coalition, as well as economic and political character. However, Soviet influence was based much more on the establishment of unified regimes under the name "people's democracy" than on treaties. These democracies are called a system of government based on the dictatorship of the proletariat.[17] From what was said, it appears that the USSR had the mastery role, where the various developments, with an economic, military and political character, ended with the ambition and the possibility of coordinating all the activities of the states according to the directives of the USSR.

On the other hand, the countries of the West were the ones who tried to stop any possible spread of the communist ideology at all costs. The emphasis falls on the Balkans, as an area of geopolitical and geostrategic importance, because it can be said that the confrontation of the Cold War started in the Balkans. In order not to allow the communists to gain control of Athens, in May 1944, British troops landed there (according to the agreement on the division of the spheres of influence, signed by Churchill and Stalin, before the Yalta agreement) at the end of 1945, after a month of fighting, the British managed to disarm the "Greek Democratic Army". We can say that the first confrontations of what was later called the "Cold War" started first in Greece and three years before Berlin was blocked by the Soviets.[18]

Unconvincing policies and NATO

[14] Jean – Baptiste Duroselle, Andre Kaspi, *Historia e Marrëdhënieve Ndërkombëtare, Vëllimi II, Nga viti 1945 deri në ditët e sotme,* përkth. Liliana Papa, Lira, Tiranë, 2011, fq, 124
[15] J.M Roberts, O.A Westad, *Historia e Botës 3, Epoka e revolucioneve*, përkth, Krenar Hajdëri, Fan Noli, Tiranë, 2017, fq, 352.
[16] Radovan Vukadinoviç, *Marrëdhëniet ndërkombëtare nga Lufta e Ftohtë deri te rendi global*, përkth, Sabri Mehmeti, Kolegji Universitar Victory, Prishtinë, 2007, fq, 97 - 98.
[17] Jean – Baptiste Duroselle, Andre Kaspi, *Historia e Marrëdhënieve Ndërkombëtare, Vëllimi II, Nga viti 1945 deri në ditët e sotme,* përkth. Liliana Papa, Lira, Tiranë, 2011, fq, 126.
[18] Yves Lacoste, *Gjeopolitika e Mesdheut*, përkth. Perikli Jorgoni, Liliana Papa, Lira, Tiranë, 2011, fq. 396.

The Balkan issue was raised as a problematic area where battles for reflections, for the rise or fall of ideologies, can take place. As an example, we take Yugoslavia and its leader Tito, where during the war he organized against fascism without questioning the establishment of the state, its organization, and the consolidation of the military forces. In fact, this phenomenon made him distinct from other Eastern European leaders. He was raised during the war as the leader of the partisans and for that he enjoyed respect and popularity, unlike the leaders of other countries who were established by Moscow. So he was a faithful student of Marx and Lenin; but he did not accept complete submission to Stalinist Russia.[19] He led a policy that was also engaged with the neighboring Balkan states, especially with Albania, which was strongly engaged, where Yugoslav military, political and economic advisers were the main ones who determined the most important steps of the new Albanian government.[20] The steps they took were to create a Balkan Federation that was not well received by Stalin, for fear of strengthening Tito's position. Stalin's fear lay in the fact that very soon other countries could join the Balkan Federation, which would weaken Moscow's influence in this area. As a response to Tito's dynamic movements and his attempt at expansion in the Balkans, Soviet policy would increase the infiltration of its cadres into Yugoslavia. Although the Red Army was not present in Yugoslavia, Soviet policy through the network of various military, intelligence and economic advisers tried to penetrate the Yugoslav system...[21]

Such confrontation was unbearable, because Soviet agents were located in all the leading segments of Yugoslavia, and this posed a serious problem for political developments. The first steps Tito had to take was to purge the institutions of the Soviet agents who were stationed inside the Yugoslav institutions. In this direction, disagreements will also arise, which in April 1948 will materialize with the removal of two ministers who were loyal to Moscow, being accused of "anti-communism".[22] Of course, the step taken by Tito will not be well received by Stalin . Criticisms against the Yugoslav leadership began, with serious accusations against the foreign approach, internal politics, as well as economic development. Various measures were taken, both in economic terms with blockades, as well as in terms of security, inciting numerous incidents. Tito's "disaster" posed two main problems:

- Would the Russians be able to put their stubborn satellite on track?

- In the opposite case, would Yugoslavia, which would be separated, be able to stand alone, or would it be forced to approach the West?[23]

At the crossroads found, Yugoslavia seemed to rely on its own forces, on the powerful state police, while in foreign policy, the breakdown of agreements and treaties on which the Soviet bloc stood (Hungary, Czechoslovakia, the breakdown of relations with the Greek communists,

[19] Jean – Baptiste Duroselle, Andre Kaspi, *Historia e Marrëdhënieve Ndërkombëtare, Vëllimi II, Nga viti 1945 deri në ditët e sotme,* përkth. Liliana Papa, Lira, Tiranë, 2011, fq, 128.
[20] Radovan Vukadinoviç, *Marrëdhëniet ndërkombëtare nga Lufta e Ftohtë deri te rendi global*, përkth, Sabri Mehmeti, Kolegji Universitar Victory, Prishtinë, 2007, fq, 111
[21] Radovan Vukadinoviç, *Marrëdhëniet ndërkombëtare nga Lufta e Ftohtë deri te rendi global*, përkth, Sabri Mehmeti, Kolegji Universitar Victory, Prishtinë, 2007, fq, 111 - 112
[22] Jean – Baptiste Duroselle, Andre Kaspi, *Historia e Marrëdhënieve Ndërkombëtare, Vëllimi II, Nga viti 1945 deri në ditët e sotme,* përkth. Liliana Papa, Lira, Tiranë, 2011, fq, 129.
[23] Jean – Baptiste Duroselle, Andre Kaspi, *Historia e Marrëdhënieve Ndërkombëtare, Vëllimi II, Nga viti 1945 deri në ditët e sotme,* përkth. Liliana Papa, Lira, Tiranë, 2011, fq, 130.

Albania). Stalin retaliated by expelling Yugoslavia from the Cominform.[24] Regarding the reality created in the relations within the Soviet bloc, especially towards Yugoslavia, the reactions of various Western countries, especially the military organization, NATO, began. At the time NATO began its activity, Stalin paid attention to Europe in another direction. He turned to the work of punishing the renegade Yugoslav communists, who in 1948 had ignored him and now presented the first crack in the monolithic unity of the newly formed Soviet bloc,[25] where Tito had grafted himself onto the national question.[26] On the part of Yugoslavia, there were immediate reactions, initially agreements were signed with the USA for compensation of American capitals, as well as with Great Britain for commercial issues. The reaction of the Westerners was quite cautious, even in spite of the incidents near the Yugoslav border. How focused the Western countries, especially NATO, were on the Yugoslav issue is clear from the declassified NATO coffin documents.

In the minutes on the exchange of views on Yugoslavia between the Council of Deputies held on January 22, 1951, agreement was reached on many issues related to the created situation, we mention only the last two points:

...Marshall Tito's government is currently under effective control of the domestic political situation. However, this control may be prejudiced by the deterioration of the economic situation or the rapid reorientation of Yugoslavia's foreign policies towards Western countries. It is most desirable that the Western Powers give economic aid to the Government of Yugoslavia as much as they can. In order not to put the Yugoslav Government in an uncomfortable situation, it would be better for the Western Powers to wait for specific requests for economic assistance from Q to Tito's government rather than take overt initiative in providing such assistance.[27]

Likewise, in the military aspect, it was decided to help:

... In certain circumstances it is necessary to take quick decisions even if it would not be in the interest of the NATO powers to make the whole available to the Yugoslav Government: raw materials, equipment and supplies, and this could result in delay in completing their rearmament plans, provided that the overall NATO force protection plan, especially in that immediate geographic area, is not jeopardized.[28]

The measures that had to be taken are a consequence of the war mentality of the Soviet Union, because the danger was evident, and presented a danger to peace in Yugoslavia and beyond. This was due to the fact that in 1950 the Soviet Union was preparing an invasion of Yugoslavia in which the countries that would later form the Warsaw Pact would also participate. The goal

[24] Henry Kissinger, *Diplomacia*, Shtëpia Botuese e Lidhjes së Shkrimatrëve, Tiranë, 1999, fq, 552.
[25] Gabriel Partos, *Bota që erdhi prej të ftohtit*, përkth. Stavri Pone, Çabej, Tiranë, 1995, fq, 33.
[26] Henry Kissinger, *Diplomacia*, Shtëpia Botuese e Lidhjes së Shkrimatrëve, Tiranë, 1999, fq, 553.
[27] Document D - D (51)29 OR.ENG. 14th February, 1951.
[28] Document D - D (51)29 OR.ENG. 14th February, 1951.

was not to break up Yugoslavia, but to replace the central government and those of the republics

Since any attack on Yugoslavia carries the high degree of danger, it could even trigger a war of global proportions, an attack on Yugoslavia by Soviet Allied forces with Soviet logistical support [29](USSR covertly neutral) will be an attempt to localize fighting in Yugoslavia. An attack on Yugoslavia by Soviet forces with or without satellite forces (USSR Allies, Communist) would probably cause a global war. Any open international fighting in Yugoslavia must be recognized as a major threat of global war. All NATO members carefully followed the Soviet-Yugoslav frictions and each of them reported on the situation, of course, to create an opinion as objective as possible about the situation on the ground.[30] Since the situation required even more attention, from the very fact that in these circumstances, other countries that had also established the communist regime, such as China, are emerging.

CONCLUSION

Even though the anti-Nazi Allies fought side by side to defeat Germany, Japan and Italy, the first cracks between the Allies were seen during the war and were constantly accompanied by suspicion of each other.

The Tehran Conference in November 1943 and the Yalta Conference in February 1945 were largely conducted in the spirit of a debate to divide spheres of interest around the world, rather than actually bringing peace and establishing the principle of Self-Determination by Roosevelt and Churchill in Newfoundland in August 1941.

If we consider the Potsdam Conference as the decisive moment of the collision and the practical division of interest zones all over the world, starting with Germany itself, then this would be the moment of the beginning of the Cold War. The culmination of the final clashes was the year 1947, which raised the alarm for a new and quite serious crisis in the world. The establishment of the imaginary Iron Curtain in the middle of Europe and the beginning of preparations in the military field by both sides, will raise political and military tensions by putting both the Soviet Union and the USA and the countries under influence on alert.

The former Yugoslavia in this ambiguous political situation made an important geopolitical shift by abandoning the Soviet Union under the rationale that it will develop an independent path of self-governing socialism, while according to declassified documents from the NATO archive it had secretly flirted with the NATO bloc. Being in an important geostrategic position, Yugoslavia needed NATO more than any other country as it was narrowing its space in South-Eastern Europe and leading its way to the Adriatic.

[29] Gabriel Partos, *Bota që erdhi prej të ftohtit*, përkth. Stavri Pone, Çabej, Tiranë, 1995, fq, 34.
[30] Document I.P.T, 54, 6, August 1951

The most important of the declassified NATO documents is the fact that Yugoslavia had received a strong guarantee that for any interference from the Soviet Union, it would have NATO on its side and that it would protect it at all costs.

From this period, Yugoslavia would be de jure a socialist state, but de facto it would be an important shadow ally of the West. This action brought to Yugoslavia a powerful perspective in political, military and diplomatic terms. However, Yugoslavia was never comfortable all the time, remaining very sensitive to the developments in the region and as a result, it remained untouched by those clashes.

Trafficking in human beings and sexual trafficking of children as a form of it

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Abstract

Research on human trafficking has attracted increasing attention since the early 1980s and is extremely important as it highlights the problems and through it identifies the appropriate ways that can provide solutions. The object of this paper is the treatment of trafficking in human beings and in particular will focus on the sexual trafficking of minors. This topic is very current not only in Albania but also in the international arena (due to it's nature) and requires the commitment of all states and international organizations to combat human trafficking and protect victims of trafficking as part of the field of human rights. Therefore, this topic is covered in section I of this conference.

The research questions of this paper are: what does trafficking in human beings involve, what are the needs of the victims, what is the exploitation and sexual abuse of children, what are the consequences that trafficking leaves on children and why children are recruited.

Numerous studies and studies have concluded that trafficking represents "a denial of the individual's rights to freedom, integrity, security and freedom of movement" Victims of human trafficking need, among other things, emotional support , family, health care and especially for reintegration into society. On the other hand, child sexual exploitation is a form of human trafficking and consists of adult sexual abuse and monetary or in-kind reward for the child or a third person or persons. and it is precisely the commercial element that separates sexual exploitation from other sexual crimes.Juveniles are recruited more easily because small victims are the most optimal, useful and lower cost, they are easy to be guided by traffickers and slave owners and to adapt to the new situation. Current studies show that some effects of Sex trafficking is sexually transmitted diseases, diseases and other infections, physical harm, substance abuse and malnutrition.

Keywords: trafficking, sexual, human, child, victim, etc.

INTRODUCTION

Human trafficking is a major problem for human society and is present everywhere in almost every country and society, somewhere more widespread and somewhere less, in one country it appears in one form and in another in another form. Even more difficult and challenging is the sexual trafficking of minors. The involvement of minors in trafficking carries and then brings many challenges, problems and requires the undertaking of many measures, programs to solve them. Sexual trafficking of children is present everywhere and even in our country and this is talked about very little or not at all our time. Human trafficking is a difficult crime to detect and prevent. Human trafficking includes the trafficking of human beings for the purpose of commercial sexual activities as well as forced labor. These crimes are occurring all over the world. Research shows that organized crime, prostitution, massage parlors and brothels are closely related to the crime of human trafficking. Government corruption and international criminal organizations contribute significantly to this crime, and financial gain is usually the primary motive. Definitions of "human trafficking" include the use of force for the purposes of labor or sex. A major report published by the Anti-Trafficking in Persons Unit of the United Nations Office on Drugs and Crime[31]. The Global Program Against Human Trafficking (GPAT) specifically defines human trafficking as[32]:

Recruiting, transporting, transferring, harboring or receiving persons, by threat or use of force, or other forms of coercion, kidnapping, fraud, abuse of power or a position of vulnerability or giving or receiving payments or benefits for obtain the consent of a person who has control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, exploitation of the prostitution of others, or other forms of sexual exploitation, forced labor or services, slavery or similar practices with slavery, servitude or removal of organs.

What does human trafficking involve?

Human trafficking refers to "the illegal trafficking of human beings through the abduction, use or manipulation of force, deception, or sale for the purpose of sexual exploitation or forced labor"[33]. This form of trafficking generally includes sex trafficking and labor trafficking, where victims are distributed through brute force, psychological coercion or abuse for sexual or labor manipulation. In particular, the child is treated as a commercial object and the return may be financial or in kind. For example, a child involved in prostitution may be compensated monetarily or sexual acts may be exchanged for basic needs such as food or shelter. This exchange of sexual acts for basic needs is also known as survival sex.

[31] https://www.unodc.org/unodc/human-trafficking/
[32] United Nation's repport on Trafficiking in Persons (GPAT), December 2011
[33] ARONOWITZ, A., &KONING, A. (2014). "*Understanding human trafficking as a market system: Addressing the demand side of trafficking for sexual exploitation*." Revue Internationale de Droit Pénal

Victims of human trafficking

Close examination or investigation of victims of human or sexual trafficking is very difficult, however, various authors and researchers have managed to carry out such studies. Obtaining reliable information has proven to be as difficult as finding an agreed definition, as noted above. The reasons for this are various. For example, individuals who may be considered victims of trafficking are already in vulnerable positions and often fear the consequences of explaining their situations to the authorities. Furthermore, the individual who may be trafficked, is likely to believe that he/she has had some involvement in accordance with the traffickers' instructions and may be reluctant to self-identify as a victim or provide relevant information about offenders.[34]

In research, there are common needs seen in most victims of human trafficking. These include, "emotional and moral support, legal assistance, safe housing, high school diploma or general education diploma assistance, identification documentation, job training, resume and job search assistance, medical and dental appointments, cell phone assistance, childcare, transportation, safety planning, and clothing and food assistance" . However, this is not all-inclusive, and new needs may arise with each client. Victims' needs may increase every day, e.x:

- Emotional support - Emotional and mental health needs may be the most critical of all, as they are most debilitating to their daily lives. All literature has highlighted that many of these victims experience Post Traumatic Stress Disorder (PTSD), depression, anxiety, self-loathing, detachment, despair, and difficulties with interpersonal and intimate relationships. In addition, victims have been known to suffer from other mood disorders including panic attacks, obsessive compulsive disorder, fear and hopelessness about the future
- Physical health - Physical health needs are of great concern to victims after trafficking, because it can also affect their daily life activities. Children who are involved in sex trafficking may be more prone to physical illness due to their immature physical systems.
- Support from other victims - It is necessary for victims of human trafficking to have contact with others who have also been victims of human trafficking. Often, victims are unwilling to accept the trauma and exploitation they have experienced. As a result, many survivors are reluctant to seek treatment. However, when working with others who have had similar experiences, many individuals feel more at ease[35].
- Family Support - Family involvement in helping victims post-trafficking is an important need, as their family members can be a great support system for them as well.
- Proximity of services - While there are some services available, they are not many and they are often spread over large areas. This forces customers to have to travel long distances and without their own means of transport this can mean long journeys on public transport.
- Reintegration - Many of these individuals may lack the skills necessary to find a job and achieve economic stability after escaping their trafficking. In many cases, these clients do not receive the full range of integration services they need, such as assistance in

[34] US Advisory Commission on Public Diplomacy Report, 2004, pg 8-9.
[35] https://www.sciencedirect.com/science/article/abs/pii/S019074091830094X

finding and maintaining employment, finding affordable and long-term housing, or assistance with citizenship status.

RESULTS

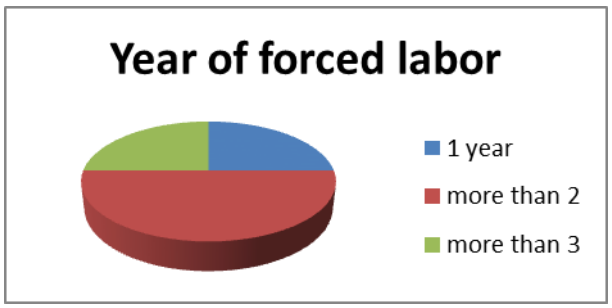
This chapter presents the results of the study, which were generated, of course, by the process of analyzing data collected through interviews. In the development of this chapter, all the research questions raised in the introduction of this study are answered.

For the purposes of this study, 40 children were questioned, of which 15 were girls and 25 were boys. Their ages ranged from 7 to 12 years old. The interviewees stated that they were in the situation of forced labor for 3 to 5 years, specifically:

o 20 of them had more than 2 years of work;

o 15 of them 1 year;

o 4 of them more than 4

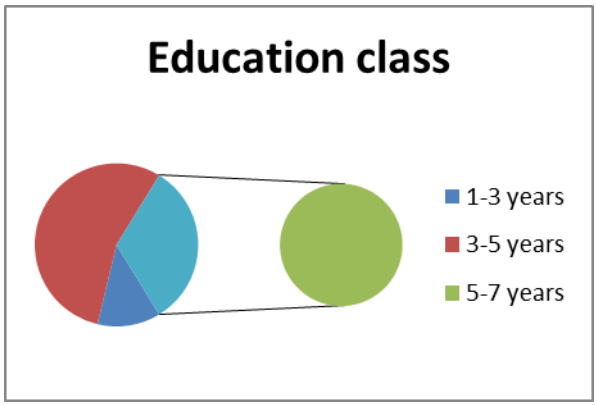


Regarding their education, they said that none of them had completed a full education, but had completed only a few years separated, thus:

o 5 of them had 1-3 years of primary education;

o 22 of them had 3-5 years of primary education;

o 13 of them had 5-7 years of education



Regarding ethnicity, they stated that 35 of them belonged to the Roma community and 4 of them belonged to the Egyptian community.

In terms of income or profit from work, they said that:

o 27 of them had very little profit;

o 3 of them not at all;

o 10 of them enough

When asked who they work for, they said that they mostly worked for others, specifically 28 of them and only 12 worked for their parents.

Regarding the question of whether they have made any attempt to leave the situation they are in, only 5 of them said that they had tried without success and 35 of them said that they had never made an attempt to leave and this due to pressure, coercion or lack of hope for a better future:

"....you can't do anything because we are being protected all the time..."

"...if we think we're going to leave, we'll be beaten, no matter where we go..."

In the closing, they were asked if they have ever been stopped by any representative of the state bodies or any police officer, knowing that they are always found on the road and there are also traffic police or others right next to them. They categorically stated that they were never stopped or questioned!

CONCLUSIONS

Human trafficking in general, without being banned in the categories or forms of its manifestation, constitutes a serious problem for human rights and for the international community as long as it is a phenomenon that extends beyond the borders of a country.

Human trafficking is mainly more problematic and very painful when it extends to children, children are victims of trafficking in various forms, such as sex trafficking or forced labor. For the latter, for the purposes of this paper, a field study was conducted to see the situation closely, and from this study, what requires a solution and raises the alarm in my personal vision is the silence of state employees in front of small children who see day, at every hour on the streets of Tirana or Durrës asking for alms, offering services such as washing car windows, etc., and no

one comes to ask them. In this way, we are all co-authors of this crime. And as long as no one tries to free them, they will continue to be in this state because, as they themselves have expressed, it is impossible for them to try to leave forced labor because they are subjected to physical, psychological violence, pressure and are always under guard.

Moving on to the general plane of human trafficking, it must be said that there are significant unmet needs of trafficking victims, and a lack of evidence-based research to focus on the main issues related to this type of trauma. However, there is a good research base from which to begin an assessment of these needs. There is also a variety of services available, but not nearly enough to facilitate "healing" for a larger number of survivors of human trafficking. This leaves room for further research, particularly with survivors themselves. In general, the services that are most effective in dealing with this population are health, physical support and reintegration services.

Further research will identify more of these needs, as many develop each day depending on the individual. Conducting further research will determine ways to better implement strategies to serve victims and survivors of human trafficking. In conclusion, I would add that it is necessary to train the appropriate authorities in the recognition of trafficking, as well as in cooperation and communication between police forces and relevant human service organizations. Better, well-defined laws are also needed to assist law enforcement agencies in locating traffickers. Having the best interests of victims in primary consideration is essential to help prevent trafficking.

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The Eastern Medıterranean Energy Resources And Redetermınatıon Of Regıonal Balances: Turkıye's Posıtıon

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Abstract

The Eastern Mediterranean energy resources are incredibly significant for the states in the region as these reserves are vital to ensure their energy security and promote economic development. Geographically bordering the region, Turkiye, Israel, Egypt, the Turkish Republic of Northern Cyprus (TRNC), the Greek Cypriot Administration of Southern Cyprus (GCA), Greece, Lebanon, Syria and Libya follow active policies in the Eastern Mediterranean. On the other hand, countries such as the USA, Russia, England, France and Italy try to take their position in the energy equation in the Eastern Mediterranean, although they do not have a border with the region. In this context, the world's largest energy companies focused on the region and compete with each other for a share in the energy exploration and pipeline projects there. In the Eastern Mediterranean region, which can be compared to a multivariate equation, many problems, crises and cooperation opportunities coexist due to the geopolitics of it. Europe's intensifying energy crisis followed by the Russian-Ukrainian war added a new dimension to the current situation in the region. It seems that the energy resources in the Eastern Mediterranean will redetermine the balance of power in the regions.
Using literature review as a research methodology, the aim of this paper is to analyze Turkiye's position in the process of redistribution of cards in the region. The data will be collected using various methods, including a review of the academic studies, public documents and statistics, interviews and official declarations of the authorities.

Keywords: *Eastern Mediterranean, energy resources, energy security, Turkiye.*

1. Introduction

The strategic importance of the Eastern Mediterranean, which has always been of interest to the great powers with its political, military, and commercial potential, has continued to increase in every period of history. The Eastern Mediterranean has never lost its geo-economic and geopolitical importance as it has been one of the important centres of world trade, having hydrocarbon resources and paving the way for Middle East domination. Therefore, many important wars, which can be considered as turning points in history, took place with the idea of dominating this geography.
At the same time, the Eastern Mediterranean region is one of the special geographies where different civilizations coexist. Although the diversity has enriched the region's nature for centuries, it has also laid the foundation of many problems. In addition to all its geostrategic importance, the Eastern Mediterranean is one of the most sensitive areas open to hot conflict at any moment.
The process that started in North Africa and the Middle East and defined as the "Arab Spring" is closely related to the Eastern Mediterranean. Located at the intersection of these two regions, the Eastern Mediterranean is at the strategic focal point of the mentioned change and transformation process.
Today, the Eastern Mediterranean is full of conflicting national interests and priorities of the littoral states. The conflicting maritime jurisdiction claims of the littoral states, the Cyprus issue, the problems in the Middle East, the Syrian war and the energy struggle destabilize the region sufficiently. The ongoing dispute over energy resources in the Eastern Mediterranean has engendered an alarming rise in political tensions on a regional and international level. The anticipated strategic and economic gains associated with the potential of significant energy reserves in the region has not only drawn in regional players such as Turkiye, Egypt, Israel,

Greece, Cyprus and Lebanon, but also international powers including the United States, the European Union, China and Russia. As exploration tenders are acquired by large multi-national energy giants, stakeholder countries continue to engage in efforts to ensure a fair distribution of the region's resource potential (Belladonna, 2019).

Turkiye, as the successor of the Ottoman Empire, is the country with the longest coastline in the Eastern Mediterranean. Coastal states gained their independence in the 19th and 20th centuries through secession from the Ottoman Empire. However, Turkiye is still one of the most active countries in the region.

Turkiye's Eastern Mediterranean policy is influenced by four basic factors: historical, political, economic and security dimensions. Due to the fact that the region was under the control of the Ottoman Empire for many years, today Turkiye has a historical bond with the peoples of the region, shaped on cultural and religious grounds mainly. The effects of having a common past under the roof of the Ottoman Empire manifest themselves in the customs and traditions of other littoral countries, in their state and army systems. Due to the nature of the contemporary international system, Turkiye's political, economic and security interests in the region are intertwined today. Turkiye's energy dependence and the presence of energy resources in the Eastern Mediterranean - right next to it - added a new dimension to the current situation.

In this study, Turkiye's approach with the addition of the energy dimension to its interests in the Eastern Mediterranean is discussed. In this context, in the first part of the study, the general outlook of the Eastern Mediterranean region was outlined. In the second part, the major foundations of Turkiye's presence in the region and how the energy resources and the balance in the region will be reshaped were discussed. The study is concluded with the conclusion part.

2. Geopolitics of The Eastern Mediterranean Region

The "Eastern Mediterranean" is defined differently by geographers, policy-makers and experts. The term "Eastern Mediterranean" was often used interchangeably with that of "Middle East (Mallinson, 2005).

This is to say that, despite the name of the Eastern Mediterranean being used, the concept was quite different to that of today. The Eastern Mediterranean was seen as a strategic space, not so much because of its own geopolitical or geo-economic importance as such but because of its role in allowing the pursuit of greater strategic interests in the Middle East and beyond. In other words, it was an area that needed to be secured or controlled in order for something more important to be achieved (Tziarras, 2018).

However, the Eastern Mediterranean is represented by the eastern portion of the Mediterranean Sea basin. The Eastern Mediterranean includes:

- The Adriatic Sea, northwest of the main body of the Eastern Mediterranean Sea, separates the Italian peninsula from the Balkan peninsula and extends from the Strait of Otranto to the south (where it connects to the Ionian Sea) to the Gulf of Venice in the north.
- The Ionian Sea lying between Albania (northeast), Greece (east), Sicily (southwest), and Italy (west and northwest) (Encyclopaedia Britannica, 2022a).
- The Aegean Sea, located between the Greek and the Anatolian peninsulas, with the island of Crete defining its southern border (Encyclopaedia Britannica, 2022b).
- The Levantine Sea is separated from the Ionian Sea by a submarine ridge between the western end of Crete and Cyrenaica (Libya) and extends to the south of the Anatolia peninsula. It is bordered by Turkiye in the north, Syria, Lebanon, Israel and the Gaza Strip in the east, Egypt and Libya in the south, and the Aegean Sea in the northwest. The west borders the open Mediterranean (also called the Libyan Sea) and is defined as a line from the cape Ra's al-Hilal in Libya to the island of Gavdos, south of Crete (European Commission, 2022).

Italy, Slovenia, Croatia, Greece, the Greek Cypriot Administration of Southern Cyprus (GCA), Albania, Montenegro, Bosnia-Herzegovina (with coasts on the Adriatic Sea) and Turkiye, the Turkish Republic of Northern Cyprus (TRNC), Syria, Lebanon, Israel, Gaza Strip, Egypt, Libya (with coasts on the Aegean and/or Levantine Seas) have coasts on the Eastern Mediterranean (Picture 1).

Picture 1. Eastern Mediterranean

Source: UN Geospatial, 2020.

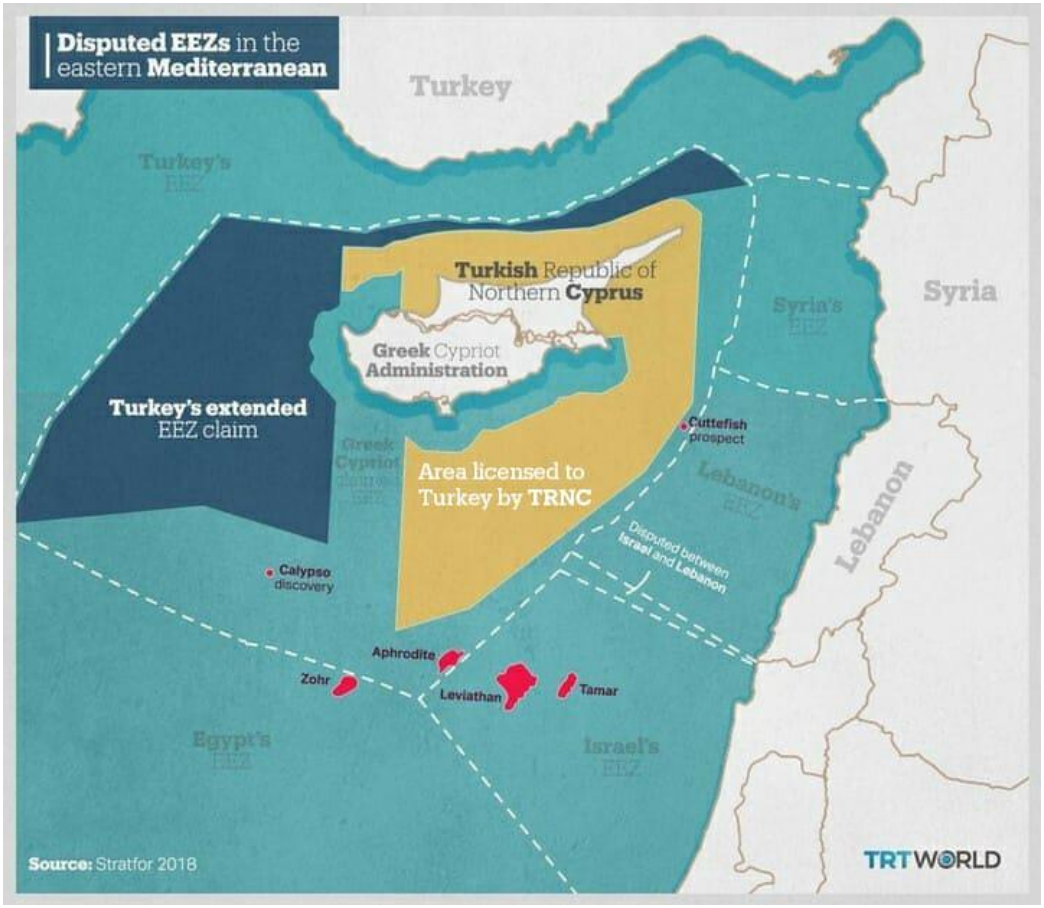
Located at the crossroads between Asia, Europe, and Africa, the Eastern Mediterranean region serves as a critical transit route of global trade, connecting the East to the West, the Atlantic Ocean, the Black sea, and the Red Sea. Considering the geostrategic importance of each of the mentioned geographies separately, the multidimensional significance of the Eastern Mediterranean region is clearly appeared. The intense activity volume of the trade routes shortened by the Suez Canal further increased the geostrategic importance of the region. The Eastern Mediterranean as a region is not a new notion. In addition to its geographical location, the fact that it is home to different civilizations not only diversifies the values of the region, but also brings with the conflicts among values. In every period of history, one of the first goals of empires and states has been to dominate especially in the Eastern Mediterranean.

The region still bears the traces from the times of Alexander the Great, the Roman, the Persian and the Ottoman empires, and today it is the scene of the struggle of the powers acting as the heirs of these empires (Tugrul, 2018:15).

The area is one of the oldest regions of human habitation. The region possess special meaning for the history of religion. Location of the Eastern Mediterranean region at the intersection of three continents has also deeply affected its identity structure. The fact that the region has different civilizations, religious and ethnic identities forms the basis of various conflicts here. The Cyprus issue and the Palestinian-Israeli conflict, which have been waiting for a solution for many years, are just two of the such problems in the region.

One of the most important disputes in the Eastern Mediterranean is about the law of the sea. 1982 UN Convention on the Law of the Sea recognizes the right of the coastal state to declare an exclusive economic zone (EEZ) in its territorial waters and beyond. On the other hand, Article 74 of 1982 UN Convention on the Law of the Sea states that the delimitation of the EEZ between states with adjacent or opposite coasts should be made by treaty in accordance with international law, as specified in Article 38 of the Statute of the International Court of Justice (ICJ) in order to reach an equitable solution (UN, 1982;52; ICJ, 1945). In order to provide a fair solution on behalf of all parties, Convention and international judicial decisions refer to "an agreement to be reached between all parties concerned". However, there is no regulation stating that the EEZ cannot be declared unilaterally. For historical and political reasons, most of the countries involved do not have maritime delimitation agreements, making it thus extremely difficult to find an appropriate settlement for the exploitation of gas reserves in border areas (Belladonna, 2019). Due to the lack of consensus among them, the states in the Eastern Mediterranean declared their EEZ unilaterally and preferred to make bilateral agreements rather than agreements with all littorals (Picture 2).

Picture 2. Disputed EEZs In The Eastern Mediterranean



Source: TRT World, 2020.

These problems have made regional integration and cooperation in the Eastern Mediterranean almost impossible for a long time.

Today, the facts that the Eastern Mediterranean region covers 30 per cent of the world's total maritime trade, approximately 25 per cent of the oil trade by sea takes place through this region, and the hydrocarbon reserves it hosts, unfortunately, have made the region the heart of conflicts. More than 3 trillion cubic meters of available energy reserves have been discovered in the Eastern Mediterranean in the last decade alone. This amount is expected to increase with new fields expected to be discovered in the forthcoming years (Erdogan, 2022).

The transformation of the region into a field of struggle of the great powers due to its geostrategic importance, identity-based conflicts, disagreements between littoral states in terms of maritime law, the Cyprus issue, the Israel-Palestine conflict and more make the region extremely sensitive. Although newly discovered energy sources add a new dimension to this turmoil, it also created an opportunity for the regional cooperation.
Thus, the Eastern Mediterranean is an important geography not only in terms of the struggle for regional and global supremacy, but also in terms of contributing to peace and stability.

3. Turkiye's Theses In The Eastern Mediterranean

The Turkish domination in the Mediterranean began with the Battle of Preveza, which took place in 1538 and ended with the victory of the Ottoman Empire. Turkiye's presence in the Eastern Mediterranean region is based on multidimensional foundations. The first of these is its geographical location, which also raises security issues. Turkiye is the country with the longest coast in the Eastern Mediterranean with a coastal line of 1870 kilometres along the Mediterranean Sea. Such a long coastal line makes the Mediterranean vital not only for Turkiye's maritime security but also for mainland security. In fact, the most threatening attempt on the mainland of the Turkish soil during World War I was the huge landing operation, from sea to land, on the Canakkale Strait (Publications by Presdency's Directorate of Communication, 2022:119). Thus, developments in the wider Eastern Mediterranean are of great interest to Turkiye, both because of its current historical, cultural and social ties with the peoples of the region and because of the direct or indirect impact of these developments on Turkiye. For all the above reasons, the Eastern Mediterranean is one of the areas where the interests of both the countries of the region and the powers outside the region clash. The discovery of rich energy sources has set in motion a process to restore the balances here (Table 1). It is predicted that 3.45 trillion cubic meters of natural gas and 1.7 billion barrels of oil are found in the Leviathan Basin Aphrodite field located between Palestine/Israel, Cyprus, Lebanon, and Syria. It is estimated that there are approximately 1.8 billion barrels of oil, 6.3 trillion cubic meters natural gas, and 6 billion barrels of liquid natural gas reserves in the Nile Delta Basin. It is estimated that there are 8 billion barrels of oil reserves around the island of Cyprus and there is a total of 3.5 trillion cubic meters of natural gas in the region around the island of Cyprus and the region called Heredot in the southeast of Crete Island. It is estimated that the total energy reserve of the Eastern Mediterranean is equal to approximately 30 billion barrels of oil (Publications by Presdency's Directorate of Communication, 2022:110).

Table 1. Oil and Natural Gas Reserves In Selected Countries In The Eastern Mediterranean

Country	**Million barrels of oil reserves**	**Natural gas reserves in trillion cubic feet**
Egypt	3,300	63,30
Greece	10	0,04
Israel	13	6,22
Jordan	1	0,21

Turkiye	371	0,11

Source: *Oil & Gas Journal*, 2021.

With energy imports accounting for 70 per cent of consumption, with 93 per cent of oil and 99 per cent of gas coming from imports, Turkiye, has spent in the last decade an average of 40 billion dollars every year to import energy (Belladonna, 2019). This reflected on Turkiye as current deficit. Any agreement in the Eastern Mediterranean that would contradict Turkiye's interests will set a precedent for the Aegean problems that have been waiting for a solution for many years.

The Cyprus issue, which has been waiting to be resolved for half a century, undoubtedly constitutes one of the focal points of the issues regarding the Eastern Mediterranean. The GCA's EU membership in 2004 in spite of the unresolved political division of Cyprus between the TRNC and the GCA is one of the important factors in this sense.

The GCA's unilateral gas extraction operations in the region have escalated tensions with Türkiye. Political tensions between Turkiye-Israel and Turkiye-the GCA hinder the realization of the gas exploitation projects.

The struggle for regional and global influence in the Eastern Mediterranean, namely, the front yard of Turkiye, experienced due to its coastal length of 1,870 kilometres, is a serious factor affecting Turkiye's Eastern Mediterranean strategy. Besides the states of the region, a great many of states from outside the region and remote regions are involved in the struggle. That is why, surely, it is unimaginable for Turkiye to remain silent to the interventions occurring in the Eastern Mediterranean region before the eyes of the whole world over the last decade (Publications by Presdency's Directorate of Communication, 2022).

During the period under the rule of the Ottoman Empire, peace and stability prevailed in the Eastern Mediterranean and the Middle East. As the Ottoman Empire's control weakened in these regions, conflicts and wars began here. Based on the principle of "Peace at home, peace in the world" by Mustafa Kemal Ataturk, the founder of the Republic of Turkiye, the Turkish government does not act only according to short-term economic interests in the region today. As long as there is a division between Turkish Cypriots and Greek Cypriots in the region, as long as the rights of Palestinians are ignored, a policy based on daily economic interests cannot be implemented and this is unacceptable for Turkiye. On the contrary, a rare opportunity for establishing a lasting peace in the region - discovery of rich energy resources – exists. It must be used to both ensure energy security by meeting the oil and gas needs of the littoral states as well as to gain economic development and to support the national budgets using energy incomes. But moreover, this unique opportunity such as the energy cooperation between the states of the Eastern Mediterranean must be used to establish peace and stability in the region, taking the advantage conditions arising from common need and to solve the problems between them, producing the long term settlement based on a permanent ground.

At first, this policy that Turkiye seeks in the region may not seem realistic. On the other hand, the security threats faced by states, societies, and individuals confirm this thesis of Turkiye. Non-traditional security problems - natural disasters, pandemics, climate change and environmental problems, earthquakes - show that security is shifting from an individual or national level to a global and societal level that affects everyone. Globalization and the aged world are forcing states and societies to think about and focus on global security. In this context, Turkish policy in the Eastern Mediterranean serves regional and global peace and cooperation by acting out of national interests.

4. Conclusion

Because of its geographic location and strategic importance, the Eastern Mediterranean is one of the few regions that both shapes and is shaped by world politics. The Eastern Mediterranean

is also the region where civilizations both meet and clash. Therefore, any development in the Eastern Mediterranean affects world politics simultaneously at the global, regional and local levels. The rich fossil energy resources discovered here are capable of redefining local, regional and global balances in this sense. Natural gas discoveries in the Eastern Mediterranean have transformed the region's energy market and economic relationships, raising hopes for geopolitical change as well (International Crisis Group, 2023). The Eastern Mediterranean energy resources are incredibly significant for the states in the region as these reserves are vital to ensure their energy security and promote economic development, promising peace and stability on the common ground.

Turkiye is one of the oldest and most active players in the region. Any development in the Eastern Mediterranean – whether it is political, economic, social, religious, cultural, or security-related – directly concerns and affects Turkiye. In addition to history, geography, and social factors, the foreign policy preferences of political elites and the geopolitical structure of the region are the most important factors influencing Turkiye's regional policy here. In addition to all these factors, and in some ways closely related to them, another point is Turkiye's connection to the West. Turkiye's connection to the West has long influenced its relations with the other Eastern Mediterranean states, both positively and negatively, and from different perspectives.

Turkiye is a country that has experienced the Western standards in its process of joining the EU. Its geographical proximity makes it an ideal location for pipeline projects. With the Baku-Tbilisi-Ceyhan, TANAP and TAP pipeline projects, it has proven to be an economic and reliable partner and a secure energy hub.

The Eastern Mediterranean is essential not only for the countries in the region, but also for the EU countries, which face a serious energy security problem in their relations with Russia. Russia uses its natural gas as a pressure tool in its foreign policy that has been more visible in the axis of the Russian-Ukrainian war. In this environment, therefore, Turkiye's theses are based on realistic grounds.

Thus, Turkiye's Eastern Mediterranean policy is built upon two major foundations. The first is the protection of its sovereign rights in own continental shelf by delimiting maritime jurisdictions in accordance with international law in a just and fair manner. The second is to guarantee the rights and interests of the Turkish Cypriots on hydrocarbon reserves as an equal partner of the island. These two principles are both totally legitimate and in compliance with the international law, serving regional and global peace.

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The "CNN Effect" and Its Influence on US Foreign Policy Decision-Making

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Abstract

The "CNN effect" is a term that has been used to describe the influence of 24-hour news coverage on foreign policy decision-making, particularly in the context of the United States. The term was coined in the early 1990s following the Gulf War, during which CNN's live coverage of the conflict was widely credited with shaping public opinion and influencing US foreign policy decisions. Since then, the concept of the "CNN effect" has been the subject of much debate and analysis in the field of media and foreign policy.

The aim of this paper is to examine the impact of the 'CNN effect' on US foreign policy, with a specific focus on its role in shaping public opinion and influencing policy outcomes. Through a case study of US foreign policy initiatives in Somalia, this study analyzes the relationship between media coverage and policy decisions.

The methodology used in this study involves conducting an in-depth analysis of media coverage and policy decisions in the selected cases. A combination of primary and secondary sources, including news reports, government documents, and academic literature, was used to develop a comprehensive understanding of the "CNN effect" on US foreign policy decision-making.

The findings of this study suggest that the "CNN effect" is a real phenomenon that has had a significant influence on US foreign policy decision-making. Media coverage can create pressure on policymakers to take action by generating a sense of urgency and demand for response among the public and other stakeholders. In addition, media coverage can shape the international community's response to a crisis or conflict, which can further influence policymakers. However, the impact of media coverage on foreign policy decisions is complex and multifaceted, as decision-makers must balance the information presented in the media with other factors, such as strategic interests and long-term goals.

This paper contributes to the understanding of the relationship between media coverage and foreign policy decision-making, highlighting the importance of considering the influence of media in policy outcomes. Understanding the "CNN effect" can inform the strategies of policymakers, journalists, and the general public in shaping the discourse and decisions of US foreign policy.

Keywords: *CNN effect, US foreign policy, media coverage, public opinion, policy outcomes*.

I. Introduction

The role of media in shaping foreign policy decision-making has been a subject of significant interest and debate. One influential concept in this realm is the "CNN effect," which refers to the impact of 24-hour news coverage on policy decisions, particularly in the context of the United States. Coined in the early 1990s following the Gulf War, the "CNN effect" gained prominence as CNN's live coverage of the conflict was credited with shaping public opinion and influencing US foreign policy choices. Since then, the concept has been widely examined and analyzed in the field of media and foreign policy.

This paper aims to investigate the influence of the "CNN effect" on US foreign policy decision-making, with a specific focus on its role in shaping public opinion and policy outcomes. The study will utilize a case study from a significant US foreign policy initiative in Somalia to analyze the relationship between media coverage and policy decisions. One of the *hypotheses* posited in this study is that the "CNN effect" has had a significant impact on the formation of public opinion in the United States, as well as on the actions taken by American policymakers in response to the Somali crisis.

The *objectives* of this study are threefold. First, it aims to examine the extent of the influence of the "CNN effect" on public opinion in the United States. Second, it seeks to assess the role of media coverage in shaping US foreign policy decisions during the analyzed case. Lastly, it aims to understand how media coverage influenced the international community's response to the Somali crisis. To address these objectives, the study will explore several *research questions*. It will investigate the extent to which the "CNN effect" influenced public opinion in the United States regarding the Somali crisis. Additionally, it will delve into how media coverage shaped US foreign policy decisions during the selected case. Furthermore, the study will examine the ways in which media coverage influenced the international community's response to the Somali crisis.

By examining the relationship between media coverage and foreign policy decision-making, this paper aims to contribute to our understanding of the dynamics involved. It emphasizes the significance of considering the influence of media in shaping policy outcomes and provides valuable insights for policymakers, journalists, and the general public in navigating the complexities of US foreign policy decision-making.

II. Literature review

The "CNN effect" has been a topic of significant scholarly discussion and analysis in the field of media and foreign policy. Various authors have provided insights and perspectives on the influence of media coverage on US foreign policy decision-making, offering different viewpoints and interpretations. Some argue that media images of distress can sway American policymakers to intervene in foreign conflicts (George Kenan, 1993), while others emphasize that finding conclusive evidence of such impact is challenging (Livingston, 1997; Robinson, 1999). The concept of the "CNN Effect" has been widely discussed in this context, examining the potential role of news media in driving foreign policy decisions (Robinson, 2005). Ammon (2001) explores the shaping of global politics through television, particularly focusing on CNN's role in telediplomacy and foreign policy. Brown (2002) examines the politics of perception management in the United States, highlighting the intricate relationship between media and foreign policy. Entman (2004) delves into the framing of news and its influence on public opinion and U.S. foreign policy projection.

Scholars have also scrutinized the CNN Effect and its communication theory implications in international relations (Gilboa, 2005). Herman and Chomsky (1988) shed light on the political

economy of mass media, specifically addressing the notion of "Manufacturing Consent." Livingston's research (1997) provides a comprehensive examination of media effects based on the type of military intervention, adding nuance to the understanding of the CNN Effect. In the context of specific cases, Livingston and Eachus (1999) analyze U.S. media coverage of the Rwandan genocide. Robinson (2002) critically evaluates the myth of news, foreign policy, and intervention, contributing to the discourse surrounding the CNN Effect. Shaw (1996) explores the role of civil society and media during global crises. Additional studies have examined the impact of real-time media coverage on foreign policy decisions (Gowing, 1994) and the pervasiveness of media in shaping public opinion (Hoge, 1994; Burns, 1996; Jordan & Page, 1992). Furthermore, the role of television and the media in presidential decision-making during foreign crises has been investigated (Stech, 1994; Beschloss, 1993).

In summary, these works contribute to the understanding of the complex relationship between media, public opinion, and foreign policy decision-making. While some argue for a significant CNN Effect, others contend that the influence of media on policymakers is multifaceted and subject to various factors. It is important for further research to engage with these diverse viewpoints and conduct empirical studies to explore the mechanisms through which media coverage influences foreign policy decisions. By doing so, scholars can deepen our understanding of the complex interplay between media, public opinion, and policy outcomes in the context of US foreign policy.

III. Methodology

This study employs a comprehensive methodology to examine the relationship between media coverage and foreign policy decision-making in the selected case of Somalia. The following steps were taken to facilitate the analysis:

1. ***Extensive Literature Review:*** A thorough review of academic literature, news reports, government documents, and other relevant sources was conducted to gain a comprehensive understanding of the media coverage and its potential impact on policy decisions. This review helped establish the background context and identify key factors influencing the "CNN effect" in this case.
2. ***Analysis of Media Coverage***: The study focused on analyzing prominent media coverage during the respective time period of the Somalia crisis. This involved studying notable news articles, televised reports, photographic imagery, documentaries, and any other media materials that were considered influential and widely proclaimed as having a significant impact on shaping public opinion and pressuring policymakers.
3. ***Examination of Opinion Polls:*** To assess the impact of media coverage on public opinion, the study analyzed opinion polls conducted during the relevant timeframes. These polls, mainly sourced from reputable organizations such as Pew Research Center, New York Times, CBS News, ABC News, and Washington Post, provided insights into the attitudes of the American public towards the U.S. intervention Somalia.
4. ***Evaluation of Political Statements:*** In order to gain insights into the decision-making process, the study examined possible statements, press conferences, and memoirs of key decision-makers, including presidents, secretaries of defense, secretaries of state, and national security advisors. These sources were scrutinized for explicit mentions or acknowledgments of the "CNN effect" or the impact of media coverage on their respective policy decisions.

By employing this multi-faceted methodology, incorporating a range of primary and secondary sources, the study aims to provide a comprehensive analysis of the "CNN effect" and its influence on U.S. foreign policy decision-making in the selected case.

IV. Case study: Somalia

Historical context

In the early 1990s, Somalia experienced a severe humanitarian crisis caused by a combination of drought, civil war, and famine (Metz, H. C., 1993). The political instability and violence that erupted after the overthrow of the country's authoritarian leader, Siad Barre, in 1991 further exacerbated the situation (Bahador, 2016). The fighting between rival clans and warlords had led to widespread violence and displacement, with many Somalis fleeing their homes in search of safety and food (Gowing, 1994; Livingston & Eachus, 1999).

The international community, including the United Nations, became increasingly concerned about the situation and launched a series of humanitarian aid efforts to provide assistance to those in need. As part of a larger UN peacekeeping endeavor, the United States intervened in Somalia in 1992. Initially, President George H.W. Bush sent troops to Somalia to secure food supplies and protect humanitarian aid workers (Robinson, 2002). However, the mission quickly evolved into a broader effort to establish security and stability in the country (Beschloss, 1993).
The involvement of the US military in Somalia was primarily driven by humanitarian concerns and the desire to protect American interests in the region. The US government also saw the intervention as an opportunity to demonstrate leadership and commitment to global security (Bahador, 2016). Additionally, there was significant public pressure on the US government to take action in response to the widely covered humanitarian crisis in Somalia (Gowing, 1994; Livingston, 1997).

The media played a crucial role in shaping public perception and generating pressure for intervention. Extensive media coverage of the famine in Somalia in 1992, including images of starving children and families, raised awareness about the severity of the humanitarian crisis and further intensified the public demand for action (Metz, H. C., 1993; Gowing, 1994). This media coverage influenced public opinion and exerted pressure on the US government to intervene.
However, the US intervention faced challenges and setbacks. The military operation in Mogadishu in 1993, known as the Battle of Mogadishu or Black Hawk Down, resulted in the deaths of 18 American soldiers and hundreds of Somalis (Robinson, 2002). This incident prompted a reassessment of the US mission and ultimately led to the withdrawal of US troops from Somalia in March 1994.

Analysis of Media Coverage

The Somalia crisis of the early 1990s received extensive media coverage, with various news outlets shedding light on the civil war, famine, and international response. The New York Times, The Guardian, ABC News, The Washington Post, CNN, and Al Jazeera played crucial roles in reporting on the crisis and influencing public opinion and government actions. Prominent journalist Jane Perlez contributed significantly to the coverage of the Somalia crisis. Her articles in The New York Times, including “Somalia Self-Destructs, And the World Looks On” (Dec. 29, 1991) and “Somalia, abandoned to Its Own Civil War with Others' Weapons” (Jan. 6, 1991), provided in-depth analysis and reports on the dire situation in Somalia. Perlez's articles highlighted the devastating impact of the civil war, the power struggles among warlords, and the resulting famine and humanitarian crisis.

Photographs also played a crucial role in conveying the gravity of the situation. For example, Peter Turnley's photograph titled “Somali Mother with Children Waiting for Food” captured the

desperation of famine victims during Somalia's civil war, further emphasizing the dire humanitarian situation (Turnley 1992, Getty Images). Norbert Schiller, through his photographs and accompanying text, documented the devastating consequences of the civil war in Somalia. His work titled “Somalia 1992: Civil War, Famine and Death of a Nation” provided a visual and textual account of the destruction and loss experienced by the Somali people (Schiller, N. 1992).

Opinion pieces published in The New York Times also contributed to the discourse surrounding the crisis. “Time to Change U.S. Policy in Somalia” (Jan. 3, 1991) called for a reassessment of U.S. policy towards Somalia, urging a more proactive approach to address the ongoing crisis. Another opinion article, “Save Somalia from itself” (Jan. 2, 1992) by Nancy Kassebaum and Paul Simon, emphasized the need for international intervention to prevent further suffering and instability in Somalia. Furthermore, CNN and Al Jazeera, as major international news networks, extensively covered the Somalia crisis. They provided in-depth reports that highlighted the devastating consequences of the civil war, including the widespread famine and displacement of the Somali people. Their coverage contributed significantly to shaping public opinion and fostering discussions on the urgency of international intervention to address the crisis.

The media coverage, including journalists like Jane Perlez, photographers like Peter Turnley and Norbert Schiller, and the significant role of CNN and Al Jazeera, played a crucial role in raising awareness, shaping public opinion, and generating discussions about the need for humanitarian assistance and international intervention.

Additionally, it is important to highlight the incident involving the dragging of American soldier William David Cleveland's body through the streets of Mogadishu during the Battle of Mogadishu on October 3, 1993, garnered extensive coverage from major television networks such as CNN, ABC, NBC, and CBS, as well as prominent newspapers like The New York Times and The Washington Post. This widespread media attention further intensified the pressure for a withdrawal from Somalia. The incident's portrayal received significant attention in both written and visual media outlets, amplifying the calls for a change in course. The distressing images and reports disseminated to the public shed light on the severe humanitarian crisis, leading to a marked shift in internal opinion towards the American presence in Somalia. The previously supportive sentiment for U.S. intervention transformed into a categorical and critical opposition.

President Clinton swiftly responded to the growing public sentiment by abandoning the pursuit of Mohammed Aideed and issuing an order for the complete withdrawal of American troops from Somalia by March 31, 1994. This decision served as a model for other Western nations, who followed suit by withdrawing their forces. The impact of this incident extended beyond the immediate sphere of public opinion and decision-making. Osama bin Laden himself referred to it as evidence of the United States' perceived inability to cope with casualties. He pointed out that when “an American was dragged through the streets of Mogadishu, you left the area carrying disappointment, humiliation, defeat, and your dead with you.” This single photograph alone had an unparalleled influence on the political trajectory of a nation.

In summary, the extensive media coverage of the incident, coupled with its portrayal in both written and visual media, played a pivotal role in heightening public pressure to withdraw troops from Somalia. The images and reports served as catalysts for a fundamental shift in internal opinion, prompting President Clinton's decision to withdraw American forces and setting a precedent for other Western nations. Furthermore, the incident's mention by Osama bin Laden underscored its enduring significance as a symbol of perceived American weakness.

Examination of Opinion Polls:

The examination of public opinion polls provides valuable insights into the dynamics of public sentiment and its influence on decision-making processes. This section focuses on analyzing opinion polls conducted during the crisis in Somalia, shedding light on the shifting perceptions of the American public towards U.S. intervention in the country. By considering the media's role in shaping public opinion, we can explore how the changing narrative influenced the American public's stance and, consequently, the actions taken by the U.S. government.

Initial Support for U.S. Intervention: In December 1992, a Pew Research Center poll revealed that 62% of Americans were in favor of using U.S. military forces in Somalia to provide humanitarian aid (Pew Research Center, December 1992). This finding was further corroborated by a survey conducted by the New York Times/CBS News in January 1993, which indicated that 72% of Americans supported American intervention in Somalia, while only 13% opposed it (New York Times/CBS News, January 1993).

Media Influence on Public Opinion: The media played a crucial role in influencing the American public's perception and, subsequently, the decisions the U.S. government had to undertake. Following the U.S. intervention in Somalia in 1992, the media extensively covered the humanitarian crisis, contributing to increased awareness among Americans (Klarevas, 2000). The significant rise in public attention is evident, as in the fall of 1992, only 30% of Americans closely followed the Somalia issue, but by January 1993, this number had surged to 90% (ibid). Such media coverage created public pressure for U.S. intervention.

Mogadishu Incident and Shifting Public Opinion: In October 1993, the incident in Mogadishu, where an American soldier's body was dragged through the streets, marked a turning point in public opinion. A survey conducted by ABC News and The Washington Post in October 1993 found that 67% of Americans favored the withdrawal of U.S. troops from Somalia, while only 30% supported their continued presence (ABC News/The Washington Post, October 1993). Similarly, a New York Times/CBS News poll in November 1993 revealed that 64% of Americans believed that the United States should withdraw its troops from Somalia, while 33% believed they should remain (New York Times/CBS News, November 1993). These surveys suggest that there was significant public pressure for the withdrawal from Somalia following the “Black Hawk Down” incident.

Media Perception and Erosion of Public Support: The media's portrayal of the Mogadishu incident and subsequent events significantly impacted public opinion. By the end of September 1993, approval of the U.S. presence in Somalia had declined from 81% in January to 49% (Burk, 1999). Only 36% of the public believed that the U.S. had the operation “under control,” while 52% believed that the U.S. was too deeply involved (Burk, 1999). These shifts in public opinion were driven by concerns over the effective delivery of aid, with 69% of Americans believing it should be the primary focus (Burk, 1999).

The analysis of opinion polls related to the Somalia crisis highlights the significant impact of media coverage on public opinion and subsequent policy decisions. Initially, there was substantial support for U.S. intervention, driven by media reports highlighting the humanitarian crisis. However, the Mogadishu incident and negative media coverage led to a decline in public support for U.S. involvement and increased calls for troop withdrawal. These findings underscore the influence of media narratives in shaping public sentiment and influencing governmental actions.

Evaluation of Political Statements:

Political statements play a crucial role in shaping public perception and influencing decision-making processes. In the case of Somalia, while U.S. government officials did not explicitly mention the media's influence as the sole factor in their decision to intervene, they acknowledged the role media coverage played in shaping public opinion and shaping their perspectives on the conflict. There is evidence that the Bush administration was aware of the media's impact on public opinion regarding Somalia and the decision to intervene.

Former Secretary of Defense Dick Cheney acknowledged the influence of media coverage in the decision-making process, stating that "television coverage of Somalia had created a powerful popular emotion that was difficult to resist" (Cheney, 2011) in his memoirs. Similarly, former National Security Advisor Brent Scowcroft stated that images of starving children in Somalia played a significant role in shaping public opinion and creating pressure for U.S. intervention (Scowcroft, 2014).

However, it is important to emphasize that the decision to intervene in Somalia was also motivated by strategic and humanitarian considerations, as well as domestic political considerations. The media coverage of the crisis in Somalia may have influenced the timing and nature of the U.S. intervention, but it was not the sole factor in American politics.

Furthermore, President George H. W. Bush made a statement regarding U.S. intervention in Somalia. In a televised address on December 4, 1992, he announced the deployment of U.S. troops to Somalia to assist in providing humanitarian aid and securing relief shipments. In his speech, he described the situation in Somalia as a "massive humanitarian crisis" and emphasized the importance of providing assistance to the Somali people. He also highlighted that the U.S. intervention was part of a broader international initiative and that the U.S. would closely cooperate with the United Nations and other countries to address the crisis.

Additionally, U.S. Ambassador to the U.N. Madeline Albright stated in 1993 that "television's ability to bring graphic images of pain and outrage into our living rooms has heightened the pressure both for immediate engagement in areas of international crisis and immediate disengagement when events do not go according to plan" (Albright, 1993). This statement emphasizes the impact of television media on public perception and the influence it can have on decisions regarding international crises.

Overall, political statements regarding the intervention in Somalia were influenced by media coverage, public opinion, strategic considerations, humanitarian concerns, and domestic political factors. The media's role in shaping public perception and influencing political decisions is evident in the case of Somalia.

V. Discussion and Conclusion:

The preceding analysis sheds light on the role of media coverage in the U.S. intervention in Somalia. This section engages in a comprehensive discussion of the findings, critically examines the implications of media influence on political decision-making, and offers recommendations for future considerations. By synthesizing the information presented and considering the broader context, we can gain a deeper understanding of the complex relationship between media, public opinion, and political actions.

In contrast to the Cold War era, where foreign policy was a covert field where decisions were made out of public view, the U.S. intervention in Somalia was characterized by intense media coverage. The role of media in shaping public perception and influencing political decisions

cannot be overlooked. The classification of crises as humanitarian disasters, accompanied by the dissemination of news and images depicting the suffering and devastation of the affected population, creates a compelling sense of urgency and demands immediate political action. In response to this media-driven pressure, politicians have demonstrated a propensity to adapt to the demands and dynamics of the media, effectively integrating media logic into their political discourse

The decision to withdraw troops from Somalia could not have been solely attributed to excessive media coverage in Mogadishu and the iconic photo of the dead U.S. soldier being dragged through the streets. However, it is important to highlight that the significant troop fatalities and the impact of graphic photos did have a noticeable effect on policy decisions. The saturation of media with these images did negatively influence public opinion regarding the deployment and created congressional pressure. The surveys conducted by ABC News and The Washington Post, as well as the New York Times/CBS News poll, showed a significant percentage of Americans favoring the withdrawal of U.S. troops from Somalia. These findings suggest a substantial public pressure for withdrawal, which may have been influenced by the media coverage.

Nevertheless, it is crucial to exercise caution when attempting to establish a direct cause-and-effect relationship between media coverage and policy decisions. The concern raised about the CNN effect in a larger context is that theoretical models often oversimplify complex issues and assume clear cause-and-effect relationships. Influence in decision-making processes cannot be quantitatively valued. The decision-makers acknowledged the role of media coverage in shaping public opinion and the formation of their own perspectives on the conflict. However, it is important to recognize that media coverage was not the sole factor driving U.S. policy in Somalia. The decision to intervene was also influenced by strategic interests, humanitarian considerations, political messages, personal beliefs of decision-makers, and national perceptions of the situation on the ground. The CNN effect, while playing a role in shaping public opinion and the nature of intervention, should be viewed as only one piece of the puzzle among many other influential factors.

In conclusion, the media coverage of the crisis in Somalia did have an impact on the timing and nature of the U.S. intervention. The intense media coverage, influenced public opinion, creating pressure for swift political decisions. However, it is essential to avoid oversimplification and recognize that the decision-making process is complex, involving a multitude of overlapping factors. The CNN effect should be seen as a significant but not exclusive influence on policy decisions. Policymakers and media organizations should consider these findings to ensure a more comprehensive and balanced approach to understanding the interplay between media, public opinion, and foreign policy.

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Opportunities for the socio-economic development of "Durana"

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ABSTRACT

Sustainable development of the economy based on growth and territorial development has always been one of the biggest challenges of the central government. Tirana and Durres are two of the largest cities of the Republic of Albania. The expansion of their territorial extent (in some cases formal and in others informal) and the tendency for these two cities to meet brought the need to deal with this situation at the central level. The chaotic constructions, the lack of infrastructure as well as the severe damage to the national natural landscape brought the need to draw up a national strategy for this area.

In order to guarantee a sustainable territorial and urban development of this area, the Ministry of Urban Development, in cooperation with the National Territorial Planning Agency, took the initiative to draw up the Intersectional Integrated Plan for the Tirana-Durres area. The main goal of this plan is to create the appropriate infrastructure for a sustainable territorial and economic development.

This plan will serve to coordinate and unify local government policies between these areas in order to guarantee the economic, social and environmental development of the region, promoting the economy and improving the environment. At the same time, this strategy will also help as a guarantee for foreign investors and businesses, who are interested in being involved in the further development of the Tirana-Durres metropolitan region.

In this paper, some important elements related to the development of this area will be treated, giving a modest contribution to the doctrine of law in Albania.

Keywords*:* *Durana, territorial development, new economic zone, law, regulation plan, tourism, natural and environmental development.*

1. Introduction

The main point of the study is the identification of all issues of economic and social importance of such large projects which are responsible for the entire region between Durrës and Tirana. Durana is as one of the most important opportunities of the Western Balkans with inherent development in work in the country, competitive and competitive, where the mobility of access to different levels and levels, national internationals are sustainable for those who are interested and businesses. A region that appreciates the historical and cultural past, which competes with the Western Balkans region, turning Tirana-Durres into a working environment of local and international talent, of a creative wing, which matches and preserves economic diversity (Monitor, 2016).

The study of this plan is also of particular importance, as far as this plan will serve in the future as a good example for the construction of other economic zones of this nature. This is because Albania is rich with many areas, the territorial integration of the subjects would only bring development, social and economic.

This study will focus on a detailed analysis of the economy related to the following areas:

- Tourism

- Transport

- Urban development

- Natural and environmental development

- Agriculture, etc.

During the performance of the work, we will also focus on highlighting the challenges and efforts that are expected during the implementation of the projects, such as: the global economy and regional competition; the integration of informal spaces. urban regeneration and facilities; mobility and transport; technological breakthrough and digital infrastructure; environmental situation and environmental management; as well as changing the style of the phone.

The basic principles on which this plan will be implemented are: balanced polycentric development (Polycentric System of Urban Centers); establishment of a new form of Urban-Rural development at the level of Urban Functional Areas; equity in access to utilities, energy and service; protection and sustainable use of natural capital and assets; as well as ecological and cultural structures, as new development potentials in regions that are lagging in development and are classified as sensitive ecological and cultural areas.

The basic similar methodology in this work is analytical and comparative. The paper has various ways that help and is the method of data analysis, where the main findings are in narrative form. The method of data that will be collected from this study is the analysis of analysis and quantity. Having in the phenomena of the analysis of the values of the analysis of the analysis of large quantities of the analysis of a large quantity is the analysis of the very qualitative as an opportunity to minimize more than the flaws that analyze their quantity in their study. Finally, the study data will be analyzed analytically.

2. Socio-economic development of Durana

Territorial development defines development that is endogenous and spatially integrated, utilizes the input of actors operating at multiple scales, and brings incremental value to national development efforts. Territorial development requires a fairly high level of direction and leadership from local authorities, building, among other things, very good accountability structures and systems (Leonardo Romeo, 2015). Accountability and autonomy are the two most important elements of local authorities so that public spending is used in the most efficient way possible. The truth is that the development of local authorities will only happen if the decentralization reforms themselves are conceptualized as "empowering the people through the empowerment of their local governments" (Bahl, 2005) and not simply as a transfer of functions and resources across levels of government. and public administration system. In this way, local authorities will not be recognized only as governing mechanisms but as entities authorized by their constituents to represent them in solving and administering public (local) problems.

Tirana and Durres are two of the largest cities of the Republic of Albania. The expansion of their territorial extent (in some cases formal and in others informal) and the tendency for these two cities to meet brought the need to deal with this situation at the central level. The chaotic constructions, the lack of infrastructure as well as the severe damage to the national natural landscape brought the need to draw up a national strategy for this area. In order to guarantee a sustainable territorial and urban development of this area, the Ministry of Urban Development, in cooperation with the National Territorial Planning Agency, took the initiative to draw up the Intersectoral Integrated Plan for the Tirana-Durres area. The main goal of this plan is to create the appropriate infrastructure for a sustainable territorial and economic development.

The National General Plan has identified the Tirana-Durres area as one of the most important economic areas in the country and in the Balkan region. Based on the complex features of the urban economy and the morphology of the territory, as well as taking into account the many challenges and the actions that must be harmonized in it, the plan is defined as cross-sectoral and integrated. The Intersectional Integrated Plan for the Tirana-Durrës area includes the territory of several municipalities such as: Tirana, Durrësi, Kamza, Vora, Shijaku and Kruja.

This plan will serve to coordinate and unify local government policies between these areas in order to guarantee the economic, social and environmental development of the region, promoting the economy and improving the environment. At the same time, this strategy will also help as a guarantee for foreign investors and businesses, who are interested in being involved in the further development of the Tirana-Durres metropolitan region.

"Durana" describes the economic and social development of the geographical area along the axis "Tirana - Durrës" with the main purpose of economic development through:

a) Creating optimal conditions for economic activity;

b) Improving the quality of life of the residents;

c) Protection & rational use of natural resources;

d) Improving infrastructure & mobility in this area, etc.

The Intersectional Integrated Plan for the Tirana-Durrës (Durana) area is built on six pillars and guides the development of the territory as follows:

a) Economic Development: At the national level, the Tirana-Durres economic zone is the main production area and the main node of interaction of human resources, goods and services. The region includes 8.4% of the territory and 37% of the country's population. It is the region with the highest density. Compared to the average of the country, the current density is 440% and according to demographic projections, until 2031 it will be 514.8%, while the density in Tirana will be 584.2% inhabitants per km² (Monitor, 2016)

b) Tourism: The "Durana" region, as the main node of accessibility at the national level, has always maintained the largest flow of accommodation and service for internal and external visitors. In PINsD, tourism is oriented towards the interconnection of service sectors with an impact on tourism in a unifying policy to coordinate nature, history and culture. The creation of the regional product brand "Made in Durana" is highlighted.

c) Agriculture: Durana proposes the development of urban agriculture by creating suitable spaces for the collection, distribution, processing and sale of products. This concept aims at the development of agricultural areas based on networking, and the creation of a climate of successful cooperation between all partners such as business, farmers, investors, citizens, etc. for an economy of scale.

d) Transport: The policies proposed in this plan aim at: i) improving public transport through the multi-modal system, ii) encouraging alternative & healthy transport, iii) building the strategy of regional logistics systems, iv) efficient interconnection of infrastructure rural and secondary roads, and v) encouraging water transport.

e) Urban Development: Urban policies are oriented towards the consolidation of urban centers; in the re-generation of urban centers; the improvement of public services where we single out the school as a center for the community; the integration of informal areas; regeneration of rural centers, etc.

f) Natural-environmental development: Natural-environmental development mainly includes water resources as well as energy (with the electricity transmission network, telecommunications, infrastructure and renewable energies), and air quality mainly in industrial areas.

3. Challenges of this project

The Tirana-Durres economic zone must face a number of challenges in order to achieve sustainable territorial development, which are:

a) Global economy and regional competition

b) Integration of informal spaces. Urban regeneration and housing

c) Mobility and transport

d) Technological breakthrough and digital infrastructure

e) Environmental situation and waste management

f) Change of lifestyle

4. Conclusions

Durrës-Tirana Economic Zone is an area which consists of two main cities of Albania, Tirana and Durrës. This area is one of the most economically developed areas in Albania and offers many opportunities for businesses and investors.

In this area, the economy is diversified and has different sectors such as: industry, transport, tourism, services, technology, etc. In Durrës, the industry sector is important, while in Tirana, services and the technology sector are more developed. The Durrës-Tirana Economic Zone is also important for trade and the transport of goods, both passengers and various goods, being the main center of the roads and transport lines of Albania. In this area there are also the two main ports and airports of Albania, the Port of Durres and the Airport of Tirana. Investors and businesses that settle in this area can benefit from the developed infrastructure, qualified workforce, as well as easy access to the domestic and regional market. In addition, this area is close to the international airport of Tirana, which offers numerous opportunities for connections with international markets.

The sustainable socio-economic development of this new economic zone requires a proper plan and interwoven with the development of enterprises, infrastructure, education and training, public policies, as well as the protection of the environment and society. In the following, we present some important steps and strategies for the sustainable socio-economic development of a new economic zone:

- Identification of the needs and potentials of the region: A proper analysis of the new area should include the identification of the needs of the population and businesses, as well as the potentials of economic development in areas such as tourism, agriculture, energy, technology, etc.

- Encouraging investment and building infrastructure: Building the necessary infrastructure, such as roads, transport lines, water supply and sewerage, is essential to support economic development. At the same time, to encourage investment from local and foreign enterprises, to create new jobs and increase production.

- Focus on training and education of workers: In this time of development of technology and automation, it is important to provide training and education of workers to adapt to the demands of the labor market. This will help increase the productivity and skills of workers.

- Use of natural resources sustainably: If a new economic zone has natural resources such as water, energy, and agricultural land, then they must be used sustainably and protected from the negative impacts of development. This will help make it possible to continue using those resources in the future.

- Care for the environment and society: Economic development must always be accompanied by respect and protection of the environment and society. Public policies must take these aspects into account, to guarantee sustainable development.

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Challenges of defining public services as the object of state administration activity

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Abstract

One of the main goals of the existence of the state, and especially its operative arm, the public administration, is the provision of public services. Through them, it is intended to fulfill the basic needs of people, which are vital for their existence and well-being. Public services are essential for the sustainable economic development of any country and at the same time ensure social cohesion. From the point of view of the law, they are considered an essential mechanism that serves to implement the principles of the rule of law, especially the social state and basic human rights. Their ever-increasing role and dimension have made every jurisdiction pay great attention to the way they are provided to effectively serve the specific rights they aim to fulfill.

In Albania, there is a legal framework for over 10 years, which regulates in detail the typology, principles, way of internal organization, nature of the activity, and delegation of functions of state administration. The law defines that the main object of its activity is the provision of public services, without giving us a definition of it. Precisely, this paper gives answers to questions such as how public services should be understood, as an object of the activity of the state administration, and what are the types, ways, and principles of their provision. The paper supports the *hypothesis that there is no exhaustive legal definition of the notion of services public, as an object of activity of the state administration, due to the broad, complex, and dynamic nature of the public interest embodied in the notion of public services. Community law has encouraged member states to consider public services between competition mechanisms and the legal reserve of the state*. The paper assesses the great impact of community law on domestic law in terms of the categorization of services of general economic interest, the determination of the principles of their exercise, and the inclusion of market mechanisms in the provision of these services. To prove the above hypothesis, the following research questions are raised in the paper: What attitude have other jurisdictions taken about this important legal concept? Given the fact that public services of special jurisdictions can have implications for the common market, what contribution has community law made in terms of defining public services and their categorization? The study uses the desk research method, i.e. theoretical consultation with a series of legal documents of domestic, international, and special jurisdictions, articles, and scientific works that deal with issues and aspects related to public services. Also, in this paper, historical and comparative methods were used to highlight the features, differences, and impact that the law of special jurisdictions or that of the EU has had in shaping a legal framework for public services in Albania. This paper is of interest to researchers, lecturers, and students, as well as to the community of legal professionals.

Keywords: *Good governance, Public Service, Public Administration, Delivery of public service*

1. A historical perspective of public services. Typology and forms of exercise of public services.

Public services represent a difficult concept to define. This is due to the broad, complex, and dynamic nature of the notion of public interest embodied in the phrase "public services". To provide a meaningful approach, it is necessary to research the historical moment when the doctrine of public services was born to identify the ideological perspectives on it. It was precisely the French Revolution that fundamentally modified the objectives of politics and

reshaped the principles of the legitimacy of state powers, placing at the center the axiom of "utilité générale". (Mestre, J.L, 1977, 145) The birth of the doctrine of public service is identified with the crisis of the conception of the state and the affirmation of the principles of solidarity that mark the transition to a growing public intervention in the economy, which was embodied in the French Constitution of 1971. In this framework, new areas of action were added to traditional administrative activities, including activities aimed at providing collective services. The theory of the state understood as an institution exclusively holding public powers, which it exercises through authoritarian acts, was gradually replaced by another more hermeneutic approach. (Pellicano, 2015, 23) This approach is based on the double action of the administration, on the one hand, its traditional authoritarian action, and on the other hand, a more pronounced social or even economic activities aimed at providing services to the community for general needs satisfied.

The notion of public services has a judicial origin. It was precisely the Civil Court of the city of Bordeaux, through the decision of 1873, which decided that: "the responsibility that can be charged to the state for damages caused to individuals by the actions of persons who are employed in the public service, cannot be regulated from the principles of the Civil Code for relations between individuals, but from special rules, which vary according to the nature of the service and the need to harmonize the rights of the state with private ones.". (Tribunal des Conflits, February 8, 1873) This judgment is important not only in clearly defining the difference between the competence of the administrative judge and the civil one but to highlight the characteristics and nature of the public service. The French doctrine of the 20th century, which also derives from this court decision, places public service at the center of the activity of public bodies, considering it the cornerstone of administrative law. (Jèze, 1904, 34)The French author Leon Duguit, the first founder of the French legal doctrine on public services, in his work, states that the concept of public service was born at the moment when the difference between the administration and citizens appeared, who realized that they could demand the realization of certain obligations from administration, the fulfillment of which is simultaneously also the reason for their existence. (Duguit, 1913) Duguit aims to separate from the concept of the state the elements of a liberal matrix that are reflected in the dogma of public power, and that are manifested in a configuration of this power as a public service. According to him, public service is any activity that is essential for the achievement and development of social interdependence and that is of such a nature that it can be fully ensured only with the intervention of the governing force. (Duguit, 1913) The Blanco decision influenced a broader conceptualization of public services, which increasingly included the range of activities that lacked the character of the exercise of authority by public bodies. Further, French researchers gave a conceptual approach to the notion of public service starting from the characteristics of the "particulier" service. They attributed to him the opposite features of this service, which meant services that should be offered equally and continuously provided to the citizens.

Orlando in 1905 has evidenced the fact that the activity of the administration is manifested in three dimensions, "juridical", "economic" and "social". (Orlando, 1900) According to him, legal activity is a natural and necessary expression of the state's sovereignty, without which it would fall into anarchy. It is carried out without being configurable as a competitive private activity, through the basic model of legal superiority derived from the right of public authorities. Meanwhile, the activity with a "social" character is defined as a function exercised by the state that aims at the economic, social, and cultural development, etc. in the function of the members of the society. (Orlando, 1900, 58) The activity of a "social" character is also distinguished from that of an economic character, since, although both are exercised with partially analogous methods and mechanisms, mostly similar to those regulated by civil law, that of a social character embodies another purpose, that of "a public interest (…) to benefit a certain social relationship". (Orlando, 1900, 44) Orlando takes the position that the idea of public service

does not precede but follows public administration, therefore it must be built around the state as a legal entity (Orlando, 1900, 46)

According to De Valles, the legal activity of the administration is governed exclusively by "the norms of law, which create legal situations or relationships, with certain legal effects and which are always means for the realization of a final goal." (De Valles, 1930, 398). From the perspective of De Valles, the main characteristic of the social activity carried out by the administration is mainly identified in the "non-juridical nature" of deeply material activity. From the point of view of the form of exercise of these activities, different authors think that the activity with character the legal that the administration carries out is mainly carried out in the form of authoritative administrative acts, with a unilateral character. While the activity with a social character is exercised through different typologies of management, contracting, or any other form that better suits the nature of the social service. Finally, the economic activity performed by the administration relies on the main instrument of private law, the commercial contract. (Pellicano, 2015, 16)

According to Cammeo, "Public service in a broad and subjective sense is the satisfaction of collective needs through the performance of state activities. (Cammeo, 1911, 204) Based on the historical context, it is accepted that the notion of public service has been deduced relying on that of the function public. The concept of public function was that of a set of activities, the main purpose, and often the only one, of which was the care of the public interest. (Pellicano, 2015, 18) This view perceives the state as the exclusive owner of public power and, at the same time, as an object of administrative action. The notion of public service in the historical and political context has been strongly influenced by the theory of the rule of law and by the concept of the state-person, from which the main importance is attributed to the administrative function. (Pellicano , 2015, 30)

The most important step regarding public services is the birth and development in the 50s and 60s of the last century of the doctrine of human rights and freedoms. The inclusion in the regime of the legal protection of rights with an economic, social, and cultural characteristic such as the right to sufficient food, adequate housing, education, health care, work, social security, and cultural life was accompanied by the expansion of the responsibility of the role of the state. This typology of rights imposed positive obligations on the state to organize the administrative system as a mechanism to make effective in the most appropriate way provision of social and economic services.

Public service as the main object of the administration's daily work can have a social, economic nature or the traditional form of exercising power with authoritarian acts. In this spirit, the need for the creation of special types of public legal entities was formalized in the law, which, in addition to state institutions, should also have state enterprises, as a more flexible mechanism to provide economic or social services. The notion of public service took another dogmatic elaboration when the state as a subject, the only source of public interest and the exclusive holder of the attributes of power, transferred these responsibilities to other subjects of the legal system. (Ranelletti, 1905, 330) In response to the demands for better quality services, new ways and forms of public service management were born and formalized, relying on market mechanisms. In this context, special attention was paid to the role and contribution of private operators in the provision of public services.

2. The concept of public services in different jurisdictions

To provide a meaningful approach to public services as an object of administrative action, it is necessary to research the legal systems of specific jurisdictions. In the countries that apply the common law system, there is no legal framework for public services, but certain aspects of them are regulated by a series of legal acts that establish obligations for the realization of public

services in specific sectors. (Clifton, Comin, and Diaz Fuentes 2003, 126; 313). In this legal system, the concept of public services is related to the medieval theory of "common callings", which refers to specific responsibilities and obligations that must be submitted to certain natural or legal persons. (Amato 1998, 153). This theory extends over the concept of "common carrier" or "any business entity that carries out activities related to the public interest" that is applied in the USA (Scott 2000, 313). The concept of "common callings" is used to impose certain obligations on "business subjects whose activities have, either as a process or a product, an important "public interest" (Kopp and Landry 2000, 36). These subjects according to this theory had an obligation to serve all customers (Arterburn 1927), not arbitrarily refusing to serve certain individuals or to pay certain fees. (Kopp and Landry 2000, 37). Interest in the doctrine resurfaced, especially in the USA, being used as a solution to regulate monopolies. (Wyman 1904) However, it must be said that there has never been a fixed list of services subject to the "common calling" doctrine and it has been applied to a wide range of services. Even English legislation does not have a framework law on public services. The common callings theory is important in this analysis because it shows that any form of business can have dimensions of public interest, and socio-economic circumstances are those that have a significant impact on how public interest can be understood in the context of public services.

The European legal system, starting from Roman law, does not recognize the "common callings" theory, but many similarities are evident with the church doctrine of "fair price", which prohibits excessive profit. (Van de Walle, 2008) Public service represents a European legal concept, born at the end of the 19th century in France, as a basic notion of administrative law. (EIPA and Présidence Luxembourgeoise 2005, 53) French administrative law is built and revolves around the notion of public service, so much so that it is considered the only justifying tool, in the light of which the specific rules defining public administration as guaranteeing the common interest are interpreted The main purpose of the regulation of public services in French law was and remains to legitimize the intervention of the state in certain areas, which have a substantial impact on the life and rights of individuals in society. Whereas, the main function of public services is to guarantee basic rights and freedoms, considering the state as a mechanism to serve the public.

In France, the Preamble to the 1946 Constitution included a provision that "all properties and enterprises, the management of which has, or acquires, the character of a national public service or a de facto monopoly, shall become public property." (French, Constitution, 1946, Preamble, page 9) Whereas, the current French Constitution allows the President of the Republic, after the proposal of the government or both houses of the parliament, to submit for approval in a referendum any act of the government that has to do with the organization of public bodies, or with reforms related to national economic, social or environmental policies and the public services that contribute to them..." (French, Constitution, 1958, art. 11) The French constitutionalists outlined a notion of public service related, not only to the general good and to the analytical responsibility of the state elites in the adoption of national economic, social, or environmental policies that concretize it, but they saw it as an instrument for their realization. As such, a public service regime consists of three elements: *a) a set of values and principles that justify the design of public policies on a given public service; b) the creation of the necessary institutional mechanisms that have macro and micro-management of the public service as their object; as well as c) a normative framework of formal rules and practices, which includes the administrative way, style, and logic with which the state regulates society in general and the economic aspect in particular.* (Clark, 2000, 163)

Although the notion of public services in France is found in the Constitution, the French legal model does not define public services. According to Prosser, even though "the definition of public service is extremely difficult and elusive", it provides policymakers with a set of general principles that still leave ample room for the exercise of discretion in this area. (Prosser 2005,

97). The reason why there is no definition is related to the fact that it remains a concept in continuous evolution (Obermannetc 2005). Following the same model as the French one, Article 43 of the Italian Constitution refers to essential public services, allowing the state the possibility to expropriate companies engaged in the provision of essential services. (Italian Constitution, art 43) However, within the Italian legal system, there is no definition of public service. Italian doctrine and jurisprudence have filled such a gap. Also, in Belgium, Austria, and Southern Europe, there is the concept of public service, but its role is less prominent. (Van de Walle, 2008) In other countries, such as Germany, the Netherlands, and the Scandinavian countries, "public service" is not a sanctioned concept. However, the French version represents the most developed legal model at the level of jurisdictions, but similar models exist in several other countries, such as Italy. (Prosser 2005)

3. Public services in EU Law.

In community law, chronologically, the issue of services of general (public) interest has had an evolution, which has been adapted to the stages and nature of the integration processes. In the beginning, in the Treaty of Rome, signed in 1957, we find the term "services of general economic interest" expressed for the first time, which was applied at that time in a limited way only to the communication, transport, and energy sectors. (Treaty of Rome, Art 90) During the 30 years following the Treaty of Rome, the issue of services of general interest remained outside the integration processes, where each member state had the right to determine the categories of public services and the way of organizing and financing them. (CESI, 2012, 4)

The Treaty of Lisbon represents the most important legal act regarding the categorization of public services in general, and those of general economic interest in particular. With the Treaty of Lisbon, the European Charter of Fundamental Rights and Freedoms entered into force, where services of general economic interest represent one of the fundamental rights and freedoms at the European level. Article 14 was added to this treaty, which aims to redefine that services of general economic interest represent a common competence between EU institutions and member states. This provision allows the European Parliament and the Council, without prejudice to the competence of the Member States about the provision, commissioning, and financing of such services, to exercise their right to issue secondary legislation, to ensure that such services are exercised based on principles and conditions, especially economic and financial conditions, which enable them to fulfill their missions. (COM (2011) 900, 5)This provision should be seen as closely related to Article 106 point 2 of the treaty, which allows member states to avoid competition rules in conditions where they prevent the performance, de jure or de facto, of specific tasks assigned to public enterprises that provide services of general economic interest. (Treaty of Lisbon, art. 106)

The other act represents a special protocol, Protocol 26 of the Treaty of Lisbon. This act deals not only with services of general economic interest but with all types of public services (of general interest), whether economic or non-economic. According to this Protocol, if the national authorities categorize a service as "non-economic", Article 2 of this protocol makes it clear that the Treaties do not affect in any way the exclusive competence of Member States to provide, order, and organize them. Whereas, if a service is categorized as "economic", Article 1 makes it mandatory for EU institutions to recognize, at the same time, "the essential role and wide discretion of national and local authorities in providing, ordering and organizing the service, as well as respecting the "diversity between different services and the differences that may result from different geographical, social or cultural situations". This protocol is of particular importance because it for the first-time sanctions at the treaty level the principles of providing services of general economic interest, such as guaranteeing quality, safety and economic opportunity, equal treatment, and promotion of use by all users and their rights. (Treaty of Lisbon, prot. 26)

In conclusion, we can say that the Treaty of Lisbon recognizes the member states the right to choose the way of providing services of general interest, using all possible management styles, ensuring that the chosen form necessarily guarantees the standards of "quality, safety and affordability, equal treatment and the promotion of universal access and user rights". The Treaty makes it clear that the rules of the internal market and competition are applied to services of general economic interest only in cases where they do not hinder de jure or de facto, formally or effectively the fulfillment of their specific mission. The member states have the right to choose the way of organization and the form of providing services of general economic interest, public or private. But, in the conditions where a member state can abuse its right to categorize and provide services of general economic interest, then the Treaty recognizes the right of the Commission to turn to the ECJ to ascertain this position of the state as a "manifest error".

The Treaty of Lisbon does not define the notion of services of general interest, or services of general economic or non-economic interest, and does not make it clear what kind of special services are included in these categories. Thus, we can say that there is no harmonizing legal framework in Community law regarding the meaning of services of general interest. This is because the vertical regulation of this matter by community law infringes on the competencies of the member states. Due to the differences in the legal systems of the EU member states, the EC has often highlighted the fact that harmonization may not be feasible or even desirable by the member states. Countries, such as Germany, have clearly stated that the drafting of a legal model at the European level providing a definition of SGI and their performance standards is undesirable because such a thing would violate the principle of subsidiarity. This has not diminished the role of the ECJ and EC in providing views on what is considered public services.

6.1 Public Services Given EU Institutions

The need to build a harmonized legal framework on services of general interest, based on their importance in the European model, has been on the political agenda of the EU institutions. (Barroso Political Guidelines, 2009) European Commission through a large number of Communications (COM 1996, 2000, COM Report 2001, Green Paper (2003), White Paper (2004), COM (2007, 2011, 2012), EESC Opinion 2022) has considered it as a responsibility stemming from the primary law of the EU and the jurisprudence of the ECJ to contribute to the definition of a conceptual framework for services of general interest, those of general economic or social interest. (COM (2011) 900 final,3) For the first time in EC positions, we find the term services of general interest in the 1996 Communication on Services of general interest in Europe. According to it, services of general interest are market and non-market services which public authorities classify as of general interest and which are subject to specific public service obligations. (COM (96) 443 final, p.2) Whereas, we find the notion of universal service in 2002 (Directive 2002/22/EC, 2002), which defines that: "The concept of universal service refers to a series of interest requirements general that ensure that certain services are made available with a certain quality to all consumers and users throughout the territory of a Member State, regardless of geographical location, and in the light of specific national conditions, at an affordable price. " (Ibid, art 3, par.1)

Because there is no harmonization both in the terminology and in the categorization of public services, EC through COM/900/2011 it is emphasized that services of general interest are those services that the public authorities of the Member States classify as of general interest and, therefore, they are subject to specific public service obligations. The term covers both economic activities and non-economic services. The latter are not subject to specific EU legislation and are not covered by internal market and competition rules. Some aspects of the organization of

these services may be subject to other general rules of the Treaty, such as the principle of non-discrimination. (COM 2011, art 3)

According to the decisions of the ECJ (Case C-364/92, ECR I-43, Case C-343/95, ECR I-1547), summarized in the positions of the EC, activities that are not considered economic are related to the exercise of the prerogatives of the state and with the fulfillment of the state's responsibility towards the population in certain areas. (COM (2011), 146 final, 3) The Commission recognizes that these concepts are dynamic and evolve. Due to political decisions or economic developments, the classification of a particular service may change over time. What is not a market activity today may become so in the future, and vice versa. According to the Commission, the need to distinguish between economic and non-economic activities is an analysis that must be done case by case as the nature of these activities is constantly evolving.

According to the ECJ, activities that are not considered economic are related to activities when the state acts by exercising public power in: a) the field of defense, public safety, safety and control of air navigation, control and safety of maritime traffic, anti-pollution supervision, institutions dealing with the organization, financing and implementation of prison sentences, b) social services if the social security scheme on which these services are supported is based on the principle of solidarity (referring to the factors: if membership in the scheme is mandatory, if the scheme pursues an exclusively social purpose, if the scheme is non-profit, if the benefits are independent of the contributions made, if the benefits paid are not necessarily proportional to the earnings of the insured person and if the scheme is supervised by the state), c) public health service (service specialized medical/polyclinics and public hospitals are an integral part of the national health service and are based almost entirely on the principle of solidarity), d) public education service at all levels (public education organized within the national education system financed and supervised by the state is considered an activity uneconomical).

Services of general economic interest are economic activities that bring results to the general public good that would not be offered or would be offered under different conditions in terms of quality, safety, affordability, equal treatment, or universal access by the market without intervention public. The Court of Justice has held that the concept of services of general economic interest is an evolving notion that depends, among other things, on the needs of citizens, technological and market developments, and social and political preferences in a member state. In the absence of specific EU rules, Member States have wide discretion in defining a particular service as an SGEI and in awarding compensation to the service provider. The Commission's competence is limited to checking whether the Member State has made a manifest error when defining the service as SGEI and to assessing any State aid included in the compensation. Where specific Union rules exist, Member States' discretion is further limited by those rules, without prejudice to the Commission's duty to assess whether the SGEI is correctly determined for State aid control.

According to EC positions, public service obligations are imposed on the provider using a mandate and based on a general interest criterion, which ensures that the service is provided under conditions that allow it to fulfill its mission. The public service mandate means the provision of services which, if it took into account its commercial interest, an enterprise would not receive or receive to the same extent or under the same conditions. The public service task must be established using an act which, depending on the legislation in the Member States, may take the form of a legislative or regulatory instrument or a contract. It can also be provided in some acts. Based on the approach taken by the Commission in such cases, the act or series of acts must at least specify: a) the content and duration of public service obligations; (b) the undertaking and, where applicable, the territory concerned; (c) the nature of any exclusive or special right granted to the undertaking by the said authority; (d) parameters for calculation,

control, and review of compensation; and (e) measures to avoid and recover any overcompensation.

Social services of general interest include social insurance schemes that cover the main risks of life and several other essential services provided directly to the person that plays a preventive and cohesive/socially inclusive role. While some social services (such as statutory social security schemes) are not considered by the European Court to be economic activities, the Court's jurisprudence makes it clear that the social nature of a service is not sufficient in itself to classify it as non-economic. The term social service of general interest, therefore, covers both economic and non-economic activities.

In conclusion, in the same line with the determination made by the Commission, we can say that service in the general (public) interest is understood as the exercise of a series of activities of general interest with an economic, non-economic, or social nature, which is defined, created and are controlled by public authorities and subject to varying degrees, a special legal regime, regardless of whether they can be carried out by a public or private body.

4. Public services are given Albanian legislation

4.1 Public Services in the constitutional dimension

In the constitutional dimension, the notion of public services, in the broadest sense, is rooted in the purpose of the state's existence, materialized in the function of governance. According to the Oxford Law Dictionary, to govern means "to legally control a state and its population, as well as having the responsibility of drafting new laws, providing public services, etc." (Oxford Law Dictionary). While the Merriam-Webster dictionary considers government as "the continuous exercise of sovereign authority and above all to control and direct the making and administration of policies". (Merriam-Webster Dictionary) The Republic of Albania considers governance as a system of powers, clearly separated from each other in roles and functions, but also built and exercised in practice in a balanced way, (Albanian Constitution, art 7) to realize the general social interest and the basic rights and freedoms of citizens. Despite the main role played by the legislative power through the legislative process in the drafting, approval, and control of policies in various fields, related to the provision of public services, the basic responsibility in their administration rests with the executive power. (Albanian Constitution, art. 100, 102)This is not because he appears mainly as their proposer in the Assembly (Albanian Constitution, art 81), and at the same time has the responsibility of their administration. In addition to the principle of horizontal division of power, the Constitution also sanctions its vertical division, through the system of local government bodies. (Albanian Constitution, art 13) The latter sanctions that the municipality, as the basic unit of local government, through its executive and representative bodies, performs all self-governing tasks, except those that are given by law to other units of local government. (Albanian Constitution, art 108) So, from the formal point of view, the main power of the state charged by the Constitution as the instrument of administration of public services is the executive power, both at the central and local levels. This in no way diminishes the main influence that the legislature or local councils have on the adoption and implementation of public policies in the field of public services.

From a material point of view, public services, as a dimension of governance, are also imposed by a series of basic principles of state formation that are expressed in the preamble of the Constitution and elaborated specifically in the text of the constitution such as basic human rights and freedoms, the rule of law, the social state, social justice, etc. In Article 3 of the Constitution, the sovereign has charged the state with two basic obligations. First, with the obligation to respect fundamental rights and freedoms, as obligations mainly of a negative nature, which requires the state not to hinder or limit the exercise of rights through legal acts or administrative actions. Secondly, with the obligation to protect these fundamental principles, as

a constitutional imposition that the state, through its organs, undertakes all necessary actions to enable all subjects under its jurisdiction to effectively exercise and enjoy their rights and fundamental freedoms. Recognition in the constitutional text of basic human rights and freedoms constitutes a prerequisite for their implementation through various policies and practices in daily life. To be effective, fundamental rights and freedoms must be operationalized, that is, applied to all sectors of public life to bring about the desired effects. Otherwise, they can remain empty statements and do not serve their purpose of democracy and social harmony. How can e.g. everyone's right to physical security, health care, or education be translated into action? And conversely, how do established practices related to physical security, health care, and education correspond to the responsibilities of public authorities? Therefore, the responsibility to fulfill human rights includes the obligation of the state to create and finance the systems and services necessary to make them effective.

The doctrine of fundamental human rights and freedoms recognizes the state a broad discretion to make effective the rights of a social, economic, and cultural nature. The constitutional text connects the realization of social objectives with the opportunities and means available to the state. The social objectives reflect the positive activity of the state in the social framework and the realization of these objectives is closely related to the conditions, means, and available budgetary opportunities of the state. (Albanian Constitutional Court Decision, 33/2010) Despite their relative nature, it must be said that the latter cannot be guaranteed by the inaction of the state. (Guler, 2017, 360) Completion of the right to housing cannot be achieved only by imposing negative obligations, as well as by the inaction of the state, but by its obligation to build housing programs. For this reason, social-economic rights have a more demanding character towards the state and public bodies. They consider the creation of opportunities and means to exercise the right to work, the choice of profession, social protection, health care, education, housing, environmental protection, food, etc. as public responsibilities and functions. (Report of UNHCHR, A/HRC/25/27, 2013, 25)

While the doctrine of the social state embodied in the preamble of the Constitution and in the chapter on fundamental rights with an economic and social character, and implemented in special laws, considers as the responsibility of the state the obligation of the state to become active and to guarantee citizens the provision of adequate means for life needs in certain cases. (Albanian Constitutional Court Decision, 9/2007) The Constitutional Court has affirmed that the principle of the welfare state provides the legislator with a wide and undefined space for regulating the benefit of social goods to a certain extent and quantity. (Albanian Constitutional Court Decision, 11/2007) Therefore, within the concretization of this principle, it is a positive obligation of the legislator to ensure the provision of (public) services for free or at an affordable price for the public or certain social categories in sectors that relate to essential needs.

According to the jurisprudence of the Constitutional Court and especially that of the ECtHR, the activity of the public bodies of the state, in addition to the activity of the Assembly, as a legislative activity to guarantee and protect fundamental rights in the framework of the drafting of legislative measures, is of particular importance. fulfill the positive obligations that states have to implement in practice and the rule of law. The obligations carried by Article 3 of the Constitution are closely related to the role and function of the public authorities, which in the exercise of their specific activity, must not only respect fundamental rights and freedoms but also play a proactive role to effectively guarantee them. (Albanian Constitution, art 15) The manner and standards of their provision are indicative of the level of their realization. It is not without purpose that the Constitution in its Article 107 sanctions that: "Public servants follow the law and are at the service of the people". This constitutional norm defines the general framework of the activity object of public servants, which is public service or service to the community. Therefore, public service as a set of activities authorized by the Constitution and

the law, carried out by various bodies, is essential for the general interest of society and aims to implement basic rights and freedoms, the rule of law, the social or other legal rights.

Therefore, it is quite clear that there is an overlap between the provision of social economic rights and the regulation of access to essential public services. (Hesselman, 2017, 113) Both are necessary to realize thriving, inclusive societies with adequate living standards for all, based on human dignity. The provision of public services according to the nature of fundamental rights represents and serves as an instrument, not only to guarantee the fulfillment of specific rights but also to evaluate legal solutions and social economic policies. The challenge for policymakers is to ensure that the drafting of policies at the low level, and further, the implementation of legislation through the provision of public service programs make effective the basic rights and freedoms of citizens.

4.2 Public Services as the Object of the State administration activity

In the legal dimension, public services are confirmed to be the main object of the state administration activity (Law 90/2012, art. 2) and that of the local government. (Law 139/2015, art. 2) But, in the law on state administration, we will put note that despite being a framework law on the meaning, typology, and organization of state administration, it does not provide any definition of what public services are, nor does it define their principles and types. The situation is different when it comes to defining the meaning and types of public services offered by local government bodies. Being a power of a constitutional nature, with functions delegated by the will of the legislator, it serves not only the public interest but legal certainty and clarity in defining responsibilities and duties so that the law is as clear as possible in the nature and type of powers that are charged to the latter. Even though there is no definition of the meaning of public services in the framework of law for state administration, we must refer to other laws that regulate different aspects of them.

In the Albanian legal framework, the notion of public services is expressed in law no. 13/2016 "On the way of providing public services over the counter in the Republic of Albania". According to this law, "public service" is the product that is offered by the institutions of state administration, independent and local government, within their jurisdiction, to natural and legal persons, based on their request and that results in a response of the forms of various, such as certificate, license, permit, certification, etc., from the responsible institution, provided for in the law. ((Law 13/2016, art 4) As it follows from this definition, which is given by this special law, it does not cover the wide spectrum of public services that are performed by public and private entities but only deals with some public services that are offered in counters from state, independent and local administration institutions. So, this definition includes only some services of an administrative nature, which are performed within the framework of specific administrative procedures and which result in an exercise of the responsibility of the public authority of the state based on the request of the interested subjects. It does not take into account the wide range of administrative procedures carried out by public bodies. It leaves out of the spectrum of coverage all those public services that are presented as a public need, either as an activity initiated mainly due to the nature of the public function that forces the intervention of the public body or even at the request of interested parties and that represent in the most meaningful sense to expand the scope of activity of the state administration. (Law no. 44/2015, art. 41)

If we analyze further the services that are considered public and their types, we notice that in the Albanian legal framework, there is a framework law for services, which aims to determine the right to exercise the activity for providers (private) of services in the Republic of Albania. The law excludes from its scope a wide category of services or activities such as non-economic services of general interest; services in the field of transport, including road, rail, sea, and air

transport; health and pharmaceutical services, provided with a therapeutic purpose, through health care structures or not, and regardless of the way their financing is organized or whether they are public or private; activities related to the exercise of official authority; social services offered to individuals and groups in need, who are unable to meet, with the resources they have, their vital needs, provided by the state or non-public entities, licensed by the state; social housing services, etc. (Law no. 66/2016, art. 2)he law, assessing the fact whether a service is performed for a fee or not, has classified services of general (public) interest into two categories: services of general economic and non-economic interest. (Law no. 66/2016, art. 3)

According to the legal framework, public or private entities that operate these services in these sectors must be supported by the state to cover the uncovered costs of the service through state aid that is subject to special regulation by law. (Law no. 9374/2005, art. 13 /3) Law no. 9374/2005 "On state aid", sanctions the obligation of the state through a certain mechanism known as the State Aid Commission, to help public or private entities operating in the field of services of general economic interest and public. In the sub-legal framework that regulates the field of state aid, we find a more comprehensive definition of the notion of services of general public and economic interest, as any service in the general interest, which the beneficiary enterprise is charged or obliged to provide, based on a mandate of public service. (DCM no. 650/2016). Whereas, a public service mandate is considered a legal act, in the form of a law, decision, concession or contract, private or public, public private partnership, based on which the enterprise is charged or obliged to provide a public service. For example, in the law on the energy sector, the establishment of the public service obligation by the decision of the Council of Ministers is defined as licensees in the electricity sector who exercise the activity of production, transmission, distribution, and supply of electricity. (Law no. 43/2015, art. 47)

From the analysis of the legal framework in general, it results that the basis of the work of the state administration is not only its administrative activity that is related to the exercise of public authority in the creation of rights and obligations towards subjects, but also a series of other activities which by nature are not categorized as administrative, but can have an economic or non-economic character, for example social (health, education), industrial, etc. and that meet the important needs of citizens and other subjects. These types of economic or non-economic, social activities are included as part of state responsibility in various areas of governance. It seems that the legislator has followed the model of not providing a definition of what public services are that are performed at the central level by the state administration. In material terms, this would constitute a narrowing of the discretion enjoyed by the executive power.

5. Conclusions

Albanian law has followed the French legal model in the construction of a framework legal framework for the organization and functioning of the state administration, evidencing that public services are the object of the daily work of its activity. It is not without purpose that the legislator, like other countries, has not given an exhaustive definition to the notion of public services. This is because the legal institute has a complex nature. After all, it includes in itself the addressing of the basic economic and social needs, through the imposition of the obligation on certain subjects, public or private, to carry out activities in the interest of the public. Another difficulty encountered is that the concrete object of public services is the provision of goods and public goods, which in themselves represent dynamic social-economic needs. This implies that there cannot be an exhaustive list of them, but they vary over time and space in different jurisdictions.

Also, giving a definition would narrow the discretion of the legislative and executive power about the shaping, structuring of the government and administration, and further regulation of a public service that may be newly born. On the other hand, the diversity of schemes for the

provision of these services by public or private operators represents another influencing issue. In the construction of a definition, one of their special characteristics should be taken into account, which has to do with the obligation to offer them to certain categories or the entire community, providing them with access, quality, continuity, and equal rights.

As discussed in the paper, the main influence towards the construction of a profile of what are and what is included within the notion of public services has been given by Community law. To improve and increase their efficiency, community law has encouraged member states to consider public services between competition and the legal reserve of the state. Despite this impact, it must be said that the horizontal determination in the special jurisdictions of what public services are should not violate community law in the field of the free market and competition. Therefore, the regulation by law of the concept of public services and their categorization represents a difficult task and a balanced solution that will take into account both national and local interests, as well as the evaluation of different areas of sectoral policies in which the EU- enjoys the competence.

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Compensation scheme of former political prisoners in Albania, as a matter of transitional (in) justice

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Abstract

The change of the political and legal system in Albania gave birth to the great hope, not only of the triumph of dignity, but also of the correction of injustices towards former political prisoners. In Albania, from 1991 to 2008, a series of legal measures addressed the issue of former political prisoners. Their purpose was not only to legally consider punishment for crimes of a political nature as unjust, but also to award compensation. But, in the span of 17 years they remained a formal statement on paper, an inadequate legal solution that in very few cases became effective. At the beginning of 2008, with the entry into force of the law on the compensation of former political convicts, an administrative compensation process was sanctioned that offered a reasonable solution in terms of time and amount of compensation. However, the subsequent legal changes recognized the right of the state to carry out a compensation process based on budgetary possibilities and did not condition the realization of this process in terms of time.

The paper aims to analyze the concept of transitional justice in international and domestic law, highlighting its main instruments, as well as focusing on compensation for former political prisoners in Albania. The work through the analytical and comparative method supports the hypothesis that the compensation of political prisoners designed as an effective tool for correcting the injustice caused during the years of communism is bringing back new injustices, which are incompatible with the principle of the rule of law and human rights. The compensation scheme for political convicts in Albania has created not only legal uncertainty regarding the time of compensation, but also such a duration can lead to inequality and discrimination. The paper recommends the need for immediate legal changes to build a fair, fast and effective compensation mechanism.

Key words: Transitional justice, rehabilitation, compensation sceme, ex political prisoners.

1. Preface

The developments that followed the Second World War represent the most important moment in the reformation of the conceptual framework of international law. From a right that addressed issues and elements of relations between states, as its subjects, to a right that as a subject also included individuals who are under the jurisdiction of a state. Precisely, this moment marks an important turning point in the approach of international law, from a right that was an instrument of states, to a right that turned into an instrument of human dignity and basic human values. This shift is undoubtedly dedicated to a new ideology on human nature, basic values, needs and relationships that characterize it from birth to death, and on the role and functions of the state. This ideology was embodied in the regime of basic human rights and freedoms, which were first sanctioned in the Universal Declaration of Fundamental Human Rights and, subsequently, in a number of other international and regional law documents.

This new approach brought important implications in two aspects. First, if a state has ratified legal documents of international or regional law, the doctrine of fundamental rights and freedoms makes the state automatically responsible for fulfilling the negative and positive

obligations associated with the application of any right in its jurisdiction. internal. Secondly, the effectiveness of the guarantee of fundamental rights is no longer only a matter of domestic jurisdiction with the fact, but also of international law, paving the way for the possibility to address violations through the mechanisms of international or regional law.

In the large range of fundamental rights, an important place is occupied by the status of the right to redressal from illegal actions and acts of public bodies. Its legal nature is the object, not only of a series of legal documents of international and domestic law, but above all of the jurisprudence of the International Courts and the constitutional ones of the special jurisdictions.

2. The right to redressal in international law and Albanian Constitution

The right to redressal, which in Roman law is considered a fundamental right based on the principle ubi ius ibi remedium, where there is a right there is also a remedy. (Laplante, 2007) In international law, for the first time, it was formulated by the Permanent International Court of Justice in the Chorzow Factory case. (Chorzow Factory Case, Germany vs Poland, PCIJ, 1928) This Court, interpreting the principle of redressal, states that it represents a principle of international law and a general concept of law, which means that every violation must be compensated. This principle, as most treated in international law, according to the Permanent International Court of Justice, is based on the restoration of the situation that existed before the violation occurred. At its core is making, as soon as possible, the reparation for the damage suffered as a result of the violation, the elimination of all the consequences that have come as a result of the illegal action and the restoration of the previous state as if the violation had not occurred. The redressal consists in the return in kind or, if this is impossible, in the payment of an amount corresponding to the value of its return. (Chorzow Factory Case, Germany vs Poland, PCIJ,1928, p 47) This principle formulated in the Chorzow Factory case and applied later in other disputes that regulate relations and responsibility between states in case of violation of international treaties or customary international law has had a great influence in the field of human rights. (Shelton, 2005)

For the first time, in the field of human rights, the right to redressal was sanctioned in the Universal Declaration of Human Rights. In Article 8, this document guarantees every person "the right to have effective legal remedies before competent national courts to redress actions that violate fundamental rights guaranteed by the constitution or by law.". (UDHR, art 8) Later, this right was also provided for in the European Convention on Human Rights, which, in Article 13, sanctioned: "the right of every individual who has been violated the rights and freedoms defined in this Convention, to be offered an effective solution before a national body, despite the fact that the violation was committed by persons acting in the fulfillment of their official functions.". A few years later, the right to effective legal remedies was affirmed in the ICCPR, which imposes on member states the obligation to enact laws where necessary to make the rights recognized by the Convention effective. and provide effective remedies for their violation. (ICCPR, art. 2, para. 3) Also, Article 14 of the Convention against Torture and Inhumane Treatment sanctions the obligation that "Each State Party, in its legal system, ensures the victim of an act of torture the right to seek reparation and to be compensated fairly and adequately, including the necessary means for rehabilitation as soon as possible. In the event of the death of the victim as a result of an act of torture, those who suffered from it have the right to remedy." (Convention against Torture, art 14) Although the International Convention on Economic, Social and Cultural Rights does not include the concept of domestic legal remedies, the UN Commission on Economic, Social and Cultural Rights has repeatedly stated that the obligation to realize economic and social rights "by all appropriate means" means the internal provision of legal remedies or other effective means.

In the Constitution of the Republic of Albania, the right to redressal from illegal acts and actions of public bodies is included in the chapter on personal freedoms and rights. The Constitution recognizes everyone's right to be rehabilitated and/or compensated in accordance with the law, in case they have been harmed due to an illegal act, action or inaction of state bodies. (Albanian Constitution, art 44) It was not without purpose that the constitution maker created the provision, that for the damage suffered by the illegal acts, actions or inactions of the state bodies, persons have the right to raise two claims a) rehabilitation, and/or b) compensation of financial interests. Dictionaries of the Albanian language define rehabilitation as the official return to someone of the rights they had lost or were unjustly taken away; restore the good name or honor that was tarnished; call it good or valuable again. (Albanian Dictionary, 1982) Therefore, the right to redressal is closely related to the cause of the damage and the resulting obligation to compensate it. It is a legal institute that finds special treatment in our Civil Code (Albanian Civil Code, art 608) and in other legal acts. The obligation to redressal leads to the birth of legal responsibility, the purpose of which is to protect the subject and his property from the consequences of the illegal and harmful actions of the persons who commit such an action (Nuni, 2012). Responsibility means that a subject must be liable on a human, moral, or legal level for facts, actions or events committed by him or that he is a participant in them and answer to the consequences derived from them. (Sheriff, 2021)

If we analyze its purpose and content, we notice that the right to redressal has a complex nature. It is presented as a procedural right, where the victim must be given the right to complain and be heard before an impartial decision-maker regarding the violation of a right, as well as a material right that implies making adequate reparation for the damage suffered. As such, the right to redressal is closely related to another right, the violation of which result in the arising of the right to redressal. The right to redressal, as a separate right, can have a mixed nature, i.e. personal (non-property) and property at the same time, due to the fact that it aims not only to protect the financial interests of the subject, but also personal ones, dignity, reputation, personality, etc.

3. The right to redressal of former political prisoners, as an instrument of transitional justice.

One of the main challenges of the democratic state during the transition period is how to achieve social justice, how to build a future in peace and economic and social prosperity, serving the interests of society in general. In this phase of great political, economic and legal transformations, the realization of the constitutional aspiration of justice requires taking as a basis, not only certain economic and social circumstances or values such as: needs, merits, services, but above all also valuing the protection and respect for basic human rights and freedoms, such as freedom, private property, etc., violated for decades during the communist system. This view is based on the presumption that in a democratic order human rights and freedoms are considered as rights of a natural character, indivisible and inalienable from him. This view, which is known in doctrine as transitional justice, was an expression of the conviction that a country based on democratic values cannot be built and developed without looking at the historical background to see the violations suffered by basic human rights and freedoms, as well as without repairing as much as possible the consequences of this violation. (Williams, 2007)

In 1996, the Parliamentary Assembly of the Council of Europe, through Resolution 1096/1996 "On measures to eradicate the communist totalitarian past", made a valuable contribution to the drafting of a conceptual framework on transitional justice. The importance of this document lay in the fact that it specifically addressed the nature of the reform measures that former communist states must undertake to build a future in peace and social harmony and the effects they bring to the construction and consolidation of the democratic state. One of the main

measures that former communist states must undertake as part of transitional justice reforms, is reparative in nature and is related to "...rehabilitation of persons convicted of "crimes", which in a civilized society do not constitute criminal acts and those who have been unjustly punished. Material compensation should also be given to these victims of totalitarian justice and should not be (much) lower than the compensation given to those unjustly convicted of crimes under the current standard Penal Code.". (PACE 1096/1996, art. 8)

Only in 2004, the United Nations Human Rights Committee analyzing the legal obligations imposed on states by the International Covenant on Civil and Political Rights made a clear definition of the right to redressal sanctioning, among others, that "the obligation to provide effective legal remedies to individuals whose rights have been violated as defined by the Covenant, is not fulfilled if those individuals are not offered compensation.". Resolution 60/147/2006 of the General Assembly defined what the right to redressal includes, specifically including:

- restitution, measures aimed at returning victims to the initial situation before the serious violations of international human rights law occurred, such as restoration of liberty, enjoyment of human rights, restoration of employment, return of property etc.
- compensation, economic measures for physical or mental injuries, lost opportunities, material and moral damages caused by massive violations of human rights.
- rehabilitation, as measures of medical and psychological care, provision of legal and social services,
- the moral satisfaction of the injured, as measures that shift the focus from the victims to the perpetrators through efforts to prosecute them and establish the truth at the political, legal, scientific and cultural levels.
- guarantees of non-repetition include institutional reforms and measures aimed at consolidating democracy and rule of law mechanisms, which can minimize the chances that other massive human rights violations will be repeated.

As discussed above, the right to effective remedy that is sanctioned in a number of documents substantially includes the obligation of states to address past injustices. The wording in the above acts of international law of terms such as: effective means, fair means or appropriate means gives the decision maker a great flexibility in making the repair as long as there is no concrete definition of these means based on the type and nature of the violation.

Such a legal framework is considered as a source of corrective justice, as part of the doctrine of transitional law. Corrective justice tells us, among other things, what the law essentially allows or requires if someone has been denied, violated or violated a good that belongs to them. (Blumenfel, J.B., 2021) Undoubtedly, it is impossible to completely correct all violations or infringements of rights. For example, life and liberty lost are irreversible and irreparable. A rapist cannot undo the violation, or dictatorial states cannot erase the damage they have caused to generations. However, these damages can be compensated at least partially, firstly, by an apology, as a measure of moral reparation, as an indicator of feeling, remorse and reflection, which acknowledges the injustice and takes steps towards the restoration of moral relations. Corrective justice provides grounds for such pardons. Therefore, first, corrective justice requires measures of moral reparation. The demand for a large and deep social, political and legal apology to those whose lives were taken or their freedom was taken away for criminal figures provided for in the legislation of the communist state, which actually represent postulates of freedom in a democratic order, represents an obligation essential of the new democratic state.

Second, these measures may also include providing compensation for the injustices suffered. Redressal refers to financial and material compensation. The main goal of correctional justice

reforms is to restore justice and social dignity of the victims of communist violence, to alleviate suffering and create favorable conditions for their social reintegration. According to Cohen (2016), the reasons that justify undertaking a reform with a corrective character should not be turned into reasons for a justice of another character, that of distribution. (Cohen, 2016) This is due to the fact that the compensation of former political convicts should not be seen as a benefit in the framework of distributive justice measures, which has as its object the causes of how and why people in a group can have benefits and certain responsibilities regarding the distribution of various goods in society.

In this perspective, the right to redressal includes, on the one hand, the obligation of states to guarantee at the law level the necessary measures that guarantee the rehabilitation of victims of communist violence, as well as ensure the effective procedures for the realization of this right. The purpose of this mechanization of transitional justice, as stated in the Albanian law, is the commitment of the democratic state in the punishment of the crimes of the totalitarian communist regime, the restoration of justice and social dignity or the creation of favorable conditions, for their social reintegration, as well as guaranteeing them a better life. (Law no. 9831/2007, art. 2) It is unimaginable that the right to effective remedy, which itself emphasizes the "effective" character of this right with a corrective nature in many international documents, would not be successfully implemented in practice. Such a thing would lead to situations incompatible with the principle of the rule of law that the contracting states undertook to respect when they ratified the ECHR. (Kennedy v Hungary, 2006, Kaic etc v Croatia, 2008)

4. The right to redressal of former political prisoners in view of the jurisprudence of the Constitutional Courts of the SEE countries

For the former communist countries, the unjust punishments that occurred during the period of the communist regime became a matter of justice. The Lithuanian Constitutional Court held the position that: "the primary goal of law in a democratic state, and therefore of the law "On determining the status of politically persecuted persons during the years of the communist regime and Nazism" is justice and its assurance.". (LCC, Case no. 04-01(99), 1999) Meanwhile, the German Federal Constitutional Court in relation to this topic has stated that "the state and society, in accordance with the principle of social justice, have the obligation to share the burden or concern that has been inflicted on certain social groups by sanctioning by law concrete rights for redressal of the victims". (GCC, Decision December 12, 2000) According to this Court, the compensation of political prisoners should have both symbolic and financial value. This means that these people who suffered so much during the communist regime, should not only benefit from something concrete as a sign of the obligation, attention and commitment of the state and society towards them. (GCC, BvR 1804/03, 2004) The German Constitutional Court takes the position that: "In the construction of such a compensation system, the legislator has a wide scope of evaluation, taking into account the nature and purpose of the repair that will be made. In this way, the legislator can determine the amount of compensation according to the financial means available, as well as take into consideration other expenses. (ECHR, Von Maltzan etc vs Germany)

The Romanian Constitutional Court, speaking on the nature of redressal for former political prisoners according to Romanian legislation, emphasizes that the objective of the Law no. 221/2009 is not to return to the same situation before the serious violations of the law of human rights. The goal is rather to produce a moral satisfaction, through the recognition and punishment of the previous measures that brought about the violation of human rights. (RCC, Decision no.1354/2010) Furthermore, the Court assessed that the obligation to assign compensation to persons persecuted by the communist regime has only a moral nature. This point of view, according to this Court, is motivated by several decisions of the European Court of Human Rights, which found that the provisions of the European Convention on Human

Rights do not impose specific obligations on member states to remedy injustices or damages caused by previous regimes. (ECHR, appl. no. 14849/08, Ernewein and Others v. Germany", 2009; appl. no. 7975/06 "Klaus and Yuri Kiladze v Georgia", 2010)

The Hungarian Constitutional Court, invested in relation to the constitutionality of the compensation scheme for former political prisoners, emphasizes the necessity of respecting the dignity and equal treatment of every person who is subject to the law. (HCC, Decision, 1-001-1995) According to it, the compensation scheme should have as its central idea the respect of the equal dignity of every person who, due to imprisonment or persecution for political reasons during the communist regime, benefits from the Constitution or the law the right to compensation. Even according to this court, the legislator was not obliged to give compensation to those who were deprived of their life and liberty. In regulating this issue, the legislator has wide discretion both to grant or not such compensation, as well as to determine how much budget funds should be provided for this purpose. (HCC, Decision no. 46/2000)

The right to compensation for political prisoners has been the subject of review and analysis by the Albanian Constitutional Court. (ACC, Decision no. 34, 2005) Analyzing the context of the transition, the Court emphasizes that regardless of the many problems inherited from the communist past and the difficulties faced by the state, albanian society has the moral and historical duty and responsibility to respect the right of redressal of political convicts within the possibilities dictated by the economic and social conditions, taking concrete measures to find a quick, suitable and sustainable solution in this direction. (ACC, Decision no. 34, 2005) The Constitutional Court maintains that the compensation of political prisoners cannot be based on the legal framework of period before the transition, confirming the retroactive character of this legal reform.

Our Constitutional Court offers the legislator an orientation on the amount of compensation for former political convicts, when it states that: "Compensation of ex political prisoners should be more than symbolic and financial evaluation. The value must take into account the many sufferings of political convicts, their dignity, the troubles and problems they face in their daily life. Redressal as a whole should be understood as positive obligations of the state to take appropriate measures that facilitate as much as possible the rehabilitation and reintegration of this category of people in Albanian society." (Ibid) According to the Court, the democratic state compensates these persons according to the conditions of economic and financial opportunities, based mainly on the important principles of justice and equality. This is due to the fact that... The principle of justice, in essence, requires taking into consideration the interests of other members of society as well as the public interest as a whole. It is impossible to eliminate all the many and deep injustices done over the years to these people by the communist regime. The main goal should be to reduce the consequences of these injustices as much as possible. (ACC, Decision no. 30, 2005)

Expressing itself on the nature of the right to redressal, the Constitutional Court emphasizes that "...the right to compensation cannot be treated as a subjective right.". The Court emphasizes the importance of respecting the principle of non-discrimination and equal treatment of all victims of serious human rights violations. According to the practice of the Court, discrimination happens when subjects in the same situation are treated differently without reasonable and objective legal justification. Of course, the definition of any criterion to qualify objective reasoning depends to a large extent on the value assessment and cannot be precisely defined. (ACC, Decision no. 78, 2015) According to it, only in exceptional cases and for reasonable and objective reasons can the different treatment of certain categories of persons who benefit from this right be justified. Such could be the case of differentiation in the treatment of persons who have suffered longer and more in the prisons of the communist regime, differentiation due to age, differentiation of relatives of persons who died or were shot for political reasons, etc.

However, what is important to note is that in this case, the principle of equality "... does not mean that all of them should receive the same amount in money, but that all should equally benefit from the same rights, within the space defined by the law". (Kritz, 1995)

5. The nature of the legal framework on the compensation of former political prisoners.

As discussed above, there are essential reasons in international and domestic law that justify the creation of an effective legal remedy, at the level of the law, that will address the issue of compensation for former political prisoners. In the framework of the construction of scheme of effective remedy, the main problems faced by the legislator is what nature, and above all, content will there be such a reform that will address this issue? Its content is closely related to some important characteristics that have a fundamental impact on the construction of a fair, reasonable and, above all, effective mechanism. It would be completely illogical and counterproductive for the creation of an effective tool to fail in its functionality, turning into an ineffective tool, holding hostage the realization of the aspiration of social justice towards former political convicts.

Analyzing in turn the main elements that are evident in such a legal reform, we can say that, first, as a transitional justice reform, it has a retroactive or retroactive character. The retroactive character is related to the fact that it refers to legal facts that happened in the past, that is, criminal punishments based on court decisions for political criminal offenses or acts of investigative or administrative bodies in the time of communism. This fact is also clear in the position held by our Constitutional Court, which states that: "reparation and compensation of political prisoners for their suffering or unpaid work during the previous regime, cannot be based on the legal framework of the pre-transition period.". In the function of building the compensation scheme, such punishments are considered unjust (Law no. 9831/2007, art. 3) and elements such as: type and measure of punishment, category of the subject (parent or heir) etc. serve as a basis for its construction. This essential issue of the compensation mechanism, in itself, answers the question of what are the types of punishments that will be considered unjust, and consequently what are the concrete legal acts, court decisions, acts of the prosecutor's office, investigation or administrative acts that have served for giving these punishments? Therefore, the legal fact of the past: the decision of punishment, exile, deportation, treatment in health institutions for crimes of a mainly political nature serves as a basis for rehabilitation and further compensation, that is, as a basis for making a corrective justice.

Secondly, the right to redressal has a personal, non-pecuniary character. (Art 6, 7) So, it is part of the personal rights. For this reason, this feature makes it non-transferable to other persons, unless otherwise provided by law. (Nuni, 2012) As we have stated above, the nature of this right is defined directly by the law as the non-pecuniary right. Even in cases where the law has not determined the nature of this right, the Constitutional Court has considered it as such. So, the Romanian Constitutional Court considered as a personal non pecuniary right. (RCC, Decision no. 1354/2010) Also, the Albanian Constitutional Court, examining the unconstitutionality of the law no. 9260/2004 "On the status of former political convicts", considered such a right as a personal right. (ACC, Decision no. 34, 2005) Undoubtedly, the main purpose of such a setting is to limit the effects of this right only to the titular person, or to the category of heirs up to a certain level according to legal definitions.

Thirdly, the nature of the compensation process for former political convicts represents another issue in the discourse of the construction of the compensation mechanism. At the heart of this discussion is whether the law will construct it as a judicial or administrative process. Undoubtedly, the legislator has the margin of appreciation based on such criteria as: suitability, effects, costs, speed, nature of the procedures and burden to decide about jurisdiction. In most countries of Southeast Europe, this mechanism is built as an administrative process, but there

are countries, such as the Czech Republic, that have entrusted the compensation process to judicial jurisdiction. (Roman, 2005) The Czech Republic represents one of the South-Eastern European countries that have successfully completed this transitional justice reform, not only because of the positive commitments of the state to financially support its realization, but also because of the legal nature of the decisions judicial.

Fourth, another essential issue is the definition of the categories of its beneficiary entities. This issue is closely related to the first issue, with the object of compensation, that is, with the nature of unjust punishments. When talking about capital punishments, then naturally the question is up to what hereditary degree can the right to compensation be extended? More or less the same question arises for other cases. Therefore, regardless of the fact that the right to redressal is considered as a personal right, the scheme should answer the question of to what extent it will extend according to the nature of the punishments. Undoubtedly, this is also a matter where the legislator enjoys a wide margin of appreciation, but circumstances such as the type of capital punishment, the long time that has passed since the fall of communism and the undertaking of the reform have meant that a large part of the persons who suffered the consequences of communism are no longer alive. This circumstance is a sine qua non for a wider scope of redressal also for the category of their heirs. Therefore, it is at the discretion of the legislator the right to determine to what degree of inheritance this right should be realized, and to what degree it is extinguished. In these cases, it is important to respect the standard of equality in the treatment of categories of beneficiary entities.

Fifth, the other important element of the mechanism is the value of compensation. In order to construct a reasonable value, it is important to consider elements such as the type and length of punishment. Such elements may condition the different financial treatment of categories of beneficiary entities. The margin of appreciation enjoyed by the legislator in this case, must be carefully evaluated in relation to the financial possibilities of the state. The ECHR and the Albanian Constitutional Court emphasize that the democratic state compensates these persons according to the conditions of economic and financial opportunities. (ACC, Decision no. 34, 2005) However, acts of international law, such as the Resolution of the Parliamentary Assembly of the Council of Europe 1096/1996, have provided essential guidelines on the amount of compensation for former political prisoners, which should not be (much) lower than the compensation awarded to those wrongfully convicted of crimes under the current standard Penal Code. (Pace 1096/1996, art. 8)

Finally, another issue underlying the construction of the mechanism is the criteria and conditions for granting compensation. These conditions should be considered as a limitation, a) legal, b) based on public interest and c) proportional to build a compensation mechanism that guarantees the right balance between the public interest and that of protecting the rights of social category of former political convicts. These criteria can be seen in two perspectives, the broad and the narrow. In the narrow sense, the conditions of the compensation scheme are those related only to the way of granting or executing the compensation, its division into installments, the duration of the compensation execution procedure. Whereas, in a broad sense, they include, in addition to the above, such limitations as: the deadline for submitting the claim for compensation, considering it as a preclusion deadline, the inclusion in the scheme of only a certain category of subjects and the exclusion of other categories (e.g. of the heirs of the third order), the determination of an amount of compensation even smaller than those given for the current unjust imprisonments, etc. Undoubtedly, the state has the right to set different criteria in a compensation mechanism. This is due to the fact that the circumstances of the general economic and social development condition the economic possibilities of the state in providing financial compensation to former political convicts. (ACC, Decision no. 34, 2005) In the formal legal aspect, they should only be established by law and serve a legitimate purpose based on the public interest. While in the substantive aspect, the conditions and criteria of compensation

must respect the principle of proportionality. This means that the restrictions must not be a disproportionate interference. In the present case, the limitations that come as a result of the criteria established by a legal mechanism, be it compensation, cannot create inequality, discrimination, legal uncertainty and an unjustified duration of compensation for the category of beneficiary subjects, or even more so excessively or extinguish the right for these reasons. The inadequacy or unjustifiability of each of them may constitute a reasonable cause for violating the right to compensation of former political convicts.

6. The legal framework on compensation for former political prisoners in Albania.

The issue of rehabilitation and compensation of former political prisoners in Albania has been in the attention of the Albanian state immediately after the change of the political and legal system after 1991. Characteristic is the fact that it has been addressed several times in a fragmented manner by a series of laws undertaken especially during the period 1991-1997, but without bringing concrete effects. (Law 7514/1991, Law no. 7598/1992, DCM no. 40/1993, Law no. 7748/1993, DCM no. 184/1994, Law 8246/1997) The instrument for the rehabilitation of the politically persecuted in Albania through the form of compensation for unjust imprisonment or persecution was materialized with the approval of law no. 9831, dated 12.11.2007 "On the compensation of former political prisoners of the communist regime". This is due to the fact that, until 2007, i.e. for about 16 years, the issue of compensation for former political victims remained a statement on paper. This law began to be implemented in 2009, while its partial effects began in 2011 and following.

Analyzing in turn the elements of the compensation mechanism sanctioned by the Albanian law, we note that the retroactive character of this scheme is related to the very nature of the law, its object and purpose and is embodied in the first provisions of the law, from Article 1 until article 5 thereof. Retroactivity is specifically expressed in Article 4 of the law entitled, the criteria for compensation, where the law refers to past legal facts such as capital punishment, deprivation of liberty, exile and deportation or having been isolated in the investigator or in a psychiatric medical institution proven through relevant legal acts such as court decisions, acts of administrative bodies, etc. Secondly, the law defines the right to compensation for former political convicts and even for their heirs as a personal right. (Law 9831/2007, art 6,7) The purpose of this provision is to limit the transfer of the right in all hereditary degrees as defined in the Civil Code, giving priority to the implementation of the special law according to the old principle, lex specialis derogat lex generalis.

Thirdly, Albanian law has built the compensation mechanism as an administrative process. Albanian law divides the administrative procedure of compensation into two stages. The first phase is characterized by the submission of the claim for compensation by the beneficiary subjects who have the burden of proof. Further, the examination, approval (including the financial assessment) or rejection of the right to compensation is carried out by the public body, the Minister of Justice. (Law 9831/2007, art. 29) As a transitional justice reform, with a temporary character, the law sets a deadline for starting the process of submitting claims for compensation (Law 9831/2007, art. 19) and a final or preclusive deadline for their delivery. Based on the way Albanian law has built the compensation mechanism, it should be said that the final legal act on compensation is the collective administrative act, the decision of the Council of Ministers for the approval of the list of compensation for former political convicts. (Law 9831/2007, art 9) Whereas, the second phase of the administrative procedure of compensation, the one related to the execution of the right, is left to the competence of the Minister of Finance. (Law 9831/2007, art. 13)

Fourth, as far as the beneficiary subjects are concerned, the legal framework on the compensation of former political prisoners divides them into two categories of beneficiaries.

The primary one, which includes the former political convicts of the communist regime, who remained alive, and the non-primary one, which includes his family members, when the convict is no longer alive, as well as the family members of the executed victims and persons interned or deported to camps. (Law 9831/2007, art. 6) The law allows the right to compensation for the heirs of former political convicts up to the second degree, and extinguishes this right for other degrees of inheritance. (Law 9831/2007, art. 8) As discussed above, this is a right of the legislator to extend the right to compensation to a certain category of subjects where the purpose of the compensation itself, which is to restore justice and social dignity of this layer or the creation of favorable conditions for their social reintegration, as well as guaranteeing them a better life. (Law 9831/2007, art 2)

Fifth, the Albanian law on the compensation of former political prisoners determines a reasonable amount of compensation according to the nature of the political punishments. The law stipulates that every political prisoner, for each day of the sentence served, in prison, psychiatric hospital, prison hospital, isolation in the investigator, from 30.11.1944 to 1.10.1991, shall be compensated in the amount of 2,000 (two thousand) ALL per day, while the persons who suffered internment in the barbed wire fenced camp until 1954, the compensation value is 1,000 (one thousand) lek per day, and other recently interned or deported persons a scheme is provided pension, which is regulated by the decision of the Council of Ministers. Thus, as discussed above, it is at the discretion of the legislator to determine an appropriate amount of compensation. The amount of compensation that the law determines is in accordance with the orientation given by the legal acts of regional political institutions, such as the Parliamentary Assembly of the Council of Europe for a compensation equal to that of current unjust imprisonments. (Peace Resolution 1096/1996)

Finally, the conditions and criteria for the compensation of former political prisoners represent the last, but not least, element of the mechanism itself. This is due to the fact that the execution of the right to redressal, as an effective tool for doing justice to these subjects, is closely related to the nature and content of these restrictions. In the conditions when the legislator encounters objective circumstances such as the impossibility of immediate repayment of the financial obligation for the compensation of former political prisoners due to budgetary implications, it has discretion to build a compensation mechanism that imposes such limitations. But, it is important that such restrictions, as we mentioned above, in view of the constitutional jurisprudence and that of the ECtHR, cannot extend to an unreasonable duration that conditions the essence of the right itself, cannot cause inequality or discrimination between subjects, they cannot create legal uncertainty on the execution of compensation decisions or, even worse, they cannot extinguish the right.

7. Discussion on the legal issues of the compensation scheme

The conditions and criteria for the compensation of former political prisoners in the Albanian law are sanctioned in articles 12 and 32. According to the law, the entire process of compensation in the value of the politically persecuted would be completed in 8 years (Law 9831/2007, art 32, initial version), according to some criteria or general principles that were defined in Article 12, such as the priority of submitting the request and the equal distribution of funds to all beneficiaries, provided that the value of the compensation is not below 100,000 ALL and greater than 1 million ALL. The sanctioning at the legal level of the general deadlines for granting compensation, according to some criteria and principles, constituted a very important element of the principle of the rule of law, and legal security, in the context of redressing the rights and human dignity of former political prisoners unjustly violated by the communist regime. But, before the implementation of the compensation law had started yet, in 2009, the compensation scheme underwent radical changes, which basically hit the legal

expectations created in about two decades of the category of politically persecuted, sanctioned two years ago, creating a confusing situation. (People Advocate, Annual Report 2013)

The legal changes of 2009, firstly, struck the principle of equality of compensation distribution, sanctioning that of proportionality. Secondly, according to these changes, the compensation scheme is no longer determined by the law itself, but by the sub-legal act, DCM. Thirdly, the most important, the legal changes repealed the provision on the general 8-year term, according to which the state was obliged to carry out the entire compensation process, no longer having a term on the completion of the process. (Law no. 10111/2009) In April 2011, within the framework of the determination of the compensation scheme, the Council of Ministers approved VKM no. 419/2011 "On the approval of the terms and scheme for the distribution of compensation funds for the politically persecuted", which sanctions that the compensation that this category benefits from will be divided into 8 installments, but without giving any deadline on the duration or completion of the process. (People Advocate, Annual Report 2013)

The by-law changes of 2014, despite bringing some positive aspects regarding the acceleration of the compensation of the primary category, worsened the normative framework on the compensation scheme and deadlines. (DCM, 684/2014) If we analyze their content, we do not find any sanctioned deadline for the realization of the compensation process, nor elements that regulate the scheme as required by law. (People Advocate, Annual Report 2015) In fact, this decision delegates the right to the Minister of Finance to order the distribution of the next installment according to the budget he makes available, leaving no legal answer and no guarantee at the law level when and how the promised compensation will be received.

The legal framework does not make it clear when subjects have the right to benefit from the indemnity installment. Even, in the conditions where the right to redressal is a private non-pecuniary right, the state's inability to execute compensation decisions may result in the extinction of the right due to the termination of the second heirs. When talking about persons of a relatively old age who lost their lives in the first years of the installation of the communist dictatorship, there can undoubtedly be cases of extinguishing the right to redressal as a result of the non-execution of compensation by the state. Such a situation can lead to inequality and discrimination in the treatment of subjects. Precisely, such inequalities cannot be created due to the ambiguity of the legal framework to determine a reasonable compensation scheme, which could eventually be extended for another 30 years. In 2023, that is, about 16 years after the adoption of the law, the distribution of the fourth installment of compensation has not yet begun. If we analyze the periodicity of compensation, the time that would be necessary to complete this process is about 30 more years from this moment. This would have two serious implications. The first implication is related to the unjustified duration of the execution of compensation decisions, in an extremely unreasonable time of around 50 years, which violates the very essence of the right. The second implication concerns the inequities that the compensation scheme can create. The non-execution of decisions due to the unavailability of funds from the state for such a long time may lead to the extinguishment of the right, due to the suppression of all or some of the heirs of the second rank.

The enforcement of the right to redresssal now, according to the law and the by-laws, extends to an indefinite duration. Abolition of the legal deadline for the completion and the continuation of this process conditioned only by the legal and sub-legal determination that connects the execution with the available budget fund and has violated the principle of the rule of law, and especially the legal certainty. The principle of legal certainty as an aspect of the rule of law includes, in addition to the clarity, comprehensibility and stability of the normative system, also trust in the legal system. (ACC, Decision 25/2014, and 15/.2016) According to the jurisprudence of the ECtHR, the predictability and clarity of legal acts and, in particular, the automatic nature of the norm, the alleged vagueness of some of its concepts are closely related

to the principle of proportionality. (ECHR, appl no. 27238/95, Chapman vs United Kingdom, 2001) According to this jurisprudence, the standard of reasonable duration that applies to most administrative procedures or judiciary is an essential element of the right to due process. (ECHR, 2021) In its jurisprudence, the ECtHR stated that it is up to the state to organize its legal system in such a way that it is capable of managing the technical and logistical infrastructure to guarantee that the compensation scheme is at all times " effective and fast". (ECHR, Broniowski vs Poland, 2004) ECtHR in its decisions has emphasized that the scope of assessment enjoyed by the state, although considerable, cannot be unlimited, and that the exercise of legislative discretion, even in the context of the most comprehensive reform complex of the state, cannot bring consequences contrary to the standards of the Convention. (ECHR, Broniowski vs Poland, 2004)

This problem has also been ascertained by the People's Advocate, who, while handling the complaint of a subject for the delay of his request for compensation as an heir of a former political convict, takes a position in his recommendation on the compensation scheme, according to him, the process of compensation has become more difficult and has not progressed at the desired rates, for reasons mainly related to the changes that the legislation has undergone over the years and the non-determination of a reasonable deadline for its completion. (Recommendation People Advocate, 2013) The Albanian state, through the restoration of a free and democratic society, has undertaken the commitment to create a legal system for the protection of basic human rights, where Albanian citizens are guaranteed the exercise of these rights. Also, these rights must be recognized and realized by the state, within a reasonable time, to make possible the benefit, in the concrete case of damages. (Recommendation People Advocate, 2013)

7. Conclusion

At the center of the doctrine of transitional justice lies the principle that it promotes democracy, revealing the dominant character of basic human rights and freedoms and strengthening the rule of law. The purpose of corrective reforms of transitional justice is the adoption of concrete measures that repair, as much as possible, the injustices of the past. As Teitel points out, these reforms have a functional and symbolic role in the transformational processes of post-communist states. (Teitel, 2000) The doctrine of transitional justice considers the time factor, both in terms of the undertaking of reforms, as well as in their progress and conclusion, as essential in their success, in particular, harmony and social peace in general. The issue of transitional justice after about 3 decades from the fall of communism should have been a closed file. According to the doctrine of human rights, it should be a model in the archive of history that shows how the democratic state based on fundamental rights and freedoms challenges evil, and manages to turn the course by becoming an example of their triumph. Indeed, the reparative reforms of transitional justice in Albania, such as the return and compensation of property, or the compensation of political prisoners, instead of being an example of forgiveness and justice, created new injustices, challenging the new order legal, in its basic principles, such as the rule of law and human rights.

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European Cultural Cooperation Projects in the Western Balkans

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Abstract
The EU and the Western Balkans are bound together by enduring cultural connections and a shared goal. In order to advance peace and good neighbourly relations, the European Commission decided in July 2019 to strengthen cultural cooperation in the Western Balkans. The Instrument for Pre-Accession Assistance (IPA II) launched an explicit call based on the Creative Europe Programme, encouraging applicants to suggest a consortium with the majority of partners from the Western Balkans in order to strengthen regional ties and increase local impact. Out of 350 entries, the European Education and Culture Executive Agency (EACEA) chose 13 projects with 91 partners. In order to most effectively heal the wounds left by the wars in the former Yugoslavia and to foster a sense of common citizenship in Europe, these cultural efforts are instances of cultural soft power.

Keywords
European Union, Western Balkans, European policies and transitional and consolidation processes, Cultural cooperation

Introduction
With the aim of establishing viable, prosperous, and democratic societies on a gradual route towards EU membership, strong ties already exist between the European Union and the Western Balkan nations. Together, the Western Balkans and the EU are working to advance strong legal protections, effective political and economic governance, media freedom, and a thriving civil society. Reforms are necessary for the development of Europe, but perhaps even more so, they are needed to enhance how the countries provide for their citizens[36].
The European Commission resolved in July 2019 to strengthen cultural cooperation in the Western Balkans as a tool for reconciliation and good neighbourly relations. A call was launched based on the Creative Europe Programme and supported by the Instrument for Pre-Accession Assistance (IPA II). Applicants were urged to establish a consortium comprised primarily of Western Balkan partners in order to strengthen regional ties and increase local effect.
The call's main goal was to promote reconciliation and good neighbourliness in the Western Balkans through cultural cooperation and production. The call's objectives were also to increase cultural cross-border cooperation within the Western Balkans region and EU Member States; to strengthen the competitiveness of the region's cultural and creative industries; and to improve inter-cultural dialogue among artists, cultural operators, and the general public.
A proposal had to be submitted by a partnership of at least five organisations (project leader and partners) from countries participating in the EU Instrument for Pre-accession Assistance in

[36] Western Balkans | EEAS Website (europa.eu)

order to be eligible. Organisations or associations, national councils, and public entities working in the culture and creative industries (except audio-visual) were eligible to apply. The project's leader and partners were required to be EU members and Western Balkan IPA II recipients (Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia).
The partnership had to meet the following minimum requirements: at least two organisations (project leader and/or partners) from at least two different Western Balkan IPA II beneficiaries, and at least two organisations (project leader and/or partners) from at least two different EU Member States.
Activities had to begin between January 1, 2021, and March 31, 2021. The project had a minimum term of 24 months and a maximum duration of 48 months.
The total budget set aside for project co-financing was projected to be 5,000,000€. The minimum award amount for each project was 100,000€, while the maximum grant amount was 500,000€. The grant amount proposed may have represented up to 85% of the project's total eligible expenditures[37].
Amongst 350 proposals, the European Education and Culture Executive Agency (EACEA) nominated 13 projects with 91 partners. The selected projects have covered a diverse range of sectors (cultural heritage, publishing, translation, creative writing, storytelling, graphic design, graphic arts, digital arts, visual arts, photography, film, theatre, dance, music, libraries, museum, architecture), and contribute to the cross-cutting objectives of the European Commission, through the participation of organizations from several countries: Serbia, North Macedonia, Bulgaria, Germany, Slovenia, Montenegro, Albania, Croatia, Romania, Belgium, Greece, Netherlands, Bosnia and Herzegovina, Kosovo, Austria, France, Latvia, United Kingdom, Italy.

Projects
Balkan Translations Collider has worked in the fields of publishing, translation, and creative writing. The project has focused on developing literary managers' capacity while offering hands-on experience in multinational settings. It has provided prospective literary mediators with new professional contacts, knowledge of worldwide book marketplaces, and the motivation and confidence to function on a global scale. The project has aimed to provide a platform for conversation between the publishing business and Western Balkan policymakers. In the long run, the project has sought to improve the exposure of Balkan writers and contemporary literature in Europe across language boundaries. Project coordinator Fondacia Sledvashta Stranica (Bulgaria); partners: Društvo za Izdavanje, Promet i Uslugi Goten Grup Dooel Skopje (North Macedonia); Glavni Grad Podgorica (Montenegro); Poeteka (Albania); Sršen Ivan (Croatia); Udruženje Argh (Serbia). Runtime 01/01/2021 - 31/12/2024. Grant awarded 324.234€[38].

Comics Alliance Network for Balkans has prioritised graphic arts, libraries, and museums. According to the consortium, Balkan historical comics have a history defined by nationalist discourse and communist propaganda. This is also true of many modern Balkan comics. This was something that the project's partners intended to change. In the spirit of the European Union's principles, they established a network to enable interaction between artists and specialists in the realm of historical comics in the Western Balkans and the European Union. To achieve this goal, the consortium has encouraged comic artists to explore history creatively in

[37] https://wbc-rti.info/object/link/23019; https://www.eacea.ec.europa.eu/grants/2014-2020/creative-europe/cultural-cooperation-projects-western-balkans-2019_en; www2.deloitte.com
[38] Balkan Translations Collider (npage.org); https://wbc-rti.info/object/project/22998; https://coopwb.cultureinexternalrelations.eu/project/balkan-translation-collider/

order to develop new works and original and unconventional contributions to the interpretation of European history in general and Balkan history in particular, with an impact on cultural spaces dominated by a cultural heritage with incompatible accents with European Union values. The initiative also promoted historical comics through cultural activities such as exhibitions, research projects, online platforms, and public debates on cultural and social clichés and stereotypes in the Balkan region. The project was aimed not only at professional target groups (artists, specialists, organisations) or comic enthusiasts but also at the general public and the local communities hosting the project through free access to cultural events (project exhibition itinerary in partner countries) and the online area (digital platform). Project coordinator Muzeul Județean de Istorie Brașov (Romania); partners: Centre Belge de la Bande Dessinée Asbl (Belgium); Ministry of Culture (Albania); Strip Centar na Makedonija - Veles (North Macedonia); Udruženje Ljubitelja Stripa i Pisane Reči Nikola Mitrović Kokan (Serbia). Runtime 01/03/2021 - 31/03/2023. Grant awarded 254.705€[39].

Immersive Storytelling has taken into account storytelling, cultural legacy, and digital art. According to the project's backers, the significance of cultural heritage, rests in the opportunities it presents for telling stories. Visitors frequently lack opportunities for involvement, education, and effective, concise communication of pertinent information. Cultural heritage sites need to develop creative distribution strategies using cutting-edge technologies that are intended to improve the user experience in order to draw in new audiences in a competitive market. These difficulties are particular to the Western Balkans as a whole, rather than just the cultural heritage institutions of one particular nation. The project's objective has been to create more immersive narrative experiences for visitors to cultural heritage sites using digital technologies in order to draw in new audiences and spread the ideals of Western Balkan cultural heritage more widely. Project coordinator Association Centre for Social Innovations Blink 42-21 Skopje (North Macedonia); partners: Arheološki Institut (Serbia); Aristotelio Panepistimio Thessalonikis (Greece); Fondatsiya Balkansko Nasledstvo (Bulgaria); Muzej in Galerije Mesta Ljubljane (Slovenia); National Institution for Management of the Archeological Site of Stobi Gradsko (North Macedonia); Navipro D.O.O. (Slovenia). Runtime 01/01/2021 - 31/12/2022. Grant awarded 338.055€[40].

(Non)Aligned Movements: Strengthening contemporary dance in the Western Balkans has addressed the dance and cultural heritage sectors. The goal of the initiative has been to foster a favourable environment and advantageous conditions for Balkan contemporary dance to thrive in a European setting. Furthermore, it has aimed to establish a collective curatorial practise in which co-working, co-creation, and co-learning drive new organisational forms and serve as a model for collaborative micro-politics. It has also aspired to strengthen the social impact of Balkan contemporary art and culture through dance, peer-to-peer learning, the preservation of endangered and unsystematized dance history, and knowledge systematisation. Project coordinator Station Service for Contemporary Dance (Serbia); partners: Lokomotiva - Centre for New Initiatives in Arts and Culture (North Macedonia); Nomad Dance Academy Bulgaria (Bulgaria); Tanzfabrik Kreuzberg Gug Haftungsbeschränkt (Germany); Umetniško Društvo

[39]Comics Alliance Networking for Balkans - CAN for BALKANS; Cultural Cooperation in the Western Balkans (cultureinexternalrelations.eu); https://wbc-rti.info/object/project/22997; https://coopwb.cultureinexternalrelations.eu/project/can-for-balkans/

[40] Immersium – Immersive Storytelling Driven Cooperation for Cultural Heritage Dissemination in Western Balkans; Open Call & Program- Hackathon Skopje- One Pager copy (uklo.edu.mk); https://wbc-rti.info/object/project/22987; https://coopwb.cultureinexternalrelations.eu/project/immersive-storytelling/

Nomad Dance Academy Slovenija (Slovenia). Runtime 01/03/2021 - 31/12/2024. Grant awarded 499.657€[41].

The themes of *Manifesta 14 Prishtina* included cultural heritage, museums, and architecture. The Internationale Stichting Manifesta, Amsterdam, which created Manifesta, the European Biennial of Contemporary Art, aims to advance modern art as a catalyst for political and social transformation. Prishtina, Kosovo, hosted the 14th edition in 2022. According to the consortium, unrestrained neoliberal policies of privatising open urban spaces have significantly altered Prishtina's landscape. The goal of *Manifesta 14 Prishtina* was to assist the locals in their desire to reclaim public space and to reimagine their city as an accepting metropolis in the centre of the Balkans. By creating a cross-regional collaboration platform that includes a wide range of artistic and civic activities across the Western Balkans, the initiative has sought to increase the reach and duration of the European nomadic biennial. Inspiring the creation of a new permanent institution for art and culture to further regional processes of reconciliation with a focus on minority groups, *Manifesta 14 Prishtina* connected architecture, urban planning, human rights, the arts, and culture. Project coordinator Internationale Stichting Manifesta (Netherlands); partners: European Roma Institute for Arts and Culture (Germany); Institute of Contemporary Art Sofia (Bulgaria); Kosovo s Architecture Foundation (Kosovo); Kuvendi i Komunes se Prishtines (Kosovo); Meydan D.O.O. (Serbia); Ngo Aktiv (Kosovo); Nvo Apss Institut Podgorica (Montenegro); Qendra Harabel (Albania); Muzej na Sovremenata Umetnost, Skopje (North Macedonia); Udruženje za Postkonfliktna Istraživanja (Bosnia and Herzegovina); Rritu (Kosovo). Runtime 01/01/2021 - 01/01/2023. Grant awarded 429.884€[42].

Museums, graphic design, and architecture have been the subjects of *ReCulture: Re-branding of cultural institutions in the Western Balkans*. The project's goal was to foster collaboration between the cultural and creative sectors in the Western Balkans and EU Member States in order to boost the visibility and update the appearance of Western Balkan cultural institutions. Specific project objectives have been: restoring the visual identities of Western Balkan cultural organisations and learning new communication techniques; enhancing the skills of emerging Western Balkan designers through fostering cooperation within the Western Balkans; acquiring and using new design abilities shared by European and Western Balkan design professionals; promoting new marketing approaches and testing new models of revenue for Western Balkan cultural institutions through education on new business skills; producing limited-edition souvenirs and establishing online gift shops. Project coordinator Kulturni Centar Trebinje (Bosnia and Herzegovina); partners: Fakultet Dramskih Umetnosti (Serbia); Fiels Og (Austria); Ink Fest (Serbia); Muzej Savremene Umjetnosti Republike Srpske (Bosnia and Herzegovina); Umjetnička Kolonija Danilovgrad (Montenegro); Musée des Civilisations de l'Europe et de la Méditerranée (France). Runtime 01/01/2021 - 30/04/2024. Grant awarded 466.852€[43].

[41] (NON)ALIGNED MOVEMENTS Strengthening contemporary dance in Western Balkans | Desk Creative Europe Serbia (kreativnaevropa.rs); (NON)ALIGNED MOVEMENTS Strenghtening contemporary dance in Western Balkans - Creative Europe Desk Slovenia (ced-slovenia.eu); (Non)Aligned Movements - Nomad Dance Academy; Blind Spots and Placeholders: Re-Aligning Non-Alignment | | Tanzfabrik (tanzfabrik-berlin.de); https://wbc-rti.info/object/project/22999; https://coopwb.cultureinexternalrelations.eu/project/non-aligned-movements/

[42] Manifesta 14 Prishtina Homepage – Manifesta 14 Prishtina; https://wbc-rti.info/object/project/22988; https://coopwb.cultureinexternalrelations.eu/project/manifesta-14-prishtina/

[43]ReCulture: Re- branding of Cultural Institutions in Western Balkans | Desk Creative Europe Serbia (kreativnaevropa.rs); ReCulture: Rebrendiranje ustanova kulture na Zapadnom Balkanu |

Regional Lab's project has built on existing experiences and collaborations on film and theatre productions to develop: regional and European exchange, creating a dynamic scheme of artistic interaction between cultural centres; generating evidence-based knowledge on new participatory models of operation; building the capacities and skills of artists and cultural operators to act regionally and internationally; and raising the visibility of regional collaboration both on a local and European level. Project coordinator Kooperativa - Regionalna Platforma za Kulturu (Croatia); partners: Anibar (Kosovo); Asociacija – Društvo Nevladnih Organizacij in Posameznikov na Področju Kulture (Slovenia); Asocijacija Nezavisna Kulturna Scena Srbije (Serbia); Jadro - Association of the Independent Culture Scene Skopje (North Macedonia); Omladinski Kulturni Centar Abrašević Mostar (Bosnia and Herzegovina); Savez Udruga Operacija Grad (Croatia). Runtime 15/01/2021 - 15/01/2024. Grant awarded 424.010€[44].

Re:Play: Redesigning playscapes with children in the Western Balkans has advanced the fields of architecture, film, and digital arts. In order to build playscapes that are driven by the community, children were included in the creation process, and their needs were taken into consideration. It has been working to reconsider play as a fundamentally human trait that urban design currently undervalues. In each partner country, five pilot projects have been carried out, putting the research and participatory designs into practise before being translated into a variety of dissemination products like co-creative design handbooks, movies, blogs, and other publications. The goal of the project was to change the current state of play design in the Western Balkans region, where social, political, and cultural barriers frequently result in segregated and privatised playscapes with uninteresting, risk-free standard equipment. In the long term, all children who live in urban areas will benefit from the project's greatly improved spatial conditions for stimulating natural and unstructured play. Project coordinator Kulturno Okoljsko Društvo Pazi!Park (Slovenia); partners: Kreativni Krajobrazi doo za Poslove Prostornog Uređenja (Croatia); Ngo Gradonica (Montenegro); Qendra Marrëdhënie (Albania); Udruženje Škograd (Serbia). Runtime 01/01/2021 - 31/12/2023. Grant awarded 424.947€[45].

Rise of Women in Culture in the Western Balkans has addressed the visual arts, photography, and film. In order to encourage young female Western Balkan artists to create visual art, the project has worked to establish a network of regional curators and a virtual reality platform. Through two exhibitions, *Women about Women*, held both physically and virtually, it has also helped to promote and disseminate these artists' work throughout the Western Balkans and Europe. The project has increased awareness of the female perspective on observation and reaction to reality thanks to the liaison work of female curators and female artists. The project also included a residency programme with 30 female artists from the Western Balkans and Europe. Project coordinator Udruženje Fenomena (Serbia); partners Beoart Contemporary Association (Serbia); Nvo Spes (Montenegro); Organisation for Development of Culture and Ecology Sensus Skopje (North Macedonia); Udruga za Poticanje Razvoja Ljudskih Potencijala

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FDU (bg.ac.rs); https://wbc-rti.info/object/project/22989; https://coopwb.cultureinexternalrelations.eu/project/reculture/

[44] Regional Lab: New Culture Spaces and Networks as drivers of an Innovative and Sustainable Bottom-up Development of Regional Collaboration | Desk Creative Europe Serbia (kreativnaevropa.rs); Regional Lab - Creative Europe Desk Slovenia (ced-slovenia.eu); https://wbc-rti.info/object/project/22990; https://coopwb.cultureinexternalrelations.eu/project/regional-lab-2/

[45] RE:PLAY – Redesigning playscapes with children in Western Balkans – CED Slovenija (ced-slovenia.eu); RE:PLAY – Pazi!park (pazipark.si); https://wbc-rti.info/object/project/22991; https://coopwb.cultureinexternalrelations.eu/project/replay/

i Kreativnosti Prizma (Croatia); Lokarjeva Galerija (Slovenia). Runtime 04/01/2021 - 17/03/2023. Grant awarded 307.171€[46].

Theatre and cultural heritage have been a concern of *Some Call Us Balkans* (SCUB). In order to dispel myths and misconceptions about the Balkans, SCUB has worked to improve intercultural theatrical interaction between artists, cultural producers, and the general public in the Western Balkans and the EU. In order to build spaces of encounter that transcend nationalistic boundaries, the project has brought together a sizable consortium of partners and local NGOs as an interdisciplinary collective from various regions of Europe. Project coordinator Icse & Co (Italy); partners Biennale of Western Balkans (Greece); Kunstrepublik E.V. (Germany); Platform for Civic Engagement Through Artistic and Cultural Practices - Socio Patch (North Macedonia); Qendra Tulla (Albania); Rritu (Kosovo); Udruženje Građana Tačka Komunikacije - Dotkom (Serbia); Udruženje Nezavisnih Stvaralaca i Aktivista Geto (Bosnia and Herzegovina). Runtime 01/01/2021 - 30/06/2023. Grant awarded 312.467€[47].

#Synergy: *Sharpening the capacities of the classical music industry in the Western Balkans.* The project's themes focused on music and cultural heritage. *#Synergy* has attempted to overcome the challenges that are currently threatening the Western Balkans' classical music industry, which are caused by the region's recent conflicts, limited and fragmented art markets, and uneven economic development. The initiative has highlighted the necessity for collaboration in the sphere of classical contemporary music between Western Balkan and EU nations in order to increase the recognition of this significant peripheral cultural and creative industry on a European scale. The project's main objectives are reflected in the title: sharpening participants' talents (in classical music, the sign "#" is referred to as "sharp") and coordinating the efforts of the project partners. The project has linked six important art music festivals from the area (Albania, Kosovo, Montenegro, Serbia, Slovenia, and Croatia). Two composers from each festival, for a total of twelve, received co-commissions for brand-new works. Each composer participated in a residency programme in different project countries and created a work that offered an artistic response to an issue they felt was socially relevant. Selected young classical musicians from all the project nations performed these pieces to introduce the public to this new music. As a result, composers and performers have experienced significant worldwide growth, and festivals have profited from the global sharing of resources and expertise. In parallel, the project partners have been working on activities to strengthen their own abilities in cultural management. In six seminars (one for each couple), participants engaged in peer learning and experience sharing while discussing a variety of pertinent topics. Project coordinator Don Branko Sbutega Foundation (Montenegro); partners Asociacioni Kosovor Chopin (Kosovo); Centar Beogradskih Festivala (Serbia); Festival Ljubljana (Slovenia); Dubrovačke Ljetne Igre, Dubrovnik (Croatia); Vox Baroque (Albania). Runtime 01/03/2021 - 31/12/2023. Grant awarded 410.930€[48].

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[46] Rise of woman in culture in Western Balkans | Desk Creative Europe Serbia (kreativnaevropa.rs); ABOUT THE PROJECT AND THE PROBLEMS IT IS DEALING WITH – Biljana Jotić (biljanajotic.com); Exhibition Rise of Women INFO.pdf (europa.eu); https://wbc-rti.info/object/project/22992;
https://coopwb.cultureinexternalrelations.eu/project/rise-of-woman-in-culture/

[47] SCUB-home – Some Call Us Balkans; Some Call Us Balkans – Cultural cooperation project; https://wbc-rti.info/object/link/23019;
https://coopwb.cultureinexternalrelations.eu/project/scub-2/

[48] #synergy: Sharpening the capacities of the classical music industry in the Western Balkans - Creative Europe Desk Slovenia (ced-slovenia.eu); https://wbc-rti.info/object/project/22995;
https://coopwb.cultureinexternalrelations.eu/project/synergy/

The topics of *Translation in Motion* have been publishing, translation, and creative writing. The project, which was launched in February 2021, has been a collaboration between nine organisations (one European network, four literary organisations from the Western Balkans, and four from the European Union) and a number of associated partners. Its goals have been to support the development of the infrastructure, capacity, and skills necessary for literary translations to succeed in the EU and the Western Balkans and to promote a lively and balanced flow of translations from smaller European languages. The project's main focuses have been on literary translators as artists, cultural mediators, ambassadors of diversity and cultural dialogue, and vital contributors to the mutual enrichment of European literatures. Translation residencies have also served as centres for literary hospitality, for the professional development of aspiring translators, for the inclusion of translation centres in the Balkans, for their participation in a pan-European network, and for policy and public events devoted to the art of translation. Project coordinator Réseau Européen des Centres Internationaux de Traducteurs Littéraires - Recit (France); partners: Association pour la Promotion de la Traduction Littéraire (France); Doo Cetinje (Montenegro); Društvo za Izdavanje, Promet i Uslugi Goten Grup Dooel Skopje (North Macedonia); Fondacia Sledvashta Stranica (Bulgaria); Östersjöns Författar-och Översättarcentrum (Sweden); Poeteka (Albania); Sabiedrība ar Ierobežotu Atbildību Starptautiska Rakstnieku un Tulkotāju Māja (Latvia); Udruženje Krokodil (Serbia); National Centre for Writing (United Kingdom). Runtime 01/02/2021 - 31/08/2023. Grant awarded 347.468€[49].

The Ways of the Heroes has taken into account publishing, theatre, and the digital arts. The project team's goal was to engage on a multidisciplinary level in order to add dynamics to the public theatre sector and produce modern theatre that is based on neighbourhood needs. *The Ways of the Heroes*' has sought to highlight those who are actively working to improve the ecosystem and to produce modern artwork that engages with socially relevant ecological issues. The consortium claimed that there are many people doing good deeds, but they are not well-publicised. The project's focus has been on making visible the stories of everyday heroes through theatre, public space performances, exhibitions, illustrated children's books, and online campaigns. It was inspired by Ibsen's play *An Enemy of the People*, which explores the impact of the individual on the community and vice versa. *The Ways of the Heroes* has also examined how artists' creative processes have an impact on the environment. During the course of the coproduction, an international crew assembled documentary materials and reinterpreted the play. In order to encourage local communities to emulate the heroic methods of the past, the consortium has also shared stories of successful practises. Project coordinator Macedonian National Theatre Skopje (North Macedonia); partners: Association for Promotion and Development of Cultural Activities - Studio Teatar (Bosnia and Herzegovina); Eho Animato (Serbia); La Dramaturgie (Italy); Loop (Greece) Publishing House Gavroche Dooel Skopje (North Macedonia); Studio za Raziskavo Umetnosti Igre, Zavod za Kulturno Dejavnost (Slovenia). Runtime 15/01/2021 - 15/06/2023. Grant awarded 395.183€[50].

After this brief explanation, it's important to remember that EACEA has supported the 13 projects' dissemination in an effort to increase their international promotion, taking into account the Western Balkans' potential and the region's relatively low level of exposure for its cultural and creative industries. A project launch ceremony was held on May 19, 2021. A specific brochure has also been created as a multimedia publication with a wealth of information about

[49] About the project – RECIT – Réseau Européen des Centres de Traducteurs littéraires (re-cit.org); https://wbc-rti.info/object/project/22993;
https://coopwb.cultureinexternalrelations.eu/project/translation-in-motion/
[50] Home - The Ways of the Heroes; https://wbc-rti.info/object/project/22996;
https://coopwb.cultureinexternalrelations.eu/project/the-ways-of-the-heroes/

the projects and the participating organisations, including project summaries, images, and videos, along with all necessary links to project partners, relevant websites, and social media accounts[51]. These outreach programmes were carried out with the help of the Cultural Relations Platform[52].

Conclusions

As was already indicated, the 13 projects sought to strengthen local creative and cultural industries as well as cross-cultural collaboration. They also intended to construct inclusive and cutting-edge models for cultural projects based on the knowledge and expertise currently existent in the civil sector in order to promote long-lasting and stable cultural collaboration in the Western Balkans. The programmes have aimed at international solidarity and coexistence as well as expanding access to the arts and education, with a focus on gender identities and minority groups.

The programmes have given regional actors the possibility to lay a strong and long-lasting foundation for future regional cooperation by taking a more active part in the transition, reunification, and mutual support processes. They have presented an up-to-date map and analysis of existing arrangements relating to programme collaboration, management, and governance within the civil sector in culture, in addition to articulating this subject on a larger, multinational scale while maintaining ownership of bottom-up collaborative processes.

These cultural initiatives have made use of cultural soft power in order to most successfully heal the wounds caused by the wars in the former Yugoslavia and to encourage a sense of common citizenship in Europe. Relationships between the civil societies of the Western Balkan nations and those of the EU member states have been strengthened for the purpose of achieving this. Additionally, the initiatives were carried out in preparation for a time when the Western Balkan nations would also join the EU.

[51] European Commission, European Education and Culture Executive Agency, *European cultural cooperation projects in the Western Balkans: 13 projects that strengthen cultural cooperation and improve the cultural and creative industries in the region*, Publications Office of the European Union, 2022, https://data.europa.eu/doi/10.2797/811941

[52] Cultural Relations Platform (cultureinexternalrelations.eu)

Hybrid democracies of the Western Balkans

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Abstract

The governance models of Western Balkan states are now based on a liberal democracy and the development of an open and free economy. In the early 2000s, the European Union was very active in the Western Balkans, strongly promoting democratic values for good governance and strengthening the implementation of the rule of law, democratizing state institutions, with the aim of creating a legal order to protect and respect human rights. Despite the engagement of European Union structures, it is now evident that in some countries of the Western Balkans, there are tendencies towards an authoritarian model of the state, away from a functional system for effective governance. The reasons are mainly due to internal factors and circumstances of the region.

The international factor has consistently criticized these governance models being created in some Western Balkan countries, which take the form of hybrid democracies. This form of governance has already established its own status quo and is an approach that is resistant to change, both by international factors and by domestic governmental/political structures.

The integration of Western Balkan states into Euro-Atlantic institutions, especially the European Union, remains the main topic of discussion for key leaders, not only within the region but also among the main leaders of the European Union member countries. Integration is a complex process that requires mutual cooperation. On the one hand, serious commitment is required from Western Balkan countries to meet the conditionality criteria, and on the other hand, the European Union must be willing to undertake concrete initiatives for their inclusion. These initiatives may also require reforms within the structures of the European Union.

Diplomatically, initially, traditional bilateral relations were seen as the most reliable alternative to achieve Euro-Atlantic integration, which the Western Balkan countries aspire to so much. Despite numerous efforts, the Western Balkan countries now feel "fatigued" from the long wait, resulting from difficult conditions and technicalities. The governance of the region's countries is under constant pressure from bureaucracy and the weakness in decision-making of European Union institutions, as well as from the constraints and conditions applied over the years. This situation has led to an "internal upheaval" both within the political class and the civil society of Western Balkan countries. High-ranking political leaders of some Western Balkan countries have now taken joint political initiatives with regional significance.

Based on the various developments in a complex region such as the Western Balkans, this paper aims to present the implications that may arise in the Euro-Atlantic integration process from the involvement of actors with different geo-strategic interests.

Keywords: *Western Balkans, European Union, Geo-Strategic Actors, Euro-Atlantic Integration, Governance of Regional States.*

Introduction

Since 1990, the efforts of the EU to gradually open its borders have been oriented towards a group of transition countries with which it has signed association agreements. The goal was to support democratization and economic transformation in these countries. Changes in the geopolitical map of Europe required the expansion of economic areas towards the East and Southeast. Integration should not be misunderstood as merely elimination of borders, which would enable free movement towards European countries. Integration into the EU primarily entails the alignment and embrace of the fundamental values upon which this large intergovernmental organization is built and operates democracy, the rule of law, the protection of human rights, and the protection and respect of minority rights.[53]

The integration of the Western Balkans is a process that requires cooperation. On the one hand, it requires the Western Balkan countries to meet the conditionality criteria set, and on the other hand, the EU is expected to be ready to undertake such a step, which naturally also requires reforms within the EU structures.

Currently, the candidate status can only be granted through unanimous voting. However, the European Parliament has recently initiated an extensive reform process, aiming to abandon the principle of unanimous decision-making in all policy areas.

Today, the Western Balkan countries, their peoples, and their leaders are aware of the necessity of development stemming from the desire to achieve the standards that will pave the way for the region's European integration, namely, integration into the structures of a Union that challenges the old history of wars and conflicts and demonstrates to the world that Europeans know and are building their own new history. European integration means democratization, development, and well-being. The Western Balkan countries have been exposed to the problems and inconsistencies of EU countries, as well as to various possibilities regarding the speed of integration of these countries.

Based on the Stabilization and Association Agreement, as a perspective towards the European Union, each Western Balkan state has been offered preferential trade agreements, financial assistance, and help with progress in processes of democratization, political dialogue, and institution-building. Each state has the obligation to align with a package of EU measures designed to foster political, institutional, and economic reforms.

The term "democratization" describes a political process; just like democracy, it is not something static but rather an ongoing transformation. The establishment of democratic

[53] Daniel Piazolo, The integration Process between Eastern and Western Europe, Heidelberg, f. 5-7 dhe Europian Council, Conclusio0ns of the Presidency, Copenhagen, June 1993.

institutions remains one of the greatest challenges for Western Balkan countries, as well as the consolidation of democracy in societies that have gone through democratic transitions.

Democratic governance is inconceivable without the existence of free and competitive elections, but political elections cannot guarantee the realization of democratic governance. Liberal democracy is characterized, among others, by the rule of law, free political elections, the separation of powers, and the protection and guarantee of political, personal, and social liberties. Democratization can be defined as the process leading to the realization of democracy. It is a complex political, social, and cultural transformation that has undergone various developments in different countries and historical contexts. However, it has become clear from European institutions that the progress of Balkan countries' integration depends on how willing they are to pursue a post-nationalist strategy, improving regional connections and cooperation, guaranteeing minority rights, where economic capacity and trust in collective security, the well-being of the community of nations, and building a safer and more prosperous future, are ensured. The relationship between economic and political integration may vary on a case-by-case basis. Intra-regional economic integration within a state takes on the features of national economic-political integration. However, political integration may succeed while economic integration may fail. The processes of economic and political integration in the European Union have been linked since their inception. These processes have been intertwined from the beginning, not only due to historical reasons but also as a result of the perceived threat from the communist camp and the Cold War that was taking place during that period.

Since progress has been made in stability issues, Western Balkan countries will begin to increase their attention and focus on the reforms needed to achieve European standards. The economic and social agenda will be a priority, as there are significant complex problems present due to weak economies, such as high unemployment and inadequate social cohesion. EU policies for the region should focus more on fair and continuous economic development and also on expanding the benefits of economic growth for the poor, combating unemployment, social exclusion, discrimination, and improving social dialogue.[54]

The Western Balkan region has historically been a battleground for major global political powers. Great powers have competitively sought territories to gain the support of the population and establish a foothold in the region to promote their values. The highly heterogeneous population of the Western Balkans is connected to the occupiers and religious influences that have left their marks in history. Considering the significant mix of Catholic, Orthodox, and Muslim faiths, the region as a whole remains European in its mindset.[55] Through the promotion of democratic values, good governance, and respect for human rights, the European Union has been more actively involved in the Western Balkans since the early 2000s, assisting the countries in the region through the democratization of state institutions, strengthening the rule of law, contributing to regional stability and peace. Perhaps the most prominent feature of the situation in the Balkans was the security vacuum, both internally and externally, which was filled by the international community. Two approaches stood out from the international community: problem-solving from above and focusing on borders and external security. The policies employed included diplomacy, supported by threats of bombardment or

[54] The Western Balkans on the road to the EU: consolidating stability and raising prosperity',Communication from the Commission, 27 January 2006, COM(2006) 27 final.

[3] Hanna Smith and Cristina Juola, Hybrid CoE Trend Report, 2 MARCH 2020 “Western Balkans”, (EDS.),.

sanctions.[56] Meanwhile, the international community made it clear that it was willing to be present in the region for as long as necessary to achieve a sustainable political agreement.
As part of the Stability Pact, the international community also developed proposals for common security agreements for the region as a whole, which would enhance security, cut expenses, curtail smuggling, and enable joint institutions to resolve conflicts. Disputes between states, weak socio-economic conditions, and organized crime are all sources of instability in the region. Societies with such instability are prone to external influence, with external factors using these destabilizing elements to pursue their own agendas in the region. Border agreements and disagreements regarding the legal status of specific territories constitute an ongoing source of instability in the region. This indicates that the potential for security threats in the region persists, even for the EU and NATO, and the resolution of border disputes has become a wide-ranging political issue. To hinder regional development, external actors may provoke tensions through local disagreements and claim to maintain control and destabilize the region.
The socio-economic aspect is a key factor in instability. An evident weakness of the Balkan countries, as well as the entire region, is their weak economic condition and growing public debt. National economies lack sufficient funds to implement long-term changes that could improve the situation as required by the EU, while the financial support offered by the EU has been insufficient.
Low living standards, high unemployment, and skilled workers seeking opportunities for emigration have contributed to this trend while hoping to achieve better education, employment opportunities, and a higher standard of living. Young people are also seeking jobs beyond the region. This also indicates the difficulties encountered in achieving a healthy democratization process.
Around 25% of the population in the region has emigrated to countries with more developed economies, including Turkey and neighboring EU states.[57] One of the weaknesses related to economic structures is corruption, to which state institutions are prone, hindering the development and functioning of culture of law and the legal system. Corruption is a disease in many states in the region. The elites have benefited from it, and it is an integral part of the socio-economic situation in the region.

Conclusion

In the context of the conflict in Ukraine, it is essential for Europe, at a political level, to respond to calls throughout the region to accelerate integration into the EU. A revitalized accession process would promote progress in much-needed governance and rule of law reforms in these countries.
While the EU with its bureaucracy, is reluctant to continue the accession process for Western Balkan countries, authoritarian states are already challenging and will continue to challenge the EU values and the operational environment in the region. This implies a potential geo-political

[56]Daianu D., "Vitaliteti ekonomik dhe realizueshmëria: Një sfidë e dyfishtë për sigurinë Europiane, Frankfurt am Main, Peter Lang, 1996
[57] Hanna Smith and Cristina Juola Hybrid CoE Trend Report, 2 MARCH 2020 "Western Balkans", (EDS.), faqe 16.

competition between Russia and China in the Balkans. This is a proper illustration of how the region still functions as a battleground for major powers, where Western Balkan states are not treated as full-fledged partners in bilateral agreements.

The economic crisis that has affected the entire European and American continents, related to the war in Ukraine, may lead to a reduction in defense spending, which could inevitably result in cuts or withdrawals of international presence of NATO countries in crisis-stricken regions such as the Western Balkans.

The aforementioned factors may shift the focus of NATO and the EU to concentrate more on the Baltic countries and the crisis in Ukraine, diminishing the importance of the Western Balkans and relegating it to a secondary or tertiary priority.

The situation appears even more pessimistic when considering the crisis within the EU itself and its hesitation regarding enlargement into Western Balkan countries. The hesitation of the EU is compounded by the fact that some of its member states considered the accession of Bulgaria and Romania to the Union as a mistake, as their economic standards and internal problems related to corruption and the rule of law were below EU standards.

The gas crisis, fuel shortages, and grain shortages related to the war in Ukraine have made the situation even more difficult, especially for the Western Balkans as non-EU member states. Analysts' voices predicting a prolonged conflict in Ukraine make the integration of Western Balkan countries even more necessary since, in addition to other positive elements, it would bring greater stability and security in monetary and defense aspects.

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Etiology of attention deficit in individuals with autism spectrum disorder and the role of neuroscientific literature reviews

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Introduction

As mentioned in the Diagnostic and Statistical Manual (DSM-5) (APA, 2013), the main features of Autism Spectrum Disorder include (a) the presence of abnormal or impaired development in social interaction and communication, and (b) the presence of activities /interests/restricted and stereotyped behaviors (APA-DSM-5, 2013). Manifestations of the disorder vary based on the individual's developmental level (DL/IQ) and chronological age. In most cases, the diagnosis of ASD is accompanied by mental retardation, usually of moderate severity. About 75% of children with ASD show abnormalities in cognitive development regardless of the general level of intelligence (Armstrong, 2017; Shyman, 2016; Shic, & Scassellati, 2006). In addition, subjects with ASD exhibit a wide range of behavioral symptoms, such as hyperactivity, impulsivity, aggression, and decreased attention. For the latter, which represents the object of study of this article, the scientific community has used different methodologies (videos of adult-child interactions and visual tracking techniques) to investigate visual attention in subjects with ASD (Vacas et al., 2022; Chita-Tegmark, 2016; Guillon et al., 2014; Chawarska et al., 2013; Falck-Ytter et al., 2013; Gibson, 1994). Given that autism is usually not diagnosed before the age of three, the identification of prodromal symptoms of the disorder has been methodologically evaluated through retrospective studies using video of interaction (Chawarska et al., 2013). The advantage of this methodology is that it can provide a direct and ecological measure of the social orientation deficit present in subjects with ASD. Studies, exploiting the potential of highly sophisticated technology such as eye movement tracking, consider eye movements as important indicators of perception and attention (Yamamoto et al., 2017; Magrelli et al., 2013). Since this assessment method provides the right balance between ecological and medical validity, it can be considered today as a unique method for identifying and characterizing subtle variations in visual attention of subjects with ASD (Shic et al, 2022; Vacas, 2022; Yamamoto et al., 2017; Chita-Tegmark, 2016; Guillon et al., 2014; Falck-Ytter et al., 2013). Studies have shown that this form of methodology can be used with all populations (from newborns to adults) regardless of the level of verbal and non-verbal functioning (Guillon et al., 2014; Simion et al., 2008).

Behavioral studies modeled on static and dynamic social stimuli

Because the processing of social stimuli is one of the essential elements of social development, especially in interpreting the emotional state of another individual, much scientific and neuroscientific research has focused on understanding these difficulties in individuals with ASD. According to several studies that have used samples of early-age children, subjects with ASD, compared to subjects with Typical Development (TDP), have shown reduced levels of attention to children in relation to social stimuli (faces) (Shic et al., 2022; Chawarska et al., 2013; Shic et al., 2011; Shic & Scassellati, 2006). When viewing a novel face, children with ASD use atypical visual registration patterns and take longer to recognize and integrate different parts of the face (Losh et al., 2020; Konst & Matson, 2014; Webb et al., 2010; Chawarska & Shic, 2009). Another interesting study is the one proposed by Hanley, McPhillips, Mulhern and Riby (2013). Researchers, while In the condition in which the face was placed within a social scene, the observation time of subjects with ASD was significantly shorter (idem). Therefore, using more social stimuli may increase the likelihood that subjects with ASD look less at faces than typically developing subjects. The same results were also reported in the studies of Vacas et al., (2022), Chevallier et al. (2015) and Falck-Yter, (2013). In their research, the researchers compared attention to social stimuli in three different conditions: 1) visual exploration of static stimuli (12 sets containing 12 static images of objects and faces that varied in size and complexity); 2) sets of visual exploration of dynamic stimuli (12 matrices of video clips showing people and objects) and 3) sets of interactive visual exploration (22 videos of children playing with some objects sitting on a table or on the floor. By comparing two groups of subjects (ASD vs ZHT), the study investigated the influence of stimulus type (static, dynamic and interactive) on attentional task ability and evaluated the effectiveness of different types of stimuli. for differences between groups. A comparison of three experimental forms of eye movement tracking revealed that changes in attention in ASD subjects were more evident when the latter viewed dynamic social stimuli present during interaction. Moreover, regarding the differences between groups, the data showed different visual attention in the visual-interactive exploration task in the two groups of subjects (Vacas et al., 2022; Chevallier et al., 2015; Falck-Ytes, 2013). In line with the idea that in reality, social stimuli are presented in a dynamic form, other eye-tracking studies have examined the attentional responses of children with ASD to this type of stimuli. Shic et al., (2011), using an adult-child interaction video, assessed attentional responses in three groups of subjects (28 ASD, 34 ZHT and 16 ZHV- Developmental delay) with a mean age of 20 months. The results of this study showed that when children with ASD watched a video of parent-child interactions(engaged in simple social games or a shared activity), they focused mainly on the background rather than the activity. Also, another analytical study showed that, when subjects with ASD looked at people present on stage, they focused more on the body parts than on the faces of the "actors" (idem). According to the researchers, it is likely that subjects with ASD attribute little importance to the social aspects of the scene. These data are in line with other studies in the literature according to which, for subjects with ASD, social stimuli do not represent a “distinct” category of stimuli, as is the case in typical development (Mo et al., 2019; Sumner et al. , 2018 Kröger et al., 2013; Campatelli et al., 2013). These first results have changed the way scientists understand developmental differences in attention and social stimuli in children with ASD, where it is generally expected that diagnosis made before age 3 may

provide some information on the variability of typical attentional responses of subjects. with ASD (Sumner et al., 2018; Elsabbagh et al., 2013).

Behavioral studies with the presence of geometric figures

Another set of studies that has generated very interesting results is related to the study of the attention of subjects with ASD to "abstract" stimuli, such as geometric figures (Pierce et al., 2011, 2015; Shaffer et al., 2017; Shi et al., 2015). In their research, Pierce et al. (2011, 2016) hypothesized that subjects with ASD a) spend a long fixation time on geometric rather than social stimuli; b) have a preference for geometric stimuli already present at a young age (starting from the first year) and c) show a reduction in the number of face focuses when observing visual scenes. To test these hypotheses, the researchers developed a visual preference paradigm that examined looking time to highly salient social stimuli (eg, dancing children) compared to equally salient geometric images (eg, movements circular and repeating several concentric circles). The authors selected infants aged 14 to 42 months to assess changes in visual preference for geometric stimuli across development. Another group of children with developmental delay (LD) was included in this research to examine whether patterns of visual preferences were more related to a language delay or a cognitive delay. From the results, it was reported that children at risk of ASD (14 months) spent more time examining dynamic geometric images than subjects with ZHT and ZHV. However, this phenomenon was not ubiquitous in the sample of subjects at risk of ASD; more specifically, 40% of the subjects preferred the geometric stimuli, while 60% of the subjects performed similarly to the other two groups with ZHT and ZHV figures in relation to the social dynamic stimuli. Therefore, according to Pierce et al. (2011), the preference for geometric stimuli .

CONCLUSIONS

The overall objective of this study was related to the exploration of whether the deficit of visual exploration of social stimuli (faces) is a priority in the development of ASD symptoms or whether the latter is secondary to a non-specific deficit of visual attention present from the stages of the earliest processing of the stimulus. Based on the reviewed literature, among the variables that can determine the deficit of attention to social and non-social stimuli, in this research the perceptual complexity of images belonging to different categories was evaluated. The aim is to determine if it is the perception of the complexity of the images that determines the exploration of the deficit of visualization of social stimuli in subjects with ASD. As highlighted in the studies reviewed in this paper, the results of research in the literature are contradictory. It is likely that subjects with ASD focus less on social stimuli because they are not sufficiently “interesting and motivating” (Chevallier et al., 2015; Shic et al., 2011) or because they are not prioritized in their attention (Chawarska et al. et al., 2013). Moreover, the limited attention to social stimuli (Chaearska et al., 2013; Shic et al., 2011; Coffman et al., 2011) is likely a direct result of the higher salience of nonsocial stimuli (Sasson & Touchstone, 2014; Pierce et al., 2011, 2015; Shi et al., 2015; Shaffer et al., 2017). Despite these results, other studies have shown that core deficits in ASD cannot be attributed to changes in visual exploration of social stimuli, but rather result from early general difficulties in controlling visual attention. The latter, in turn, can cause self-regulation problems and compromise the acquisition of skills needed to process stimuli (Elsabbagh & Johnson, 2007; 2010; Elsabbagh et al., 2013a; Elsabbagh et al., 2013b; Sacrey et al., 2013). In the context of the present research, through which we intend to refer to explain the visual exploration difficulties present in ASD,

these difficulties are related to the presence of a non-specific Visual Attention Deficit present in the early stages of input processing visual (Elsabbagh et al., 2013; Elsabbagh & Johnson, 2007; 2010). According to the theory elaborated through the various researches explored, the attention difficulties present in subjects with ASD are not caused by changes in the visual exploration of social stimuli, but by the first general difficulties in the control of visual attention. These can cause problems of self-regulation and endanger the acquisition of skills necessary for the processing of stimuli (Elsabbagh et al., 2013). Since such deficits in visual attention are neither universal nor specific to autism, the presence of a nonspecific deficit in visual attention to socially relevant stimuli may be a necessary but not sufficient condition for the manifestation of difficulties present in the disorder. of the Autism Spectrum (idem). Future research could focus on the variability of attentional responses of infants at risk of ASD by considering many aspects, such as the use of different types of stimuli (static vs. dynamic, social vs. nonsocial, geometric vs. ecological), assessment of internal characteristics of stimuli (familiarity, complexity) and the effects of some variables (preference, pleasure, state of activation) in the responses of subjects with typical and atypical development.

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Legal instruments for determining personal insurance measures in the "Republic of Albania"

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ABSTRACT

Any restriction of freedom must be objectively justified and for a duration no longer than is necessary. In exceptional cases, when the limitation of freedom is considered necessary, it must guarantee the respect of rights and guarantees of a procedural nature, provided for in international acts that are mandatory to be implemented in domestic legislation.

The right to liberty means only protection from restriction of physical liberty. It is not easy to define the meaning of the term "restriction of freedom", but in general we will understand this as the obligation to stay in a limited space for a considerable period of time. In every country in the world, people are arrested and detained on suspicion of having committed a criminal offence. Often, these individuals are kept restricted from their freedom for weeks, months or even years before a competent court pronounces a decision on their case on the merits.

The conditions in which these individuals are kept are often the worst in the internal penitentiary system. Their legal status is in jeopardy as they are suspects but have not pleaded guilty and they are under enormous pressure, due to the damage they suffer in economic terms or separation from family and community.

The extended use of arrest in prison or at home, in the Republic of Albania, evidences a poor recognition of the conditions and criteria for assigning coercive personal security measures, by the actors of the criminal justice system, in particular by the prosecution and the court. However, the role of the courts remains fundamental not only for the correction of procedural actions carried out by the prosecution and the police, but especially for the guarantee of freedoms and fundamental rights, as well as the principles of the rule of law.

Key words; Reasonable Suspicion, Security Measure, Jail Arrest, House Arrest, Substitution, Pretrial Detention.

1. INTRODUCTION

The purpose of this paper is to analyze the most important international acts that recognize and promote the right to freedom and security, the jurisprudence of the European Court of Human Rights, our internal legislation of the Republic of Albania in this area of setting measures of security with arrest, as well as the findings that have resulted from what belongs to judicial practice for the assignment of measures of security with arrest. Given that the forms of restriction of freedom according to international standards and Albanian legislation are among the most diverse, the main focus of this dissertation is the analysis of standards and Albanian judicial practice, for determining the measure of personal security "prison arrest" and "arrest in house". This is because the forms of restriction of freedom are different and depending on them, the criteria and procedural guarantees for the persons to whom they are given also change.

2. SECURITY MEASURES IN THE CRIMINAL PROCEEDINGS.

2.1. Understanding security measures

Bearing in mind the requirement that the criminal proceedings have a normal flow to fulfill its purpose, in accordance with the procedures and deadlines provided for in the Code of Criminal Procedure, the legislator has provided in this code a series of procedural actions, including security measures . These measures should not be understood as criminal sanctions, but as tools that help the normal development of criminal proceedings and the fulfillment of its goals.

"Security measures are procedural actions that remove or limit the freedom and rights of the person against whom criminal proceedings are conducted. Their purpose is to prevent the further criminal activity of the one who has committed a criminal offense, to prevent his evasion of the proceedings, the efforts he may make to jeopardize the taking of the evidence or its authenticity, as well as to guarantee repayment of obligations arising from the criminal offense."[58]

Regarding security measures, the Criminal Panel of the Supreme Court [59] stated: *"The security measure is not a criminal penalty to be used as a punitive measure for the person who is suspected of having committed a criminal offense and, on the other hand, it is not given to facilitate the work of the prosecution body in the investigation of a criminal case. Security measures are applied for reasons and criteria clearly defined in articles 229 and 230 of the Criminal Code."*

There are some differences between security measures and criminal penalties:

a) The purpose of the security measures is to prevent the further criminal activity of the one who has committed a criminal offense, to prevent his evasion from the proceedings, the efforts he may make to endanger the taking of the evidence or its authenticity, as well as to guarantee the repayment of the obligations arising from the criminal offense,

[58] Islami, H; Hoxha, A; Panda, I. (2011). "Criminal Procedure". pg.301.
[59] Decision of the Criminal Panel of the Supreme Court nr.489, datë 12.12.2000.

while the criminal penalty is a sanction whose purpose is to protect society from criminal activity, to prevent the convicted person from committing a criminal offense in the future and to rehabilitate him;

b) The criminal sentence is the result of a judicial process in which the case was resolved on the merits and the defendant's guilt was established, while the judicial process regarding the measure of insurance does not decide on guilt or innocence, but decides on the possibility or not of applying an insurance measure and if so, which one;

c) The special nature of the trial and the manner and criteria on which the conviction of the court is created for the assignment or not of the security measure are different from those of the awarding or not of the sentencing decision. The judgment of the merits is based on the evidence that proves and convinces the court, beyond any reasonable doubt as to whether or not the criminal offense is the subject of proceedings by the defendant, while the judgment on the measure of security is based on reasonable doubts based on evidence that shows the possibility of committing the criminal offense subject to proceedings and the possibility of its attribution to the defendant (famus commissi delicti).

2.2.GENERAL PRINCIPLES RELATED TO SECURITY MEASURES.

2.2.1. The principle of legality.

Since the freedoms and rights of the individual are based on the rule of law and are specially protected by the European Convention on Human Rights and the Constitution of the Republic of Albania, even the cases of their limitation or removal must necessarily adhere to the principle of legality, because at the end of the day, limiting or removing individual freedom and rights is the exception and not the rule.

The basic principle on which they find support and apply the security measures is the principle of legality because the ECHR has determined that "*Everyone has the right to freedom and personal security. No one can be deprived of their freedom, except in the following cases and in accordance with the procedure provided by law*"[60]. Even in the Constitution of the Republic of Albania it is determined that *"Limitations of rights and freedoms can only be established by law,... and they cannot violate the essence of freedoms and rights and in no case can they exceed the limitations of provided for in the European Convention on Human Rights"*[61].

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[60]Article 5 of the ECHR, *"Everyone has the right to freedom and personal security. No one can be deprived of their freedom, except in the following cases and in accordance with the procedure provided by law*:
a. *when lawfully imprisoned after a sentence given by a competent court;*
b. when he is arrested or legally detained for non-compliance with an order issued by the court in accordance with the law or to guarantee the fulfillment of an obligation provided by law;
c. when he is arrested or lawfully detained to be brought before the competent judicial authority on reasonable suspicion that he has committed a criminal offense or when it is reasonably deemed necessary to prevent him from committing a criminal offense or his departure after its commission ;
d. when a minor is lawfully detained for the purpose of supervised education or for his lawful detention in order to be brought before the competent legal authority;
e. when legally prohibited to prevent the spread of contagious diseases, mentally ill persons, alcoholics, drug addicts or vagrants;
*f. when he is lawfully arrested or detained in order to prevent his unauthorized entry into that country, or if deportation or extradition proceedings are being carried out against h*im;
[61]Constitution article 17.

In Article 5 of the ECHR entitled *"The right to freedom and security of the person" it is predetermined that: "Everyone has the right to freedom and personal security and that no one can be deprived of their freedom, except when arrested or is legally prohibited from being brought before the competent judicial authority upon reasonable suspicion that he has committed a criminal offense or when it is reasonably deemed necessary to prevent his commission of the offense or his departure after its commission, and in in accordance with the procedure provided by law".*

In the second paragraph of Article 27 of the Constitution, and specifically in its point c, it is provided that: "*The freedom of a person cannot be restricted, except when there are reasonable suspicions that he has committed a criminal offense or to prevent him from committing the offense criminal offense or his removal after committing it."*

Only in cases of compliance with the principle of legality, which forms the basis of the application of security measures, it can be said that the security measure fulfills a legal purpose, the purpose of guaranteeing security needs, respecting the freedoms and rights of the individual, and minimizing any possibility of arbitrary deprivation of the freedoms and rights guaranteed in the ECHR and the Constitution. Any deviation from legal procedures carries with it the risk of arbitrary use of security measures in order to fulfill an illegal objective, which contradicts both the provisions of local law and the ECHR

Determining the exceptional nature of security measures [62], completed with the determination that the only body that can assign a security measure is the "court" as well as the provision of the possibility of appeal, revocation or replacement of the measure within the judicial system in accordance with legal procedures, guarantees that the deprivation of the individual's freedoms and the rights provided for in the ECHR and the Constitution when done in accordance with the principle of legality, pursues a legitimate purpose and minimizes the risk of arbitrariness.

The requirement of legality has been interpreted by the ECHR in the framework that refers to both the procedure and the substance. [63]. In Kurt v. Turkey [64] The ECtHR stated that "... any deprivation of liberty should not be implemented only in accordance with the substantive and procedural rules of local law, but should also adhere to the main purpose of Article 5, namely the protection of the individual against arbitrariness".

The principle of legality does not only determine the cases and procedures of restriction or removal of freedom and rights, but also determines the rights enjoyed by each individual who is subject to a procedure related to security measures and the obligations of the competent bodies. It is important that the judgment regarding the security measure to guarantee "equality of arms" is subject to the principle of "adversariality". The person must be provided with the facts and evidence presented by the prosecutor, the decision of the court that determined the measure of security, have the right to be represented by counsel, be given time and be provided with the necessary facilities to prepare the defense his, to have the right to present his objections, to have the right to appeal which will be examined within a quick period, as well as

[62] Article 5 of the ECHR and Article 27 of the Constitution.
[63]Macovei, M.(2002). The right to freedom and security of the person, pg. 9
[64] ECHR, Kurt v. Turkey, 28 May 1998.

any other right specifically related to security measures[65], or that is included in the corpus of law for a regular legal process [66]. The competent bodies have the obligation not only to make these rights known to the person, but also not to take any measure that prevents the person from exercising these rights.

2.2.2. The personal character of the security measures.

The insurance measure has a strictly personal, individual character, and therefore the request for its appointment, the review, the appointment decision and its implementation must be made individually, for each specific person. The use of the qualifying epithet "personal" used by the legislator in the title of Chapter I "Measures of personal security", in title V "Measures of security", but also the content of articles 228, 229 and 230 of the Penal Code that make words about the conditions and criteria for determining the amount of insurance clearly show that it is about a single person, which also shows the individuality of the amount of insurance.

Despite the fact that the prosecutor can proceed in a joint criminal case because we are in front of the cases provided for in article 79 or 92/b of the Penal Code, he cannot address the court with a joint request to set security measures simultaneously for some people, since such an action not only contradicts the personal nature of the insurance measure, but is also legally unfounded because there is no legal basis to legitimize such an action. In such cases (when the prosecutor turns to the court to set a security measure simultaneously for several persons) as a result of the expansion of the meaning of Article 79 of the Penal Code, which refers to the joining of proceedings, a confusion is mistakenly made of the cases of merging proceedings related to the foundation of preliminary investigations (the process of proving the charge), with those related to special actions of this phase, such as the request for determining the amount of personal insurance..

The reference that can be made to the provision of Article 92 of the Criminal Code is also wrong, because the implementation of this provision is closely related to the cases of submission of requests for trial of criminal cases, trials of the merits, the evidentiary process of which can and should be part of a single judgment and as such this provision cannot serve as a legal basis to legitimize the submission of a joint request for the assignment of personal insurance measures to several persons. The provision of Article 92 of the Penal Code *"refers to the criminal case or cases in their entirety that have arrived at the court for the trial of the merits and which, not only for judicial economy, but also for the coherence of the trial process , as well as the mutual correlation they may have between the objects of the trial (when the participants in the process may be, at the same time, injured but also defendants, - see articles 79 and 92/"b" and "c " of the Penal Code), can and should be merged into a single one" [67]*.

Even if we are in front of the cases provided for in Article 79 or 92/b of the Penal Code, the review of the prosecutor's request for the appointment of security measures must be done separately for each person. The prosecutor must present for each person the circumstances of

[65] Article 5 (3), (4), (5) of the ECHR and Article 28 of the Constitution.
[66] Article 6 of the ECHR and Article 31 of the Constitution.
[67] Vendim i Kolegjit Penal të Gjykatës së Lartë nr. 80, datë 02.10.2007.

the fact and the evidence on which his request is based and prove to the court that the conditions and criteria exist for determining the amount of insurance requested by him. The court must individually justify the conditions and criteria for determining the amount of insurance. The court's decision on determining the amount of insurance must be based on the analysis of the concrete actions or inactions of the person as well as his individual attitude, therefore it is necessary that the circumstances of the fact and the evidence on which the decision is based be presented and examined separately for each defendant.

Failure to comply with this rule in cases where the judgment of the request for the determination of the amount of personal insurance is made simultaneously for all the persons under investigation or the defendants makes the court's decisions wrong as the obligations arising from the article are violated:

- Article 380 of the Penal Code, because the decisions were made on unverified evidence during the judicial review for each of the persons under investigation
- Article 383 of the Criminal Code since it has not been possible to present the factual circumstances and the evidence on which the decision is based (as well as the reasons for which the court considers inadmissible the contrary evidence for each defendant), to concluded whether or not the prosecutor's request for setting the security measure should be accepted or not.

Only on the basis of the analysis of the factual circumstances and the evidence examined during the trial of the request for each person separately, the court analyzes and reasons for each person individually the existence of the conditions and criteria provided for in articles 228[68], 229[69], 230[70] of criminal code .

The personal character of the insurance measures and the necessity of submitting requests, examining and setting the insurance measure for each person separately is also related to some further actions that follow the receipt of the personal insurance measure. Such are, for example: execution actions, when the person was absent (Article 246 of the Penal Code) then left, avoiding the investigation (Article 247 of the Penal Code), the questioning (Article 248 of the Penal Code), the determination by the executing body of the location of the detention rooms where he will be held the arrested person (in the case of arrest in prison), etc., which necessarily require to be accompanied by the corresponding court decision for each arrested person, separately.[71]

In the analysis and further actions that follow the taking of the personal insurance measure (appeal, execution, revocation or replacement of the insurance measure), assigning the personal insurance measure to many people in a single decision would bring difficulties of significantly in the formulation of the dispositive of an eventual subsequent decision by the court, which would be invested in the judgment of requests, which would be related only to one, or some of the subjects against whom the measure was taken.[72]

Even when, after reviewing the requests for revocation or replacement of the security measure (Article 260 of the Penal Code), it is concluded that they should be accepted,

[68] "Kushtet për caktimin e masave të sigurimit personal".
[69] "Kriteret për caktimin e masave të sigurimit personal".
[70] "Kriteret e veçanta për caktimin e masës së arrestit në burg".
[71] Vendim i Kolegjit Penal të Gjykatës së Lartë nr.06, datë 19.01.2009.
[72] Vendim i Kolegjit Penal të Gjykatës së Lartë nr. 30, datë 13.02.2008.

unnecessary (artificial) difficulty will be created for the court regarding the wording of the provision of decision if there were more than one person, while the request is made by one of them. This in the event that the first decision would be changed, it would be given to more than one person.[73]

In cases where the court of first instance, in violation of the law, has examined the request for determining the amount of personal insurance simultaneously for two or more people, the court of appeal has the obligation to repair this violation of the law, request the division for each person or I proceed for this division myself, separating the issues of each one from each other, and opening separate fascicles, as well as coming up with separate decisions for each of them.

2.2.3. Presumption of innocence and presumption in favor of freedom.

The principle of presumption of innocence is an important principle that is sanctioned in Article 6 (2) of the Convention, Article 30 of the Constitution and Article 4 of the Criminal Code, which stipulates that: "Everyone is considered innocent until proven guilty with a final court decision. Any doubt about the accusation is evaluated in favor of the defendant".

This principle also extends its effects to the person to whom an insurance measure is requested to be assigned or is being implemented, and therefore the presumption in this case is for the non-assignment of the measure or the non-continuation of its implementation.

In any case when there is a request from the prosecutor for the determination of the security measure, the court that examines the request must start from the "presumption" that the person should not be assigned a security measure. Based on this "presumption", the burden of proof to prove that the security measure should be assigned to the person belongs to the prosecution body that submitted the request for the assignment of the measure. The court has the obligation to ask the prosecutor the reasons on which his request is based. It must examine in detail the facts and evidence presented by the prosecutor to conclude whether in the specific case the conditions and criteria required by the law for determining the measure exist. Only in cases where the court, after examining the facts and evidence presented by the prosecutor and the person against whom the measure is requested, considers that the prosecutor's request is based on facts and evidence that show that a security measure should be imposed on the person, it accepts it , otherwise it must reject the request. The court can also decide to partially accept the request and assign a lighter security measure when it considers that the security needs are not at the level claimed by the prosecutor or the criteria for setting the measure were not taken into account in the request.

The presumption of innocence and the presumption in favor of freedom must be taken into account by the court not only in cases of consideration of the request for the determination of the measure, but also in the review of the appeal or the request for revocation or replacement of the security measure. In cases where the security measure is being implemented, the prosecutor must constantly present to the court strong and convincing reasons that legitimize the continuation of the implementation of the measure. Although the measure initially had a legal basis over time, at a certain point, the implemented measure ceases to be reasonable due

[73] Vendim i Kolegjit Penal të Gjykatës së Lartë nr. 80, datë 02.10.2007.

to the lack of a continuing legal basis, and as such it must be replaced or revoked with an easier insurance measure.

3. "Reformatio in peius" in relation to the request of the prosecutor.

In Article 244 of the Penal Code entitled "Request for the appointment of security measures", the legislator has determined that "Security measures are established at the request of the prosecutor, who presents to the competent court the reasons on which the request is based". Through this article, the legislator has clearly determined that the only entity that can set a security measure is the court, and this only in cases where there is a request from the prosecutor. The prosecutor has the "initiating" power to impose a security measure, but he is not obliged to ask the court in every case that a security measure be set against the person under investigation or the defendant. If the prosecutor considers it unnecessary or inappropriate to set a security measure, he "has the power" not to ask the court to set a security measure for the person under investigation or the defendant. On the other hand, the court cannot and should not accept the prosecutor's request for the determination of the security measure if he does not present the reasons on which the request is based.

The court rejects the prosecutor's request for the determination of the security measure if, after its examination, it considers it unfounded as the conditions for the determination of the security measure are missing, or partially accepts it and assigns another lighter measure if it considers that in his request, the prosecutor did not take into account the criteria for determining the measure or did not correctly assess the security needs. However, the court must justify its decision in every case. She is obliged to justify in an exhaustive and real way the reasons for accepting or rejecting, in whole or in part, the request of the prosecutor. With the law no. 8813, dated 13.06.2002, the legislator added point 3 to article 244 of the Penal Code, in which it is determined that "the Court cannot set a security measure more severe than the one requested by the prosecutor". Since it is the prosecutor who carries out the criminal prosecution, controls and conducts the preliminary investigations, he is the person who "knows the inside" of the circumstances of the case and ascertains the needs of the insurance that must be guaranteed. This prohibition of aggravating the position/reformatio in peus is evaluated in relation to the measure requested by the prosecutor and obliges the court not to assign a more severe measure than the one requested by the prosecutor, but does not prevent the court, on the contrary, to assign a measure easier than the one requested by the prosecutor if, after examining the facts and evidence, he considers that the security needs can be guaranteed with an easier measure.

4. The right to complain and review within a quick and reasonable time.

One of the most important rights enjoyed by any individual against whom criminal proceedings are conducted is the right to appeal. In Article 2 of the International Covenant on Civil and Political Rights, states have the obligation to guarantee, through competent judicial, administrative or legislative bodies, the individual's right to appeal, as well as the creation of opportunities for his trial. The right of effective appeal against the court's decision is provided for in Article 8 of the Universal Declaration of Human Rights, Article 6 (3/c) and 13 of the European Convention on Human Rights, as well as in the Constitution in Article 43 which

provides that: "Anyone has the right to complain against a judicial decision in a higher court, except when the Constitution provides otherwise".

Since the security measure is an exception and not a rule that removes or limits the freedom and rights of the individual, the right to appeal in this case occupies an extraordinary place. The judgment and decision taken in relation to an insurance measure is different both for the nature and the procedures it follows and for the conclusions reached. The trial on the merits decides about the guilt or innocence of the defendant, while the trial on the security measure decides whether or not a security measure should be taken against the person and, if so, which of them. It is necessary that this change is also reflected in the appeal procedures.

In addition to the above provisions in the Convention, Article 5(4)[74] the Constitution, article 28/3[75] the right to appeal against security measures that take away a person's freedom is defined. Based on the above sanctions in the Code of Criminal Procedure in article 249, the legislator has defined a special system of appeal which aims to respond to the need to react as quickly as possible to the court's decision regarding the security measure.

Article 249 of the Criminal Code entitled "Complaint against security measures" defines that:

1.According to Article 244 of this Code, an appeal is allowed against the court's decision on the determination of the security measure within five days of the notification of the court's decision. 1/1. According to Article 248 of this Code, the prosecutor, the defendant and his defense can file an appeal within five days against the court's decision on the continuation, revocation or replacement of the security measure.

The prosecutor's interest in filing an appeal against the court's decision that refuses to take the insurance measure requested by him is related to the goal of guaranteeing the insurance needs. While the interest of the person against whom the measure was taken or his defenders is related to the "restoration" of the violated right or freedom as soon as possible. The right to appeal against the security measure provided for in Article 249 of the Penal Code takes full meaning not only in cases of enforcement but also with the notification of the court's decision. In cases where it is not possible to execute the measure for the person against whom it was taken, because he is not found, a record is kept by the judicial police officer or agent, in which the actions that are done with the purpose of finding the person and executing the court decision. This report is sent to the court that issued the decision, which verifies whether or not the searches were complete and when it deems that the searches have been complete, it declares the person's escape. With the act that declares the escape, the court has the obligation to assign a defender to the person who has fled and to order that the copy of the decision by which the implemented measure is determined be deposited in the secretary. From this moment on, the decision of the court that has determined the measure of security without the presence of the person and his defender is no longer a "secret decision"

[74] Article 5(4) of the ECHR. "Any person who has been deprived of his freedom by arrest or imprisonment has the right to appeal to the court in order for the latter to decide, within a short period, on the legality of his imprisonment and to order his release, if the imprisonment is unlawful".
[75]Article 28/3 of the Constitution "The detainee has the right to appeal against the judge's decision".

For the defendant who has passed, the deadline begins to run from the date of the notification made according to Article 141 of the Penal Code [76]. The procedural consequences of flight operate only within the proceedings for which it is declared. The state of escape is maintained until the security measure is executed, revoked, loses its power, or the criminal offense or punishment for which the measure was imposed is saved. For every effect, the person who has left the place where he is kept is equated with the fugitive.

In relation to the right of appeal of the person against whom the insurance measure has not yet been executed, the United Colleges of the Supreme Court have stated that: *"The decision to assign the personal insurance measure is an appealable decision even if it is not implemented, with the condition that the person to whom the decision was given was notified after his escape was declared by a court decision. If it were proven that the interested person has become aware of the act, especially when he himself accepts such a fact, the notification of the act is considered accomplished. It is the obligation of the person himself or his defender to prove the moment of receiving knowledge, related to the 5-day deadline to appeal the court's decision. Acceptance of the opposite would result in the denial of the right to complain. The right to appeal the decision to assign the measure of insurance by the person, to whom this measure was assigned in absentia, arises within 5 days from the notification or learning of the decision by him or the defender"* [77].

The 5-day period within which an appeal against the court's decision on the basis of which a security measure was taken or refused is a period that cannot be extended, and as such failure to comply in time, the violation of this period brings as a consequence, it is a reason for "not accepting the appeal". Point 6 of Article 249 of the Penal Code, determines that: "The court decides, as the case may be, the annulment, amendment or approval of the decision, even for reasons different from those presented or from those shown in the reasoning part of the decision. The court submits the reasoned decision within 10 days", while point 8 stipulates that: "against the decision of the court of appeal, an appeal can be made for violation of the law in the Supreme Court". The right of appeal provided for in Article 249 of the Penal Code is exercised through two avenues: Appeal (of the decision of the Court of First Instance to the Court of Appeal) and recourse to the Supreme Court (of the decision of the Court of Appeal).

The appellate court examines the case as a whole, regardless of the reasons presented in the appeal or those shown in the reasoning part of the appealed decision and in function of this right recognized by law, if it deems it necessary, it can decide on the repetition wholly or

[76]Neni 141 – "Njoftimi i të pandehurit kur nuk gjendet"
1. Kur personi ndaj të cilit është marrë masa nuk gjendet, oficeriose agjenti i policisë gjyqësore mban procesverbal, në të cilin tregonkërkimet e bëra dhe ia dërgon atë gjykatës që ka dhënë vendimin.2. Kur gjykata çmon se kërkimet janë bërë të plota, deklaronikjen e personit.3. Me aktin që deklaron ikjen, gjykata i cakton personit që kaikur një mbrojtës dhe urdhëron që të depozitohet në sekretari kopja evendimit me të cilin është caktuar masa e zbatuar.3/1. I ikur konsiderohet personi që megjithëse ka dijeni, i shmanget me vullnet zbatimit të masave të sigurimit, të parashikuaranga nenet 233, 235, 237 dhe 238 të këtij Kodi, ose dënimit me burgim.3/2. Pasojat procedurale të ikjes veprojnë vetëm brendaprocedimit për të cilin ajo është deklaruar. Gjendja e ikjes ruhet derisamasa e sigurimit ekzekutohet, revokohet, humbet fuqinë, ose kurshuhet vepra penale apo dënimi për të cilin është vendosur masa.4. Me të ikurin barazohet, për çdo efekt, i larguari nga vendi kuruhet.5. Për të lehtësuar kërkimin e personit të ikur, gjykata mund tëurdhërojë përgjimin e bisedave telefonike dhe të formave të tjera të komunikimit.
[77]Vendim Unifikues i Kolegjeve të Bashkuara të Gjykatës së Lartë nr. 04, datë 24.06.2009.

partially of the judicial review, recovered evidence administered in the first instance judicial review or new evidence. Requests are reviewed within 10 days from receipt of documents[78].

In contrast to the Court of Appeal which is a court of fact, the Supreme Court is a court of law and as such its review is limited only to violations of the law raised on appeal. The Supreme Court cannot repeat the judicial review in whole or in part, nor can it retake or ask for evidence. But for the legal issues that should be seen primarily by the court in any state and degree of the process, which have not been seen, the Supreme Court has the right to decide[79].

The Supreme Court must also state when the existence or non-existence of reasonable suspicion based on evidence is claimed, i.e. they must analyze the evidence received by the court that determined the security measure [80]. The Supreme Court decides within fifteen days of receiving the documents.

Keeping in mind the exceptional nature of the security measures and the presumption of innocence, the review and decision regarding the complaint should be made within a quick and predictable time frame. Article 249 of the Criminal Code is not only intended to guarantee the right to appeal, but also to review the appeal quickly and within a short period of time. For this purpose, the legislator has defined strictly defined deadlines in this article. The request is submitted to the secretariat of the court that issued the appealed decision, which is obliged to submit the documents to the court that will consider the appeal within 3 days[81].

The date set for the session is announced to the prosecutor, the defendant and his defense attorney at least three days in advance. This is in order to give the defendant and the defense the necessary time to review the acts of the prosecutor and the decision of the court to prepare their defense. Starting from the construction method of point 4 of Article 249, it is concluded that the defendant must be notified first and then his defense counsel. The legislator in this case has used the conjunction "and" and not "or", which would allow the court to announce one of theme[82].

When the decision is not announced or implemented within the specified period, the act based on which the coercive measure was taken loses its force. If the decision of the appellate court is not announced or implemented within 10 days from the consideration of the cases, the coercive insurance measure that was taken on the basis of the appealed decision loses its force. With the passage of six months from the implementation of the arrest decision, the defendant and his defense can appeal to the court of appeal for the duration of detention. The Court of Appeal decides within fifteen days to receive the documents.[83]

In the above provision, it is not a question of recourse, but of an appeal, which is not made in the Supreme Court, but in the court of appeal. This is the interpretation made by the Criminal College of the Supreme Court in two of its decisions.[84] n in which it is stated that: "As the highest court in the sense of Article 249/9 of the Penal Code, the court of appeal should be understood, not the Supreme Court, which also emerges from the comparison that can be made

[78] Pika 5 e nenit 249 të K.Pr.Penale.
[79]Neni 434 i K.Pr.Penale.
[80] Islami, H ; Hoxha, A; Panda, I. (2011). "*Procedura Penale*". fq.336.
[81]Pika 3 e nenit 249 të K.Pr.Penale.
[82] Vendim i Kolegjit Penal të Gjykatës së Lartë nr. 179, datë 26.02.2002.
[83]Pika 9 e nenit 249 të K.Pr.Penale.
[84]Shih vendimet e Kolegjit Penal të Gjykatës së Lartë nr.17, datë 26.02.2007 dhe nr. 18, datë 13.03.2007.

of this point with point 1 where it is stated that within 5 days from the implementation or notification of the court decision, the prosecutor, the defendant or his defense can appeal to the highest court. Pursuant to Article 249/9 of the Penal Code, after six months have passed from the execution of the arrest decision, the prosecutor, the defendant, or his defense counsel can file and appeal only to the appeals court as the highest court. high, like all other appeals and not in the Supreme Court".

CONCLUSIONS AND RECOMMENDATIONS

Since "prison arrest" is the most severe measure with psychological, social and economic consequences, it should be applied only in exceptional cases, when any other measure is inappropriate. In any case, when it is requested to assign the measure "arrest in prison", the court must start the examination from the "presumption in favor of freedom", that this measure should not be assigned to the person. Based on this presupposition, the court must request from the prosecution the evidence on which the request is based and examine "in detail" if the evidence presented creates the conviction that due to the concrete circumstances of the case and the evidence presented, the assignment of arrest in prison is absolutely justified and in accordance with the criminal procedural law. House arrest is the measure with the greatest coercive power after that of prison arrest and as such it is assigned when security needs can be met even without the necessity of detaining the person as well as in cases where the request for the appointment of prison arrest it is done for one of the subjects of point 2 of article 230 of the Penal Code, for whom the legislator has defined a certain "immunity" against arrest in prison. In contrast to the measure of arrest in prison for which the legislator has defined special criteria for its assignment, for house arrest the legislator requires that the court in its assignment adhere to the general criteria for determining the security measure, suitability, fair ratio, as well as to take into account continuity, repetition and mitigating or aggravating circumstances provided for in the Criminal Code.

Changing the general basic condition required for the imposition of security measures from "reasonable suspicion based on evidence" to "significant indications of guilt", I think is "constitutionally wrong" and therefore would pose a serious risk to violation of individual freedoms and rights. The Convention and the Constitution sanction that the freedom of the individual can be removed or limited only when there is "reasonable suspicion" and not "significant indications". Even the jurisprudence of the ECtHR, in relation to "reasonable suspicion" has determined that "indications" cannot constitute a sufficient basis to accept that there is "reasonable suspicion".[85]

The use of the phrase "relevant indications" leaves a path and creates great opportunities for arbitrariness and violation of the freedoms and rights of the individual, therefore I am against such changes as the draft law provides. In the case when the prosecutor makes a request to the court for the replacement of the security measure from "prison arrest" to "house arrest" because he finds that the security needs have been mitigated, I think that the court should accept the prosecutor's request for the replacement of the measure . The court must accept the

[85] Për më tepër shih vedimet: *Fox, Campbell and Hartley v. the United Kingdom*, 30 August 1990, Series A no. 182 dhe *Labita v. Italy* [GC], no. 26772/95, ECHR 2000-IV

replacement of "prison arrest" with "house arrest" and in cases where the request is made by the defendant and the prosecutor in the session agrees. Regarding the "property guarantee", since it is an alternative measure to arrest in prison, which aims to ensure the appearance of the defendant in the procedural body whenever requested by him, without it being necessary for the defendant to subject to the measure of security arrest in prison, I think it should be applied more in practice. Based on the high risk of some criminal offenses, I think that the legislator should sanction the ban on the application of property guarantee.[86]

In order for the standards defined in international legal acts to be applied in Albanian legislation as well, in terms of setting security measures, it is necessary that in any case the procedural bodies respect and apply "specific/strict" criteria for the appointment of security measures with arrest, especially for arrest in prison, which can and should be imposed only for a certain category of criminal offenses with high social risk.

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Territorial integrity of Ukraine in the view of international law

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Abstract

The purpose of this paper, among others, is precisely to understand the causes of this conflict of the use of force by Russian forces in the territory of Ukraine and to understand what can be done and what should be the response that the international community, and in this case the UN represents, must give this new challenge that history is facing.

Today, Europe is experiencing the most serious geopolitical crisis that the Balkans has experienced since the collapse of the Federal Republic of Yugoslavia in the 1990s. Just a little over a year and a half ago, Russian President Vladimir Putin submitted a request to the Council of the Russian Federation asking for permission to use armed force due to the emergency situation in Ukraine and the ongoing threat to citizens and thus the Forces Russian armed forces were deployed in its territory, in particular in the Autonomous Republic of Crimea and then in the entire territory of Ukraine.

For us Europeans, who watch this crisis with special attention, not only because of the geographical proximity but also because of the unpredictability of its results, it is still very difficult to fully understand what is happening in Ukraine today. That is why I think it is necessary to review several stages together, which will show us how this crisis at the eastern doors of our house, if it was not preventable, was at least predictable.

The principles of "sovereignty" and "self-determination" are two of the basic norms of international law, but sometimes they contradict themselves and the main debate presented in this topic is which principle limits the other, so we have tried to answer we find in the assessment of each case. State sovereignty is no longer an absolute concept as it is directly related to the respect of human rights. Self-determination continues to be a radical concept of this time, and its application depends on a case-by-case basis, taking into account various historical and current factors.

Key words: *Sovereignty, Self-determination, International Community, Force, Autonomy, Crisis.*

INTRODUCTION

Today, Europe is experiencing the most serious geopolitical crisis that the Balkans have experienced since the collapse of the Federal Republic of Yugoslavia in the 1990s. Just a little over a year ago, Russian President Vladimir Putin submitted a request to the Council of the Russian Federation seeking permission to the use of armed force in connection with the emergency situation in Ukraine and the ongoing threat to citizens and as a result the Russian armed forces were deployed on its territory, in particular in the Autonomous Republic of Crimea. The purpose of this topic, among others, is precisely to understand the causes of this

conflict and to understand what can be done and what should be the response that the international community, and in this case the UN that represents it, should give to this challenge of cloud with which history is facing. For us Europeans, who watch this crisis with special attention, not only because of the geographical proximity but also because of the unpredictability of its results, it is still very difficult to fully understand what is happening in Ukraine today.

That is why I think it is necessary to review several stages together, which will show us how this crisis at the eastern doors of our house, if it was not preventable, was at least predictable. But before we analyze the crisis of Ukraine and its territorial integrity in order to better understand this topic, I think to start the study from the case of Crimea since the history of Crimea Crimea is early, it has become a matter of politics and international law almost in the same historical period, precisely at the moment when the Ottoman Empire began to crumble to go towards total collapse. At the end of the 19th century and the beginning of the 20th century, several peoples, regions and countries geographically inside, outside, or on the borders of the Empire, began to wake up and think that this great historical event was a good opportunity for to gain autonomy, independence, why not, even to separate and gain territories from the neighbors.

The First Balkan War (1912-1913) and the Russo-Turkish Wars (1700), were in themselves dramas with great consequences for the peoples, while those events left behind great conflicts between the states of the region. In the historical sense, Crimea is a province located in a geographical region with complex and ethnic problems, where state borders do not at all correspond to the ethnic, cultural and linguistic distribution of the population, where communities with heterogeneous religious beliefs coexist, where neighboring countries have territorial claims towards the neighbor and precisely for these reasons and in these situations, Crimea has often become the object and source of conflicts, violence, and wars. Historically, Crimea has had problems related to the Sovereignty and self-determination of its peoples, but its wishes and aspirations constantly clashed with the agenda and nationalist and annexation projects of its neighbors, namely Russia. The objectives of Russian policy and strategy in the Crimea region may be oriented and in love with the equalization of cases, but Russian interests cannot deny the development of international relations, democracy and the legitimate right of the peoples of sovereign states to decide on the destinies of theirs. This is justice and its non-respect can only be called trade with the people's interests, because history proves that while their suffering, violence, persecution and destinies are similar, the origin of the conflict, the political, diplomatic, military developments and the solutions are different.

The principles of "sovereignty" and "self-determination" are two of the basic norms of international law, but sometimes they contradict themselves and the main debate presented in this topic is which principle limits the other, so we have tried to answer we find in the assessment of each case. State sovereignty is no longer an absolute concept as it is directly related to the respect of human rights. Self-determination continues to be a radical concept of this time, and its application depends on a case-by-case basis, taking into account various historical and current factors. Crimea has been the arena of clashes between East and West, South and North, and all this because of its geographical position. During the Ottoman rule Crimea possessed an extended autonomy, until 1774 when the Crimean Tatar Khanate signed the agreement that changed the course of events and the region was separated from the Ottoman

Empire and maintained the same autonomy, but this time under the banner of the Russian Empire.

The latter, in 1783, occupied the entire peninsula and abrogated the extended autonomy enjoyed by the natives. In the 20th century, the territory of Crimea again became the arena of fighting, where the last stand of the White Army against the Red Army was marked. The Red Army won the battle and the surrender of the White Army was followed by a massacre, with at least 50,000 soldiers and civilians believed to have been shot and hanged within days. In February 1945, the Yalta Conference takes place in Crimea, a meeting between Roosevelt, Churchill and Stalin. On June 30, 1945, the autonomy of Crimea was abrogated again and the region was recognized as a Russian province, while on February 19, 1954, the Supreme Soviet Presidium decided to transfer the administration of the province from Russia to Ukraine.

1. Political movements in the Crimea and the Russian-Turkish wars

Immediately after the middle of the century XIX joint diplomacy was disintegrated by the ongoing crises in the Near East, causing an important international conflict to arise, which became known as the Crimean War. The Crimean War was a conflict between Russia and the Ottoman Empire and had the support of Great Britain, France as well as Piedmont Sardinia in northern Italy. This has been described as a war of civilization against barbarism, of freedom against tyranny, of self-defense against savage aggression, of Islam or Christianity. 69 The so-called liberal states Great Britain and France were the main colonial powers that actively suppressed freedom and national self-determination in many countries of the world. They fought in the name of preserving the Ottoman Empire, a Muslim state whose government was hardly a liberal model. This has been a war on behalf of the economic and strategic interests of the great powers in the Middle East. But these arguments are also translated as a kind of fear of Russia[87].

For two hundred years there was war between Russia and Turkey, every twenty years, as Russia extended its influence at the expense of the Ottoman Empire. The Crimean War was fought to stop Russian expansion and to eliminate the Russian threat to the security and interests of the states of Europe and the Ottoman Empire. The tragedy of this war was that it was unnecessary and had no value. It was considered unnecessary because it did not achieve anything it wanted to achieve and in fact achieved it through peaceful negotiations.

It was worthless because it did not stop Russian expansion, nor did it reduce or stop Russia's ability to pose a threat to other states. The Russo-Turkish Wars, marking a series of wars between Russia and the Ottoman Empire in the 17th and 19th centuries. The wars reflected the decline of the Ottoman Empire and resulted in the gradual southward expansion of Russia's frontier and influence in Ottoman territory. The wars took place in 1676-1681, 1687, 1689, 1695-1696, 1710-1712 (part of the Great Northern War), 1735-1739, 1768-1774, 1787-1791, 1806-1812, 1828-1829, 1853- 56 (Crimean War), and 1877 -1878. As a result of these wars, Russia was able to expand its European borders south of the Black Sea, southwest of the Prut River, and south of the Caucasus Mountains in Asia."

2. Russia - NATO and Crimea relations and contradictions.

[87] Norman Rich, *Great power diplomacy*, 1814-1914 (1992) New York. “McGraw-Hill” fq. 101.

Relations between the NATO military alliance and the Russian Federation were established in 1991. In 1994 when Russia joined the Partnership for Peace." During the 1990s, both sides signed several important cooperation agreements. The Russia-NATO Council was established in 2002 to deal with security issues and joint projects. Cooperation between Russia and NATO now takes place in several main sectors: the fight against terrorism, military cooperation, cooperation in Afghanistan (including the transportation from Russia of non-military goods of the International Security Assistance Force and the fight against drugs), cooperation industrial. On April 1, 2014, NATO unilaterally decided to suspend the practice of cooperation with the Russian Federation, in response to the Ukraine crisis. Formal contacts and cooperation between Russia and NATO began in 1991, within the framework of the North Atlantic Cooperation Council (later called the Euro-Atlantic Partnership Council) and deepened further, after Russia joined the program of Partnership for Peace on June 22, 1994.[88]

On May 27, 1997, at the NATO summit in Paris, NATO and Russia signed the Founding Act on Mutual Relations, Cooperation and Security. The parties declared that they do not see each other as adversaries, and, "based on a lasting political commitment undertaken at the highest political level, will build together a lasting and comprehensive peace in the Euro-Atlantic area on the principles of democracy and cooperative security". The NATO-Russia Council was established on May 28, 2002 during the 2002 NATO Summit in Rome. The Council has been an official diplomatic tool for dealing with security issues and joint projects between NATO and Russia , which include "consensus building, consultation, joint decisions and joint action[89].
Joint decisions and actions [90], taken under NATO-Russia Council agreements, include the fight against terrorism, military cooperation (joint military exercises and training of cooperation personnel in Afghanistan (Russia has provided training courses for counter-narcotics officials from Afghanistan and Central Asian countries in cooperation with the United Nations), transportation from Russia of non-military goods in support of NATO's ISAF in Afghanistan, industrial cooperation, cooperation in defense interoperability, non-proliferation of weapons, and in other areas.
The heads of state for NATO allies and Russia gave a positive assessment of the achievements of the NATO-Russia Council at the Bucharest summit in April 2008, after both sides have expressed dissatisfaction with the lack of actual content resulting from the council. In January 2009, the Russian envoy to NATO Dimitri Rogozin said that the NATO-Russia Council was "a body where academic discussions took place." An American official said: ". We now want to structure a more practical cooperation, in areas where we can achieve results, instead of insisting on things that will not happen.
"Relations between Russia and NATO were strained in the summer of 2008 due to Russia's war with Georgia. The North Atlantic Council later condemned Russia for recognizing Georgia's regions of South Ossetia and Abkhazia as independent states. Secretary The NATO General stated that Russia's recognition of Abkhazia and South Ossetia was done in violation of numerous UN Security Council resolutions, including those approved by Russia. Russia, on the other hand, insisted that the recognition was obtained based on the situation on the ground, and

[88] http://www.nato.int/cpS/en/matolive/topics 82584.htm (12 qershor 2015).
[89] http://www.nato.int/cps/en/natolive/topics 82584.htm (12.Qershor 2015).
[90] http://www.bits.de/NRANEU/relations.htm E12 qershor 2015).

was in accordance with the Charter of the United Nations, the Helsinki Final Act of the OSCE 1975 and other fundamental international law. Russian media pointed out that the precedent of Kosovo's declaration of independence is a violation and that it should be severely punished by international law [91].

Relations were further strained in May 2009, when NATO expelled two Russian diplomats on espionage charges. She also added to the tension already created by the proposal for NATO military exercises in Georgia, after Russian President Dmitry Medvedev said that: "The planned NATO exercises in Georgia, no matter how it tries to convince us otherwise, are an open provocation. One cannot conduct exercises in a country where there has been war." Before Russian parliamentary elections in 2011, President Dmitri Medvedev was also quoted as saying that if Russia had not joined the 2008 war in South Ossetia, NATO would have expanded further east. The Russian government says an American proposed system of missile defense in Poland and the Czech Republic could threaten their defenses. Russian Space Force commander Colonel General Vladimir Popovkin stated in 2007 that "Iranian or Korean missile trajectories find it difficult to pass close to the territory of Czech Republic, but any possible launches of Russian ICBMs from the territory of European Russia, or made by the Russian Northern fleet will be monitored by the radar station". However, in 2009, Barack Obama canceled the missile defense project in Poland and The Czech Republic, after Russia threatened the US with a military response, and warned Poland that by agreeing to NATO's anti-missile system, it is exposing itself to a strike or nuclear attack by Russia.

In February 2010, Romania announced that it would sign an agreement with the United States on a missile defense system, which Russia has interpreted as a threat to its national security. The system is expected to be operational in 2015." On June 6, 2011, NATO and Russia participated in their first-ever joint military exercise called "Sky Vigilant 2011". This is only the second joint military venture between the alliance and Russia since the Cold War. Along with it there has been a joint submarine exercise which started on May 30, 2011. In April 2012, there were several protests in Russia over their country's involvement with NATO, mainly by ultranationalists and Left-wing groups

Reuters reported in February 2014 that Russia and NATO have drawn up plans to jointly guard In early March 2014, tensions began to flare between NATO and Russia as Russian troops moved into Crimea to annex territory it claimed was historically Russian. [92]. NATO condemned Russia's actions as a violation of Ukraine's sovereignty, on April 1, 2014, NATO issued a statement through its foreign minister, which, among other things, said: "We have decided to suspend all practical civil and military cooperation between NATO and Russia. Our political dialogue in the NATO-Russia Council can continue, as necessary, at the level of ambassadors and above, to allow us to exchange views, first of all in this crisis." On June 16, 2015, Tass quoted Russian Deputy Foreign Minister Aleksey Meshkov as saying, "All Russia-NATO programs that were previously operational have now been suspended."[93].

3.1. Russia's ambitions for dominance.

[91] http://www.bits.de/NRANEU/relations.htm (12 qershor 2015).

[92] qershor 2015} "http://www.pravda.ru/news/world/22-08-2007/236012-PRO-OI (15 qershor 2015).

[93] **http: joint-exercise.html (17 qershor 2015)**

Both the US and the EU have always kept the situation between Russia and Ukraine under observation. Russia is also increasing its presence and influence elsewhere: the Arctic, a region where melting ice has opened a lane for shipping and real estate worth about $1 trillion in hydrocarbons. With the opening of two major shipping routes, the North Sea Route and the Northwest Passage, the potential for economic competition is fierce, especially among the eight members of the Arctic Council: Canada, Denmark, Norway, Iceland, Finland, Sweden, Russia, and the United States[94].

President Putin has made several statements recently regarding Russia's national interests in the Arctic region. Mainly, militarization and preparation of supporting elements for trade routes of ships. The Russian president called for full government funding for "socio-economic development" from 2017-2020, including a system of Russian naval bases that will be "home" to ships and submarines specially designated to protect national interests. which include the protection of Russian oil and gas facilities in the Arctic. Russia is also trying to speed up the construction of more icebreakers to participate in its Arctic strategy. The Russian Federation has recently raised a territorial claim in the Sea of Okhotsk for 52,000 square kilometers, and is currently preparing a request for claims in Arctic waters of about 1.2 million square kilometers. The energy giant owns 43 of the 60 hydrocarbon deposits in the Arctic Circle. With the development of Russian energy companies, the development of hydrocarbon deposits and the expansion of border patrols in the Arctic, Putin is actively pursuing a strong approach to the Arctic region. Russian oil fields, which significantly contribute to the country's income, are declining, forcing Russian oil companies to actively consider the Arctic region, while the US Secretary of Defense called for a peaceful region and stable in the Arctic with international cooperation, the Arctic in turn has been militarized by Russia[95].

Already in the Arctic there have been powerful warships of Russia's Northern Fleet, strategic bomber patrols, as well as air force exercises. In fact, Russian military forces have been permanently stationed in the Arctic since the summer of 2013[96]. According to a source from the Russian General Staff, a new military command called the Northern Fleet – Joint Strategic Command will be created and tasked with protecting Russian interests in its Arctic territories; a strategy that was adopted in 2009. Moreover, Arctic developers. According to one report,[97] Putin ordered the head of the Russian arms industry, Deputy Prime Minister Dimitri Rogozin, to focus on efforts to create infrastructure in the Arctic for the deployment of Soonest troops. Rogozi, on the other hand, has stated that all Russian weapons systems can be produced with the special characteristics needed for the extreme cold of the north, and the weapons companies were ready to supply such weapons to the Ministry of Defense." Arctic infrastructure " to which Rogozi refers will include the navy bases and border guards. These bases are part of Putin's aim to strengthen Russian energy companies and military positions in the Arctic region. In 2013, a long-closed base was reopened on the Novosibirsk Islands and is now home to 10 warships and

[94] http://www.nato.int/cps/en/natolive/neës 108501.htm (16 qershor 2015) 82 http://tasS.ru/en/russia/801076 (16 qershor 2015)

[95] "US Navy admits it needs massive investment to fight for Arctic seaéays control," RT, February 28, 2014, accessed April 22, 2014, http://rt.com/usa/us-navy-arctic-plans-146/ (20 qershor 2015)

[96] "Arctic Resources: The fight for the coldest place on Earth heats up," RT, April 15, 2014, accessed April 22, 2014, http://rt.com/news/arctic-reclamation-resources-race:524/. (20 qershor 2015)

[97]"Russia to create united naval base system for ships, subs in Arctic - Putin,'RT, April 22, 2014, http://rt.com/neës/154028-arctic-russia-ships-subs/. (19 qershor 2015).

four icebreakers.[98]. A move that the Reuters news agency has called a "show of force". The Ministry of Defense is also planning to build seven landing strips in the Arctic.[99]

Russia's militarization of the Arctic region is just one part of its growing activity around the globe. Deputy Prime Minister Dimitri Rogozin has said that: "It is quite important for us to set objectives for our national interests in this region. If we do not do this, we will lose the battle for resources which means, we will also lose in a great battle for the right to have sovereignty and independence".
In contrast, Alexander Gorban, a representative of the Russian Foreign Ministry is quoted as saying that the "war for resources" in the Arctic will not happen. But what was once a very peaceful region of the world that has provided international cooperation and stability has now turned into a competition for sovereignty and resource claims as evidenced not only by the growing military presence of Russia, but also Canada and the United States. United. Canada has earmarked part of its defense budget for armed ships to patrol its part of the Arctic, while the United States has been planning its own strategy.

In addition to conducting military exercises with other members of the Arctic, the US Navy has proposed a strategy entitled the United States Arctic Navy. Roadmap 2014-2030 which was released in February 2014. National Strategy for the Arctic Region 2013, cited in Arctic. The roadmap offers two specific Navy objectives for the Arctic: advance U.S. security interests and strengthen international cooperation.
According to the strategy, the navy's role will primarily be in support of search and rescue, law enforcement, and civil support operations. [100]. However, this could be achieved in a more militarized strategy depending on the US government's view of Russia's increased military activity in the Arctic region over the coming years. In both cases, the US has lagged behind in Arctic preparation. It has very few operational icebreakers for the Arctic region, where its presence has been seen with nuclear submarines and unmanned aerial vehicles, according to a Reuters article. By 2020, the navy will primarily use its own submarines and have limited air assets in the Arctic area, while its medium- and long-term strategy emphasizes service personnel, surface ships, submarines, and air that will be prepared for Arctic conditions and operations.
Despite its long-term strategy, the United States is already thinking about creating a military presence to compete with Russia, which already has strategies in motion from 2020 onwards. Former Secretary of State Hillary Clinton called for a US-Canadian counterbalance to Russia's Arctic presence, noting "they have aggressively reopened military bases. While the US cannot legitimize Putin's actions in opening military bases, it is even worth it is mentioned that Russia is developing a strong military presence in a potentially competitive region. Russia's plans to reopen bases and establish a military command in the Arctic prompt the conclusion that Russia wants to be the founding and dominant force in a new region that will host economic

[98] Nicholas Cunningham, "Russia ships its first Arctic oil. is a boom coming?"The Christian Science Monitor, April 21,2014,http://www.csmonitor.com/Environment/Energy-Voices/2014/0421/Russia-ships-its-first-Arctic-oil-is-a- boom-coming. [19 qershor 2015.
[99] US Navy admits it needs massive investment to fight for Arctic sea&ays control," RT, February 28, 2014, http://rt.com/usa/us-navy-arctic-planS-146/.
[100] "Russian military to have special command for Arctic operations," RT, February 17, 2014, accessed April 22, 2014, http://rt.com/politics/russian-arctic-military-Command-397/.

competition and shipping lanes, although it operates in a harsh environment that makes it difficult to extract resources[101].

Although the Arctic holds a significant amount of the world's oil and gas deposits, the extreme environment and remote location make it difficult to produce energy quickly and efficiently. Despite this, the Russian Federation is focused on the development of these areas with the claims that hydrocarbons are in the continental shelf part of the country. In addition, Russia is deploying funds and forces to the Arctic to protect its interests. While the US currently lacks a development of natural resources and exploitation of the Arctic Circle, it wants to display power in the cold region to compete with Russian dominance and potential influence. But with the Defense Department facing ongoing budget cuts, building up a naval force in the Arctic will be slow and difficult. For now, the United States can only show power through nuclear submarines and technology.

4. The crisis of Ukraine and its territorial integrity

4.1. The birth of the Ukrainian crisis-Russian intervention in Crimea and Ukraine

The birth of the Ukrainian crisis dates back to November 2013, when President Viktor Yanukovych and the Ukrainian government announced to the country the abandonment of the important process of reforms (constitutional, economic and institutional) that were the basis and precondition for the signing and subsequent ratification of the agreement of many expected association between Ukraine and the European Union [102], as an essential process for the future integration of the country in the EU. Eastern Europe, from 1991 until today, has actually been the protagonist of an increasingly rapid integration into the EU [103]; However, the various vicissitudes that have affected Ukraine have shown an uncertain European balance, confirming in this sense the words of Russian President Vladimir Putin who reminded everyone how "peace on the old continent is based on well-defined spheres of influence between NATO and Russia and not simply in the success or failure of the EU project", however noble it may be.

The Association Agreement between Ukraine and the European Union was negotiated over five years, from 2007 to 2011, and should have established a broad free trade area, replacing the previous cooperation and partnership agreement between Ukraine and the Union European, of 1998. The Association Agreement is set in a radically changed political context and has as its goal - not very implicitly - to allow for a gradual integration into economic cooperation in the European Union, also ending and Putin's ambition to incorporate it into the Eurasian Customs Union created in 2010 and which is already part of Belarus and Kazakhstan[104]. Given President Yanukovych's statement to abandon this project and the position of the Ukrainian government that took this position, a part of the pro-European Ukrainian population immediately took to the

[101] "Russia to Build Netéork of Modern Naval Bases in Arctic- Putin," Riá Novosti, April 22, 2014, accessed April 22.

[102] A. DEL VECCHIO, Diritto delle organizzazioni internazionali, Edizioni Scientifiche Italiane, Napoli, 2012, pp. 19-37

[103] Partnership and Cooperation Agreement between the European Communities and their Member State and Ukraine del 14 Giugno 1994, in G.U.C.E., 19 Febbraio 1998, p. 3

[104] E. SCISO, La crisi ucraina e i problemi di sicurezza in Europa, LUISS University Press, Roma, 2014, p. 10.

streets to protest. Despite the harsh reactions of the Kiev government against the protest in Maidan Square, it was unable to curb the demonstrations and clashes inevitably escalated, transforming the risk of a civil war in Eastern Europe into a reality of sad.
As a result of all this, the Ukrainian Parliament in its plenary session held on February 22, decided to dismiss Yanukovych for inability to take responsibility for his constitutional obligations 46, and elected an interim president, setting new elections to be held on May 25..

And yet some parliamentarians pointed out that the impeachment of Yanukovych, although it was decided by the Ukrainian Parliament with an overwhelming majority (and 328 votes in favor), did not take place in accordance with the formal procedures laid down in the country's Constitution, in Articles 108 and following it. Needless to say, the impeachment was also challenged by Yanukovych himself who, despite being forced to flee the country to seek refuge in Russia, still continues to proclaim himself the only legitimate President of Ukraine. In addition, a few days after the dismissal of Yanukovych, the Ukrainian Parliament, taking advantage of the right granted to third countries by the article. 12 par. 3 of the Rome Statute which is a signatory but not ratified by Ukraine, adopted a declaration accepting the jurisdiction of the International Criminal Court regarding possible crimes committed on its national territory in the period between November 21, 2013 and February 22, 2014; statement signed by the interim President and sent to the office of the ICC on April 9.

Also, when we talk about the crisis in Ukraine, we generally refer to the events that have occurred in the country since 2013, and which include the Crimean peninsula as well as the south-eastern regions of the Donbas basin. In reality, however, despite being an expression of the same conflict, Crimea and Donbass represent two distinct fronts; distinction must be preserved as such if we want to understand the legality of the interventions that have been made there. The events are divided, as can be seen, into two phases: on the one hand, the invasion and annexation of Crimea between February and March 2014, and on the other hand, the support of the action (indirect and direct) in favor of the rebels acting from east of the country and that started in April of the same year and intensified during the summer. It is clear that the legal implications in both cases are numerous, but we will focus our attention on those aspects that are more closely related to the provisions of international law regarding the use of force in international relations.
First, the Crimean Crisis in 2014 was a political crisis, and led to the separation of the territory from the rest of Ukraine and its annexation by Russia, as a result of local unrest, and Russian military intervention was ordered in response to the dismissal that was made to President Viktor Yanukovych and his government by the Ukrainian Parliament. While a large number of states (except Russia and some others) were ready to recognize the legitimacy of the new government of Ukraine led by Turchynov, while Crimea has refused to do so, arguing that the change of the executive took place in violation of the Constitution[105].
The legality of Russian actions in Crimea, and Russian intervention in Ukraine, constitute serious violations of international law. With special reference to the situation in Crimea, there are doubts about the direct Russian involvement carried out, through the use of national troops already in the peninsula - as acknowledged by Putin - through the contribution of new forces

[105] M. ARCARI & M. ROSCINI, *International law and the "Crimean conundrum*": legal issues arising from the 2014 Russia/Ukraine crisis, "Questions of International Law", www.qil-qdi.org/, Maggio 2014.

coming from Russia. It is a fact that the independence declared by Crimea through the referendum came under Russian military control, which led to the annexation of this territory by Russia. At least the unusual nature of these operations does not prevent us from considering them as a violation of the prohibitions established by international law. In fact, Russia's interventions can be seen not only as a violation of the rules prohibiting the use of force in international relations[106], but also those that stop aggression, as determined by Resolution no. 3314 of the United Nations General Assembly of 1974[107].

This definition of aggression includes in his case the invasion or occupation of the territory of another state, and the use of the armed forces of one state in the territory of another with its consent beyond the time limits provided by the "agreement. In reality, it will it would be difficult to think of the Russian operations carried out in Crimea as a hypothetical armed attack; a circumstance that makes it possible to distinguish the present case from that related to southeastern Ukraine, in which the configuration of an attack by Russia seems to undeniable life. The same applies to the call - with a strong impact and symbolic value - made by the Russian President in the case of Kosovo to support the legitimacy of the Crimean referendum.

Although there is no denying the poor management of the Balkan crisis by many Western countries, the Kosovo-Crimea parallelism holds only up to a certain point. Leaving aside the fact that after the 2008 referendum in Kosovo, Kosovo only gained independence from Serbia without joining any other state, where the declaration of independence was the result of serious and systematic violations of human rights and international law. committed in that territory; violations completely absent in the context of Crimea[108].

The United Nations General Assembly with Resolution 68/262 emphasized the invalidity of the Crimean referendum and called on all states not to recognize any changes made regarding the status of Crimea. However, for obvious reasons, there has been no response from the Organization's Security Council, for which the only concretely approved measures and sanctions were those of some Western countries, and of a predominantly economic nature. This is not a taboo that the United Nations Security system is not able to function if the peace is threatened or broken by one of its permanent members, What is Russia, a country directly involved in this crisis??

One of the recognized exceptions to the prohibition of the use of force is Article 51 of the United Nations Charter, which allows a state to use force as a response to an armed attack. The provision in fact - as you remember earlier - states that "none of the provisions of this Statute shall prevent the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations, until The Security Council has not taken the necessary measures to maintain peace and security "160. Russia has repeatedly been accused of orchestrating the unrest that has erupted in the region since late March, although it has repeatedly denied any involvement. A significant number of Russian citizens and soldiers have fought in this war as volunteers, even the leaders of the DPR and LPR have admitted it. This is a fact, although it is not enough to make us believe that Russia is responsible for an attack against the state of Ukraine. However, the presence of Russian soldiers in the area has gradually increased with the recruitment of open forces in a large number of Russian cities. This increase in Russian forces in Ukraine culminated on August 25, when the Security Service of Ukraine

[106] B. CONFORTI, Diritto internazionale, cit., pp. 120-121.
[107] La Risoluzione n. 3314 dell'Assemblea Generale delle Nazioni Unite.
[108] M. PEDRAZZI, La liceità delle operazioni russe in Ucraina.

(SBU) confirmed that it had captured a group of Russian paratroopers - this time non-volunteer - on Ukrainian territory, showing their photos and names. To these accusations, Putin's Russia reacted by arguing, in an original and convincing way, that they were Russian fighters who crossed the border "accidentally". We must at this point consider that again coincidentally on August 27, large amounts of Russian military equipment and personnel crossed the border from Russia into southern Donetsk Oblast, an area previously controlled by the Ukrainian government. Faced with this incident, the new Ukrainian President and some Western officials talk about a secret invasion by Russia, which is what in legal language is translated by the term aggression. NATO commander General Nico Tak said on August 28 that more than 1,000 Russian soldiers are operating in the Donbas area[109].

Faced with all this, the EU has imposed new sanctions on Russia and intensified those already introduced in March 2014 as a result of the annexation of the Crimean peninsula. NATO has published statements in which it tries to dispel the accusations made by the Russian government against Ukraine and the reasons supported by Russia to justify its presence in the east of the neighboring country. According to NATO Secretary General Anders Fogh Rasmussen, Russia "led armed attacks without any basis against the legitimacy of the Ukrainian authorities and has continued to use force to occupy the territory of the state"[110].

For its part, the Russian Foreign Ministry has accused the Ukrainian authorities of "blaming the Moscow Government for all its problems203. In a statement, Minister Lavrov wrote that "the United States and Europe, and not Russia, are to blame for the destabilization of Ukraine" and that Russia, on the other hand, "is doing everything possible to promote the stabilization of the country".

4.2. The Association Agreement between Ukraine and the EU

The failure to sign the SAA by the Yanukovych government is seen by many as the first cause that led to the Ukrainian Crisis, starting with the first clashes that took place in Kiev Square. The Deep and Comprehensive Free Trade Agreement is primarily an agreement on trade exchanges. We say mainly because the political consequences that the treaty would be destined to produce in Ukraine are also evident, due to the political and social standards and requirements that the Union has imposed as a precondition for final ratification. The agreement allowed Ukraine and other contractors (ie Georgia and Moldova) to enter the European market on easier terms, mainly due to the gradual reduction of customs duties. At the same time, the domestic markets of these countries would have opened the way to European goods, but even more progressively, given that Community exports in terms of quality, size and competitiveness could have created inequalities in some sectors, especially in the food sector which is the one most involved in exchanges at least in the first phase.

So this was the main purpose of the Treaty, to be implemented, however, it required major reforms - as mentioned earlier also political, institutional and social - that these countries of the former Soviet Union were called to adopt. For these reasons, the SAA has been seen by many as a basis or a prelude for a future membership of these countries (Ukraine at the top) in the European Union, eager to expand its borders to the east of the continent. Russia's reactions are actually not hard to understand. President Vladimir Putin, facing the risk that Ukraine could

[109] A. IANNUZZI, *Ucraina-Russia, guida al conflitto*.
[110] www.ilpost.it/.

accede to this treaty, actually proceeded for the first time by banning the import of Ukrainian products and then also threatened to increase the price per cubic meter of gas and oil supplies, the main materials exported by Russia - which account for only 80% of total exports and 5.7% of the country's GDP - and of which neighboring Ukraine is the main consumer.
It should also be considered that this measure, although directed at Ukraine, also extended its effects indirectly to the European Union itself, which depends more than 30% - as already mentioned - on Russia for the import of these resources; without taking into account that other countries such as Greece, Cyprus and Bulgaria are 100% dependent. The Russian President himself, considering these interests "necessary for Russia", used them as a justification for his military intervention in Ukraine. In particular, according to Putin, the Association Agreement would present certain aspects of incompatibility with Ukraine's participation in a treaty concluded in 2011 - which also aimed to create a free trade area within the Commonwealth of Nations. Independent. This agreement to create a free trade area in Eastern Europe was signed in Moscow in 2011 between Russia, Ukraine, Belarus, Armenia, Kazakhstan, Tajikistan, Kyrgyzstan, Uzbekistan and Moldova. The perceived risk in the case of Ukraine was that the products that would come from the Union area once they entered the market in the Ukrainian and Moldovan market on the basis of the association agreements would be more preferred. For this reason, Russia took those previously stated measures (the ban on imports and the increase in gas prices) in an attempt to push the government of Kiev to refuse to sign any economic integration agreement with the European Union and to suppress those risks that threatened the Russian economy. On November 23, President Viktor Yanukovych announced the abandonment of the project, perhaps unaware of all that this decision would entail.

4.3. Violation of territorial integrity of Ukraine by Russia

Referring to Russia's influence and intervention in Ukraine, we can say that Russian initiatives constitute a violation of a fundamental principle of international law, which prohibits interference in the internal and international affairs of other states. This principle, which is not expressly stated in the Charter of the United Nations, was proclaimed for the first time by the General Assembly only in 1965 and was then further specified given its rather wide and varied content. This principle implies the obligation for a state not to engage in any activity that aims to influence its own interest, the choice and direction of the domestic and international policy of another state; the hypothesis which can occur not only through the use or threat of the use of armed force, but also through the adoption of measures of an economic, political or any other nature. One reason that seems to justify Russian intervention in Crimea - but also in southeastern Turkey - is given by Putin, according to which Russia's intervention is justified by the alleged need to protect the rights and lives of Russian citizens present in those territories in the light of violent repression in the country by the new Government of Kiev[111]. Russian Foreign Minister Lavrov has repeatedly demanded Russia's right to intervene militarily in Ukraine by sending its peacekeepers to protect Russian citizens living there. This is justified by the way that the same strategy has already been used by Moscow regarding the intervention made by Russia in 2008 in the Caucasus, Ossetia, to support the independence of South Ossetia and Abkhazia against the efforts of Georgia to regain control of those territories. Russian intervention in the Caucasus was implemented in accordance with Art. 61 of the Russian

[111] E. SCISO, *La crisi ucraina e i problemi di sicurezza in Europa*, cit., p. 31.

Constitution of 1993. However, as far as Ukraine is concerned, Russia's intervention is not in accordance with international law, as it does not have the assumption that Ukraine is a major threat to the lives and rights of the Russian minority, which according to the Moscow government, it would justify the necessity of operations on Ukrainian territory. In Ukraine, there have been no - apart from sporadic cases - massive and systematic attacks against the Russian population that make Russia's intervention necessary[112]. It is also worth noting that President Vladimir Putin in his statement referring to the need to intervene in Ukraine focused on the close historical and no less cultural ties between Ukraine and Russia and that Russia itself has every interest to keep intact. In this regard, Putin recalled a large number of concessions made by Russia to Ukraine as a result of the collapse of the Soviet Union, focusing on the recognition of Crimea, which occurred in 2000, as an integral part of the territory of Ukraine. . This concession, Putin emphasized, was made precisely to maintain good neighborly relations with a "brother", for the good of the country and in the interest of Russian citizens and Russian-speaking residents of Ukraine[113]. This is clearly visible in recent years, with the aim of Ukraine to integrate into the Western sphere of influence, through economic integration with the European Union Association Agreement on the basis of the agreement, the will clearly manifested by the Government of Kiev which wants to gain the status of a future member of NATO, an organization in which Ukraine is not yet a member, but in which several Baltic countries and Eastern Europe have already joined. And this seems to be only one of the most painful points for Putin.

In other words, and finally, the political choices made by Ukraine in recent years at the instigation of Western partners undoubtedly risked undermining the neutrality of a country like Ukraine. That the need to protect Russian interests is a point that really has value only diplomatically, but is nevertheless almost irrelevant in the light of international law. Moreover, it is even less fundamental if it is used to justify violations of obligations arising from the principles and rules of fundamental international law as happened in this case. International law recognizes the legal value of necessity, it is understood as a circumstance capable of excluding the responsibility of the State against an international obligation, only when such behavior represents the last and necessary means to protect an essential interest in the light of a serious and immediate danger, and provided that the act committed in need does not seriously endanger an equally essential interest of the State to which it is addressed[114].

The reasons given by Putin in support of the legality of its intervention in Crimea are also based on the military action subsequently carried out by Russia in support of the pro-Russian separatists of the eastern regions of Ukraine. In this respect, in fact, the Government of Moscow more than giving excuses was limited only to rejecting the accusation that it had intervened militarily, with the aim of presenting the action and support in favor of the separatists in Donbass in the same way as a humanitarian intervention in favor of civilian populations victims of attacks experienced by the Ukrainian authorities. Faced with this situation where Russia has - and continues - to violate the territorial integrity of Ukraine, the reaction of the international community has so far been quite weak. It is also clear how this stems from the internal impossibility of the United Nations to act; impossible due to the fact that one of the countries

[112] la Risoluzione dell'Assemblea Generale n. 2131 contenente la Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, adottata il 21 Dicembre 1965.

[113] E. SCISO, *La crisi ucraina e i problemi di sicurezza in Europa*, cit., p. 38.

[114] E. SCISO, *La crisi ucraina e i problemi di sicurezza in Europa*, cit., pp. 43-44.

directly involved in this crisis is a permanent member of the Security Council, and the adoption of resolutions is therefore excluded from his right to veto it. Even before the General Assembly declared the illegality of the referendum in Crimea and the subsequent annexation by Russia, some states, notably the United States and European Union countries, have unilaterally adopted sanctions that were later strengthened after the armed aggression carried out by Russia in eastern Ukraine as well. At this point, the legality of such measures used by the West can be questioned.

CONCLUSIONS

Human history is full of the rise and fall of states, and the history of the two regions, both similar and different, attests to this. The solution that Russia gave to the case of Crimea, not only did not find any international support, but on the contrary, the Russian policy encountered opposition and international sanctions. Russia's current behavior in the case of Crimea and following its annexation strategy of Ukraine, proves that it speaks with the argument of force and interprets, or rather, completely ignores international law according to its own wish. But Russia's actions, as in the later cases of Abkhazia and South Ossetia, as well as later in the cases of Crimea in Ukraine, act on the unrealistic pretext of supposedly protecting a population whose rights are being violated. In fact, there is a similarity here, but not in the Russian sense, but in the sense of the bitter situation in the Balkans, when Serbia, in order to create a greater Serbia, used as a pretext for its aggressive policies the fact of the unity of the Serbian minorities living in other countries of the former Yugoslavia with the false argument of the "danger to the Serbs" from Bosniaks, Croats and Albanians. After the independence of Kosovo, Moscow and Putin started talking about "the danger of ethnic Russians in Ukraine", but the international opinion was clear that this Russian propaganda warned of military intervention in the region. Currently, the annexation of Crimea and the situation in Ukraine has met with strong objections from the West, accusing Russia of "violating the UN Charter, violating the sovereignty and territorial integrity of Ukraine" and, in addition to the sanctions, they have called on Moscow to " immediately stop the military activities and withdraw the army to the barracks", although so far the EU and NATO are trying for a political solution.

We have seen how, defending the legitimacy of the referendum that took place in Crimea, Russian President Vladimir Putin has often drawn attention to an important principle of general international law, the so-called principle of self-determination of peoples. This principle has been specifically invoked in support of the declared independence of the Ukrainian peninsula and its subsequent annexation by Russia. Therefore, this principle seems to have played a key role in the crisis in Crimea, and it is then appropriate to determine the content and scope to see whether the people of Crimea can in practice be considered the bearer of this right or not. Today there are a number of international norms that protect ethnic minorities, even if in reality it does not seem that they can be raised as real subjects of international law. More and more often then we speak in practice of "peoples' rights", as the right of peoples to self-determination, or even as the right of peoples to freely dispose of their natural resources.. For most of these rights, the term "people" is used prominently and seems to be easily substituted for the term "state" to indicate the actual owner. The application of the principle of self-determination, however, presents considerable difficulties when it comes to territories in which

the foreign government, although present with its own armed forces, is supported by a local government from which it has received a request. formal for "help" (as in the aforementioned case of Crimea). It can be said that in this case the principle of self-determination is applied in the sense of imposing the cessation of foreign employment in both Governments224. The most interesting aspect of the principle under consideration is represented by the close links that exist between it and other internationally recognized imported principles, such as the one that requires respect for the territorial integrity of the state. The scope of application of this principle seems to be quite uncertain; all that can be said is that self-determination should only give way when the local population is not necessarily native but imported from the mother country. We must then guard against interpreting the principle of self-determination as capable of fulfilling the separatist aspirations of the regions. In accordance with par. 4 In fact, the Council, after noting that Ukraine has not authorized the independence referendum in Crimea, declared that "this referendum is not valid and cannot be a legal basis for any change in the status of the peninsula" 293. The next paragraph increases dose stating that "Member States, international organizations and specialized agencies, are called upon not to recognize any change in the status of Crimea on the basis of such a referendum," and that "they must therefore refrain from actions that could be interpreted as an acknowledgment, if only implicit, of this change of status.

Much has been written and said about the crisis in Ukraine, but again it seems that the issue of Ukraine is still far from being resolved. The few interventions that have been implemented in practice have done nothing, but have produced effects that are not hoped for - as seen - the lack of interest shown by the international community, with its focus now concentrated on other fronts of the planet. We have followed step by step the history of this country to understand the deepest roots of the ongoing conflict and they have shown us, confirming how much our past reflects our future. Far from being able to make moral judgments - which I leave to the reader - we have been "juridical" when we have said that what happened in Ukraine constitutes a clear violation of international law. On October 26, Ukraine returned to the polls. The country's new president is Petro Poroshenko, but his victory has not helped the Donbass regions, which abstained from voting and where conflict continues despite repeated promises of a ceasefire. Instead, the statement of the Commissioner for Human Rights of the Council of Europe, Nils Muiznieks is clear: "urgent measures must be taken to ensure that the rights of the populations involved in the conflict in the east of the country are respected." If this is the case today, the situation in Eastern Ukraine, the annexation of Crimea by Russia seems to be a won issue now. As in other cases, the "rest race" policy has once again been victorious, regardless sunscrupulous violations of fundamental international law and injuries to the values and principles on which our community was founded. The Ukrainian crisis shows us that despite all the efforts made so far, relations between states are still governed by the law of the strongest, and how these principles of law are sometimes valued as a success for humanity, rarely finding application in practice. , they produce nothing but a pretext to protect the most expensive interests from time to time in the most powerful countries.

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Liability for causing damage under European private international law

(Albanian rapprochement framework during the integration process towards the EU)

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Abstract

In this paper, the responsibility for damage will be dealt with in the field of European private international law. The historical part of causing damage will be dealt with, where we will focus mainly on the provision of national legislation and what international legislation has dealt with! Responsibility will be addressed from the point of view of Regulation II of Rome, some special obligation relationships, focusing on some specific damages which this regulation deals with, and the scope of the appropriate law! The alignment of Rome II Regulation with Albanian internal legislation will be addressed.

First, we will deal with the historical part of the paper, how it was treated at the time of Zog and until today, then we will continue with the treatment of the current and international legislation, bringing the comparative part and the innovation in the domestic legislation and will to conclude with some conclusions which should be in the attention of the legislators for the future.

When a damage is caused, which comes as a result of human actions, a civil legal relationship arises. The damager who causes this legal relationship must be held responsible, this requires certain stages to be passed where it is determined what is the damage that has occurred, the conditions that must be met, the calculation of the facts, the legitimacy that the parties have process etc.

The cause of damage is divided into two categories, contractual and non-contractual damage. That part of the law that regulates contractual and non-contractual damages recognizes the right of persons to be compensated for the damages that may have been caused to them as a result of the breach of contract or the commission of any illegal action. The other commonality between the two types of damages is the reason for exemption from responsibility for causing these damages, which can be force majeure, extreme necessity.

Key words*:* *liability, regulation, contractual damage, non-contractual damage, tortfeasor, extreme need*

Introduction

Civil liability for causing damage was first materialized with legal norms in Roman law. The claim for damages was represented by the "Aquilian lawsuit". Its progress did not find stable forms, except in the era of Napoleon, precisely in the Civil Code when, not only in this area, adaptation to the developments of society, of civil law in general and of responsibility for causing damage in particular is achieved .

The Napoleonic Code served as the civil law foundation for legislation, jurisprudence and doctrine. Over the years, the efforts of jurists and legislators have only changed the appearance of the institutes, leaving the principles almost intact.

The subsequent efforts are not the change of all accepted principles, but their adaptation to the special characteristics of social development, of civil law in particular, with a major place in this development.

The change of the political system brought a new spirit and worldview in the legislation of the Eastern European countries, therefore also in Albania. The institution of causing harm, with politicized and superficial definitions began to change, adapting to the law and doctrinal heritage of continental European countries or, in a more national assessment, returned to the definitions of civil law regulated in the Code Civil of 1929.

In the historical aspect, the Civil Code of 1929 and the Civil Code of 1982 will be treated, but also an analysis from Roman law. It will be addressed how our legislation implements them and how the Rome 2 regulation provides.

In the Code, they find special regulation "Responsibility for the actions of persons learning a trade", "Responsibility for illegal actions of servants and workers", "Responsibility for damages caused by animals", "Responsibility for facts arising from objects", "Liability for damages caused by the collapse of buildings", as well as "Liability for obligations arising from illegal actions caused by many persons".

Article 1160 of the Civil Code determines the method of compensation for damages. The obligation arising from the illegal action includes compensation for the damages resulting from this action. Damages can be material and moral and the possibility of repairing material damage and moral damage is recognized.

Historical Part

In ancient Roman law, there was no distinction between criminal and civil offenses (delicts). The ancient Roman law recognized the term "delict" that indicated any illegal action of the party that was sanctioned by law, and only according to the sanction that belonged to the party, the division into public and private delicts was made. Delicts, as a source of the birth of the obligation relationship, due to the unilateral actions of people, were divided into public and private. Only private delicts represent a source of obligations, since for public delicts or

criminal offenses (crimes), the sanction (penalty) was given either by the injured person or by members of his family or by the state to the body of the injured person or in the form of money that was collected in favor of the state treasury.[115] In Roman law, in the case of causing civil damage, the damage was caused by the obligation to compensate the damage or multiple compensation.

However, the compensation did not have the purpose of compensating the damage, but the purpose of reconciling the injured party, so that he would not take revenge. The Romans, before the issuance of the law of the XII Tables, regulated the issue of compensation for damage based on customary rules, where the injured party gained the right to revenge against the causer of the damage or members of his family. In Roman law, the institution of debt slavery was also known, according to which persons who had any civil obligation and were unable to fulfill the debt from any contract or other legal work, then the same must either voluntarily or by forcing them from the court's decision to repay the debt by working with the creditor.

Although this sanction was aimed at paying off the debt, it still had the effects of personal punishment since the insolvent person had the status of a slave and during this entire period he lost the civil rights he enjoyed as a Roman citizen until the moment of paying off the obligations. Later, with the development of social and economic relations, the Romans, as they created a permanent surplus of products, sought to avoid the risk of revenge by insisting on the compensation of the damage with some property value for the benefit of the injured party.

This was done since the rules for compensating damages had a punitive character. As a result of this, reconciliation agreements were born in the form of contracts, which agreements were made between the members of the group that caused the damage and the members of the injured person's group, and based on the agreement, the injured person's family members undertook to withdrew from the right to revenge or corporal punishment on the body of the delinquent against the reward they would receive from the members of the group of the person who caused the damage. Such agreements were optional in nature, as it depended only on the will of the parties, especially the injured party, if he agreed to waive the right to revenge.

Emperor Servius Tullius, through leges regiae, tried to make a distinction between public and private torts. However, he decided to keep the resolution of disputes of a public nature to himself, while he intended for the parties to resolve civil disputes themselves. This evolution of the rules on causing damage is clearly shown by the provisions of the law of the XII, since for any damage to property or personal values it allowed the possibility of material compensation for the same.[116] This shows a transition from the sanction of revenge to that of compensating the damage with money, but however for certain cases very draconian sanctions continued to remain in force, for example: in relation to the damage caused it says: "si membrum rupit, ni cum eo pacit, talio esto" (if someone has damaged the limbs of the body and then they do not reach an agreement on the compensation of the damage, then the talion will apply).

In connection with "frugem aratro quasitam noctu pavisse ac secuisse puberi XII tabulis capital erat, suspensumque Cereri necari iubebant, inpubem praetoris arbitratu verberari noxiamve duplionemve decerni" (if someone peels or plucks foreign fruits with a plow at night, according

[115] Roman Law, Prof. Assoc. Dr. Arta Mandro - Year 2007, page 394
[116] Roman Law, Prof. Assoc. Dr. Arta Mandro - Year 2007, pg. 40

to the law of the XII tables for the adult guilty, the death penalty was foreseen, it was foreseen that he would be hanged and drowned in honor of the lord Ceres, while the minor, according to the opinion of the praetor, should be beaten or should be handed over to the injured person to compensate through debt slavery the damage in multiple value).

The later rules on the infliction of damage have always tended to exclude the principle of talion and to replace it with the obligation to pay compensation in money. Thus, according to the divisions made by Gaius in his institutions, four remain as illegal actions that resulted in the award of civil damages, and that: injuria (presented any violation of the material and personal values of the other person, without realizing any material benefit to the cause of damage), furtum (theft), rapina (robbery) and damnum injuria datum (involved damage to foreign property without personal benefit to the causer of the damage), which remain pure only sources of liability. In the post-classical period, Justinian, in addition to contractual obligations, also recognized obligations arising from delicts, quasi-delicts and quasi-contracts. The difference between delicts and quasi-delicts lies in the fact that the delicts did not exist without the appearance of the harmful consequence, while the quasi-delicts existed even without the appearance of the consequence.

The delict did not exist if the causer of the damage was not guilty or was not directly responsible when the damage was caused (animus nocendi), while the quasi-delict existed even without the perpetrator's fault. However, with the issuance of the Lex Aquilia, all previous provisions for the compensation of damages were abrogated, and all cases of non-contractual damage compensation were foreseen in three chapters. The first chapter provided that, if someone unjustly kills a foreign slave or four-legged animal, he is obliged to compensate the damage in the highest value that these things have had during the last year.[117] In the second chapter, the punishment is foreseen for the surety who has cheated and does not fulfill the obligation to the main creditor. In the third chapter, it is foreseen that whoever unjustly injures a slave or animal, or destroys or damages a foreign object, is obliged to pay the highest price that the object has had in thirty days.

The scope of the lex aquilia and its expansion with the inclusion of even more cases was done during the interpretation that the praetors made when applying its provisions. As for the damage caused by animals, the Romans used the special term - pauperies. This mainly applied to the damage caused by quadruped pets.

There is an obvious parallel between the Roman delict and the English common law tort, but the similarity should not go too far, since Roman law, for the delict, has a strong criminal element (the law punished the conduct of wrongdoers), also ensured that the injured party was adequately provided for. While the English tort makes a clear distinction between criminal offenses and civil wrongs. In common law, the expression "tort" is used for civil offenses, an expression which has French origins, due to the influence of the French-Normandy part in England. It is believed that the etymology of the word derives from the Latin language "tortum", which means injustice, violation of the law. By "tort" is meant the illegal actions that were taken against the person or his property, with the exception of violations of contractual obligations. In contrast to the previously known violations, today the common law tort includes

[117] Roman Law, Prof. Assoc. Dr. Arta Mandro - Year 2007, page 406

more types of violations, for example: violation of privacy, injury to the child before it is born, etc[118].

Contemporary civil law has clearly made the separation from the so-called tort laws, as today in the case of causing civil damage or non-fulfillment of the contract, the causer of the damage cannot be subject to physical punishment or deprivation of liberty. Article 11 of the International Covenant on Civil and Political Rights also states that "no one may be imprisoned for the sole reason that he is unable to fulfill an obligation arising from a contract". Based on the interpretation of the provisions of this convention and other conventions, it is clearly seen that the obligation to compensate for the damage is not intended to take revenge on the perpetrator of the damage or to penalize him, but only civil liability, which means the material compensation of the damaged values. Also, most of the contemporary legislations now do not direct the imposition of the sanction for any violation of the civil obligation against the personality of the person, but only against his property[119].

During the period of the republic, most property relations continued to be regulated on the basis of the provisions of the Ottoman Civil Code. Later, as the basic source of civil law, was the Civil Code, which entered into force on April 1, 1929. This code is presented with more progressive content than all the legal-civil regulation that was applied in our country until that time. With the new unified and common solutions for all Albanian citizens, which were defined in this code, the regulation of family relations and legal inheritance according to the religion of the parties was completely abolished. These new provisions of this code brought natural consequence of the distribution of religious courts[120].

Sources, system and content - The Albanian Civil Code was built mainly on the model of the French (Napoleonic) Civil Code. However, a number of institutions of this code were built on the basis of the relevant provisions of the Swiss Civil Code and the Swiss Code of Obligations, while some others were taken from the German Civil Code. The Albanian Civil Code consisted of the introduction, which contained some general provisions on the interpretation and application of laws, as well as four books or parts. The first book, which was called 'Persons and family', regulated the problems of citizenship and the status of natural persons. It also contained provisions on civil status acts, on marriage, on recognition of paternity and maternity, on paternal authority, on guardianship (guardianship of minors), etc. The last title of this book was dedicated to legal entities", distinguishing them into" associations and foundations.

If we look at the provisions as a whole, we notice that the Civil Code, unlike other legislations that regulate this institute, includes all the material and moral damages caused by the illegal action. The judge can assign a reward to the injured party, in the case of a bodily injury, violation of honor or fame to him or his family, violation of personal freedom, or the residence, or of a secret belonging to the injured party. It is also provided that in the event of the death of the injured person, a reward can be assigned to his wife, child, or spouse as compensation for

[118] Roman Law Prof. dr. Enkeleda Olldashi, year 2018, page 354
[119] The Law of Obligations and Contracts, General Part, Mariana Tutulani-Semini- Year 2006, pg 256
[120] Adams, Michael (1989), 'Warum kein Ersatz von Nichtvermogensschaden?', in Claus Ott, and Hans-Bernd Schäfer, (eds.), *Allokationseffizienz in der Rechtsordnung*, Berlin, Springer-Verlag, pp. 210-217

the grief suffered. It provides as sources of obligations: contract, unilateral promise, expansion of works, non-obligated payment, enrichment without cause as well as illegal actions.

In article 1149/l of the Civil Code, the conditions that must be met for the existence of the civil legal relationship, which derives from an illegal action, are given, accompanied by the subjective element of guilt, the existence of damage and the causal link between the illegal action and the damage of came: "Any fault that causes another person a dam, obliges the betrothed to reward this."[121]

Interpreting the article literally, he has decided that the injured party is obliged to prove his fault. If he is not able to prove that the person who caused the damage acted with guilt, he cannot claim his compensation.

In addition to the general principle according to which the damage caused must be compensated, the Civil Code also provided for cases of exclusion or limitation from this liability.

Article 1149/II of the Civil Code provided: "This obligation (to compensate the damage) also has the one who, in the exercise of his own right, exceeds the limits set in good faith or by the purpose of which he is aware the right one, causes another a checker."[122]

From the assessment of the provision, it is realized that the person who caused a damage in the exercise of a legal right, is not charged with civil liability. This, as long as it does not exceed the limits allowed for the exercise of the legal right. Exceeding these limits is illegal and therefore incurs responsibility for the author of the damage.

The Civil Code of 1929 obliges any person with legal capacity to act, who illegally caused damage, to compensate the damage. However, the Code provides that even a person incapable of acting can be charged with responsibility, in cases where he was able to evaluate his own actions, i.e. when he was aware of the action he had taken. "The godless is responsible for his illegal actions, if he acted with the mental power of appreciation."

In the Code, they find special regulation "Responsibility for the actions of persons learning a trade", "Responsibility for illegal actions of servants and workers", "Responsibility for damages caused by animals", "Responsibility for facts arising from objects", "Liability for damages caused by the collapse of buildings", as well as "Liability for obligations arising from illegal actions caused by many persons".

Article 1160 of the Civil Code determines the method of compensation for damages. The obligation arising from the illegal action includes compensation for the damages resulting from this action. Damages can be material and moral and the possibility of repairing material damage and moral damage is recognized[123].

[121] Article 1149/l of the Civil Code
[122] Article 1149/II of the Civil Code
[123] Article 1160 of the Civil Code

Responsibility in the perspective of the Rome II Regulation, some special obligations!

The special rules for certain violations are defined by Articles 5-9 of the Rome II Regulation. The relevant violations are the liability related to non-contractual damage, for the product, unfair competition, environmental damage, infringement of intellectual property and industrial actions.

Product liability

Article 5

1. Without prejudice to Article 4 (2), the law applicable to a non-contractual obligation arising from damages caused by a product shall be:

(a) the law of the country in which the person had his or her habitual residence where the damage occurs occurred, if the product was marketed in that country, or, if not,

(b) the law of the country in which the product was acquired, if the product was marketed in that country, or, if not,

(c) the law of the country in which the damage occurred, if the product was marketed in that country.

However, the applicable law shall be the law of the country in which the person alleged to be liable is a permanent resident if he or she could not have foreseen the marketing of the product, or a product of the same type, in the country in which law is applicable under (a), (b) or (c)[124].

2. When it is clear from all the circumstances of the case that the violation of the law is clearly more closely related to a country other than the one specified in paragraph 1, that law will be applied. An obviously closer connection with another country may be based in particular on a previous relationship between the parties, such as a contract, that is closely related to the tort in question.

Recital 18 explains that the conflict rule in product liability matters must meet the objectives of fairly spreading the risks inherent in a modern high-tech country, protecting the health of consumers, promoting innovation, ensuring competition and trade facilitation. He states that the creation of a system of cascading factors links, together with a predictability clause, a balanced solution in terms of these objectives.[125]

Based on the circumstances, it seems appropriate to continue, in seeking guidance in the scope of Article 5 from the EC, from the Commission's explanatory memorandum accompanied by the Original Proposal of July 22, 2003[126], and from the Hague Convention on the Law Applicable to Products Liability (1973) . Regarding the concept of a product, it seems appropriate to follow the Suggestion of the Explanatory Memorandum because this has the same meaning as Article 5 of the Regulation as in EC Directive 85/374 (with amendments),

[124] Article 5 Rome Regulation 2
[125] American Law Institute (1991), *Enterprise Responsibility for Personal Injury, volume II: Approaches to Legal and Institutional Change*.
[126] See COM (2003) 427 final, especially at 13-15.

which has partially harmonized the substantive laws of Member States regarding product liability.

Thus, defined by Article 2 of the Directive, the term "product" means any movable object, even if it is included in another movable or an immovable one, and includes electricity. Therefore, the concept also extends to a material or a component which is used or parts included in a finished product[127], as well as the final product itself, and extends to an agricultural product (either primary or processed).[128] The explanatory memorandum shows that in other aspects the scope of Article 5 of the Regulation is wider than that of the Directive. In particular, Article 5 applies if the claim is based on strict liability or fault.[129] But, even though (unlike the Original Proposal) the adopted Regulation does not refer to a "defective" product, the analogy of the Directive shows that the focus is on safety and this consideration is slightly supported by the reference in Recital 18 of the Regulation for the protection of consumers' health[130]. Thus Article 5 should probably be interpreted as limited to claims related to physical injury to (or death of) a person, or physical damage to property other than the product itself, and as not extending claims to pure economic loss,arising from physical injury or damage. On the other hand, there are no reasons to limit Article 5 from requests made by a buyer or a consumer of the product, or by an individual[131].

In contrast to Directive 85/374, Article 5 of the Regulation is silent regarding the character of the defendants for the persons responsible to which it applies. It seems clear that Article 5 does not apply to claims against an actual user or possessor of a product at the time of the incident from which the claim arises. Similarly it does not extend to claims against the person's employer, or anyone else who is indirectly responsible for his conduct as a user or possessor. Thus, when a car is involved in a road accident, Article 5 does not extend to claims by injured pedestrians against the driver or his employer, even if the car was unsafe due to a defect that existed when it left the manufacturer.[132]

Article 5 accordingly applies to claims against a manufacturer or producer of a finished product, or of a raw material used or a component incorporated into a product[133].

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[127] See also Explanatory Memorandum, COM (2003) 427 final, at 15; Directive 85/374, Article 3 (1), and Hague Convention 1973 Articles 2 (a) and 3 (1).
[128] Directive 1999/34, Article 1 (amends Directive 85/374, Article 2).
[129] See also Hague Convention 1973 Articles 2 (a) and 3 (2).
[130] See Explanatory Memorandum, COM (2003) 427 final, at 13.
[131] Article 6 of Directive 85/374 specifies that a product is defective, when it does not provide the Security that a person has the right to expect, taking into account all the circumstances, including: (a) presentation of the product, (b) use that it could reasonably be expected that. The product will be placed (c) the time when the product is put into circulation.
[132] Somewhat similarly, Article 9 of Directive 85/374 limits the damage for which the Directive imposes liability to (a) damage caused by death or personal injury, (b) damage to, or destruction of, any property. other than the damaged product itself, with a low threshold of €500 ECU, provided that the element of property: (i) is of a common type intended for private use or consumption, and (ii) was used by the injured party mainly for his private use or consumption. He adds that this does not affect the national provisions related to damages. In contrast, Article 2 (b) of the 1973 Hague Convention defines "damage" as personal injury or property damage, as well as economic loss, but excluding damage to the product itself and significant economic loss on it, unless is accompanied by other damages.
[133] See Explanatory Memorandum, COM (2003) 427 final, at 15; Directive 85/374, Article 3 (1), and Hague Convention 1973 Article 3 (1) and (2).

It also extends to claims against an importer or a supplier of a product or against other persons[134], such as the designer[135], repairer, involved in the commercial chain of preparation or distribution of the product[136].

In any case, it is clear from the inclusion of Article 5 of Chapter II of the Regulation that the responsibility must be a violation. On the other hand, even when there is a contract between the parties for the supply of the product[137], Article 5 will be applied to a breach claim between them, but in this situation we have an exception specified by Article 5 (2) where it is stated that the breach claim will be governed by the law that governs the contract, or (as the case may be) by the law that provides mandatory protection for the claimant as a consumer, based on the Rome Convention 1980. Article 5(1) provides a cascade of five rules for the choice of law , which are applied in this way. If the first rule fails to determine an applicable law, it goes to the second, and so on. All five rules are the object of an exception made by Article 5 (2) in favor of the clearly more closely related law.

The five rules and exceptions can be restated as follows:

Rule 1 - If both the victim and the defendant were permanent residents of the same place at the time the injury occurred, the applicable law is that of common habitual residence.[138]

Rule 2 - Otherwise the applicable law is that of the country in which the victim was a permanent resident when the injury occurred, if the product was marketed in that country, and if the defendant could not reasonably have foreseen the marketing of the product, or a product of the same type.[139]

Rule 3 - Otherwise the applicable law is that of the country in which the product is insured, if the product is marketed in that country, and if the defendant could not foresee the marketing of the product, or a product of the same type, in that place.[140]

Rule 4 - Otherwise the applicable law is that of the country in which the damage occurred, if the product was marketed in that country, and if the defendant could not foresee the marketing of the product, or a product of the same type, in that country .[141]

Rule 5 - Otherwise the applicable law is that of the country in which the defendant was habitually resident[142].

Exception - by way of exception to the above rules, where it is clear from all the circumstances of the case that the offense is clearly more closely connected with a country other than the

[134] See Explanatory Memorandum, COM (2003) 427 final, at 15; Directive 85/374, Article 3 (2), and Hague Convention 1973 Article 3 (3) and (4).
[135] See Explanatory Memorandum, COM (2003) 427 final, at 15; Directive 85/374, Article 3 (3), and Hague Convention 1973 Article 3 (3).
[136] See Hague Convention 1973, Article 3(4).
[137] This contravenes the 1973 Hague Convention which claims that a claim is excluded by Article 1(2) where property in, or the right to use, the product has been transferred to the claimant.
by the defendant.
[138] See the opening phrase of Article 5 (1).
[139] See Article 5 (1) (a), and the last clause of Article 5 (1)
[140] See Article 5 (1) (b), and the last clause of Article 5 (1)
[141] See Article 5 (1) (c), and the last clause of Article 5 (1).
[142] See the last clause of Article 5 (1).122 Ankara Law Review Vol.4 No.2

country to which the law would be applicable under those rules, the law of that country applies. It seems appropriate to refer to the "victim", instead of the "plaintiff", as a synonym for the "person supporting the damage", since the analogy with Article 4 (1) indicates that the relevant person, on the side of the applicant of claim, it is the person who suffers the immediate injury, rather than a related person who claims for a loss. Thus, in the case of a fatal accident, the relevant person is dead, rather than the family members who claim for their grief or loss of financial support. On the part of the defendant, the relevant person is the one whose responsibility is in doubt.[143]

The definitions of permanent residence provided in Article 23 also extend to product liability. In this context, they cause special difficulties in situations where several institutions of a defendant manufacturer have been involved in the production and marketing of the product.

Environmental damage

Article 7 of the Rome II Regulation defines a special rule for violations "arising from injury or damage caused to persons or property as a result of environmental damage". Article 24 provides for the definition of "environmental damage" referring to adverse changes to one of the natural resources, such as water, land and air, damage to a function performed by such a resource for the benefit of one of the natural or public resources , or impairment of variability among living organisms.[144]

According to Article 7, the applicable law for a possible violation as a result of damage to the environment or damage caused to persons or property, as a result of such damage, is the law established in accordance with Article 4 (1), unless the person seeking compensation for the damage bases his claim on the law of the country in which the damage occurred. This essentially constitutes a rule of alternative reference, in favor of the law of the place of the direct injury, or the law of the place of the defendant's conduct, whichever is more favorable to the plaintiff. However, the plaintiff must choose between the two laws, at a stage of the procedure determined by the law of the forum. In any case, the normal rules provided by Article 4 (2) and (3) giving priority to the law of common residence or the law of a closer relationship are excluded. [145]

Regarding the rationale for Article 7, Recital 25 refers to Article 174 of the EC Treaty, which provides that there should be a high level of protection based on the preventive principle and on the principle of preventive action should be taken, the principle of priority for remedial action at source, and the polluter pays principle. She claims that this fully justifies the use of the discriminatory principle in favor of the person causing the damage.

Industrial Disputes

Article 9 of the Regulation specifies that, without prejudice to Article 4 (2) (in the application of the law of a common permanent residence), the law applicable to an offense relating to the liability of a person in the capacity of a worker or a employers or organizations that represent

[143] See Article 5 (2).
[144] Recital 25 refers to Article 174 of the EC Treaty.
[145] Recital 28 adds that the special rule for strike in Article 9

their professional interests, for damages caused by a strike, pending or committed, is the law of the country where the action was performed or taken.

Recital 27 explains that the exact concept of industrial action, such as strikes or lock-outs, varies from one Member State to another and is governed by the internal rules of each Member State. Recital 28 adds that the special rule for strikes in Article 9 does not affect the conditions related to the exercise of such action in accordance with national law, and brings a prejudice to the legal status of trade unions or representative organizations of workers provided for in the law of Member States.

Scope of Applicable Law

Article 15 of the Rome II Regulation provides a broad, but not exhaustive, definition of the issues that are regulated by the appropriate law of violations, defined in accordance with Articles 4-9.[146] Thus, the issues listed in Article 15 must be treated as material and referred to the appropriate law, but other issues can be treated as procedural and referred to the law of the forum. In Article 15, the appropriate law applied to violations applies both to issues of liability and to issues related to damages.[147] Regarding the issues related to responsibility, Article 15 states for the subjects: (a) the basis and degree of responsibility, including the determination of the persons who can be held responsible for the actions performed by them, (b) the reasons for exclusion of liability, any limitation of liability and any allocation of liability; (e) the question of whether a right to seek compensation can be transferred, including inheritance; (f) persons who have the right to compensation for the damage suffered personally, (g) persons responsible for the actions of another person; (h) the manner in which an obligation may be extinguished and the rules of prescription and limitation, including rules relating to the commencement, termination and suspension of a period or limitation. In addition, Article 22(1) specifies that the appropriate law applies to the extent that, in matters of non-contractual obligations, it contains rules which increase the presumptions of law or determine the burden of proof.

The applicable law also governs the admissibility and assessment of damages. From Article 15 (c) we confirm that there is a determination of the nature and evaluation of the alleged bull. Thus the proper law must apply to all matters relating to the assessment of damages to be awarded, unless the proper law lacks some rule on the matter which is sufficiently clear to enable a court elsewhere to apply it with confidence and precision. This accords with the approach recently adopted by the Court of Appeal in Harding v Wealands[148], where the previously accepted view that the quantification of damages was governed by the lex fori as a matter of procedure was abandoned. Unfortunately the House of Lords[149] reversed the decision and reaffirmed that all aspects of the quantification of damages are procedural. Recital 33 states that, according to the current national rules for the compensation granted to victims of road traffic accidents, when quantifying damages for personal injuries in cases where the accident occurs in a state other than that of the victim's permanent residence, the court must take taking

[146] Article 15 of the Rome II Regulation
[147] See also Articles 21 and 22 (2), in the laws that regulate the formal validity and the method of authentication of a unilateral act in order to have legal effect and related to this non-contractual obligation.
[148] (2005) 1 All ER 415 (CA).
[149] 2006 UKHL 32.

into account all relevant current circumstances of the victim in particular, including actual losses and costs of after-care and medical treatment.

With Article 15 (d) of the Regulation, the law is applied, within the limits of the powers given to the court by the procedural law, for the measures that the court can take to prevent or terminate injury or damage or to ensure the provision of compensation. This is necessary in order not to force the court to order measures which are unknown in the procedural law of the forum.

The general meaning of non-pecuniary damage in European Tort Law

Non-pecuniary damage, provided for in Article 625 of the Civil Code, as a broad and comprehensive category of non-contractual damages, includes any type of damage suffered from the infringement of non-pecuniary rights and interests that are part of one's values and are not subject to the assessment of directly to the market[150]. In its essence, this provision recognizes the right to compensation for any type of extra-contractual non-pecuniary damage, which is different from the property damage. The listing of cases of non-pecuniary damage in its paragraphs "a" and "b" is not intended to limit, but to regulate expressly, for the effect of distinguishing the violations, the right to the corresponding compensation and the circle of subjects that enjoy active legitimation.

More specifically, Article 625 provides: "The person who suffers a loss, other than property, has the right to request compensation when:

He has suffered an injury to his health or his personal honor has been violated;

The memory of a dead person has been insulted and it is claimed by the spouse with whom he lived until the day of his death or by his relatives up to the second degree, except when the insult was committed when the deceased was alive and the right to compensation for the insult done.

The right provided for in the above paragraph is non-inheritable.

From the interpretation of Article 625, we can say that it refers to several main types of moral damage:damage resulting from damage to health
the damage that comes from the violation of honor and personality
the harm that comes from insulting the image of a dead person[151]

In relation to the terminology used in the European context (European Tort Law), this type of damage is called "Non-pecuniary loss". But this term is not universal, we often find it with the terms "Non-material loss", "Moral damage", "Health damage" etc. They are not exactly interchangeable as terms, but they all express a basic idea that exists in every system of European countries, and most countries of the world. This basis has to do with the fact that certain matters will be considered worthy of compensation, despite the fact that they are not related to a monetary loss and cannot be evaluated scientifically, or by referring to the market. The loss of a body part, or the violation of freedom and privacy, are considered harm in the

[150] Article 625 of the Civil Code
[151] Article 625 of the Civil Code

eyes of the law regardless of the economic damages they may bring. When dealing with death and personal injury, such damages are usually associated with monetary loss, lost income or medical expenses, the amounts that can be reached can be up to €500,000, in some systems. If the complaint is made for violation of freedom or a right of personality, the violation exists when these are violated and if these do not exist there is no sanction for the illegal action. As you can see, the compensation of a damage or its fulfillment takes more place than compensation. In these cases it is difficult to find similarities between different legal systems because the mechanisms they use can be used. According to the European law of violations taking into account the purpose of protection, the violation of an interest can justify the award of non-pecuniary damage. This is the case, especially when the victim has suffered personal injuries; or violations of human dignity, freedom or other personality rights. Non-pecuniary damage can be the subject of compensation for persons who have a close relationship with the victim and suffer a fatal and serious suffering from the realized damage. In general, in the assessment of such damages, the seriousness of the situation, the length of the consequences, the consequences should be taken into account. The degree of the violation is taken into account when it significantly contributed to the deterioration of the victim's situation.

In cases of personal injuries, non-pecuniary damage corresponds to the suffering of the victim and his physical or health injuries. In the assessment of the damage, the same amounts should be given for the same damage, so its assessment is done objectively.

Conclusions

In relation to issues related to responsibility, Article 15 states for the subjects: (a) the basis and degree of responsibility, including the definition of the persons who can be held responsible for the actions performed by them, (b) the reasons for exclusion of liability, any limitation of liability and any allocation of liability; (e) the question of whether a right to claim damages is transferable, including by inheritance; (f) persons who have the right to compensation for the damage suffered personally, (g) persons responsible for the actions of another person; (h) the manner in which an obligation may be extinguished and the rules of prescription and limitation, including rules relating to the commencement, termination and suspension of a period or limitation.

Non-pecuniary damage, as a broad and comprehensive category of non-contractual damages, includes any type of damage suffered from the violation of non-pecuniary rights and interests that are part of one's values and are not subject to direct evaluation in the market.

The award of a damage or its fulfillment takes more place than compensation. In these cases it is difficult to find similarities between different legal systems because the mechanisms they use can be used. According to the European law of violations taking into account the purpose of protection, the violation of an interest can justify the award of non-pecuniary damage. This is the case, especially when the victim has suffered personal injuries; or violations of human dignity, freedom or other personality rights. Non-pecuniary damage can be the subject of compensation for persons who have a close relationship with the victim and suffer a fatal and serious suffering from the realized damage. In general, in the assessment of such damages, the seriousness of the situation, the length of the consequences, the consequences should be taken

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Integration standards and Public Administration dimensions in light of the integration perspective of Albania in the EU.

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Abstract

After the fall of the communist regime, one of the challenges and the highest priority for the external politics, is the European integration, that is also the aspiration of all Albanians. The European integration is not merely the implementation of various political, legislation, technical and institutional criteria, but rather a union of democratic, communal and integration values and ideals of the Albanian society into the European community, into the community of freedom and democratic values and norms, where these aspirations take credit. During this transitioning period, the Albania European integration has been constantly replete with political and institutional challenges and political processes that must be developed and progressed by the political parties and the Albanian society in general.

Moreover, it is worth mentioning that during this transitioning period, Albania has carried over important problematics related to the development of sustainable political institutions, a functional public administration, a free election process with democratic standards, a sustainable financial system, as well as a sustainable social, cultural and intercommunity processes.

Therefore, in this context, the present paper will analyse the Albanian perspective and challenges with the focus on the standards and nature of integration in the European Union.

In order to comprehend the changes and development in light of this perspective, this paper will also consider the role and the importance of Public Administration integrating dimensions, aiming at understanding the evolution of Albania and its legislation in the European perspective.

The analyses of its integration dynamics are to understand the improvement of Albania's image in the world in terms of these aspects, the change of the policy-making concept, the development of political institutions, as well as the evolution of Albanian legislation to align with that of the EU.

Moreover, this analysis shall not simply render this paper actual and coherent with the most essential integration politics, legislation and institutional that relate directly with the Albanian European integration process, but it will rather demonstrate that Albania has yet a very long

road ahead to become part of the European Union and the achievement reached so far have been positive and promissory.

Keywords: *integration, perspective, standards, dimensions, Public Administration, Albania, European Union*.

The post-communist Albania, a clear integration perspective in the European Union

Albanians entered the path of important political development following turbulent events that lead to the necessity to establish new political institutions and a consolidated democracy in general. For a country such as Albania, the transition period and the democratization of the country is esteemed to take up at least from 25-50 years in order to to enter into a normal political and institutional stage (Barbullushi 2015, 22). Despite the ups and downs experienced during this transitioning period, Albania, the political parties and the society in general, have demonstrated the capabilities, anyhow the normal difficulties, to develop a sustainable and authentic democratic system that will bring to the country a sustainable political and institutional development, and it shall make Albania an important factor for the region. On the other hand, during these 30 years Albania integration perspective has been clear, aiming the integration in all international and euro-Atlantic political structures with the main focus being on the integration process in the European Union, because all the policies and legislation voted in Albania, have a Europeanizing nature and tendency and the majority of political rhetoric regarding the Albanian policies is dominated by an integration nature rhetoric (Krasniqi 2009, 14).

If truth be told, the very first important international missions were deployed in the early years, precisely in 1992, and from that period until now, Albania is one of the countries with a considerable number of diplomatic, organizations and various international states representation. To mention, Italy, OSCE, Germany, European Union, United States of America, are important representation with great influence in Albania. No doubt that the financial, political and institutional support offered by Italy or the OSCE, have impacted the economic, institutional development and the organization of free and democratic elections (Zogaj 2009, 9). Whereas, the official accession of negotiations as an aspirant state to become member of the European Union, because currently Albania is a candidate state, has been focused in developing a political battle only in support of this achievement that in full honesty will be in full sense the historical word. The Endorsement of the Stabilization and Association Agreement in 2006, by and between Albania and the European Union Commission, is the first and foremost indicator of this journey packed with challenges and essential for the future of this country. Visa liberalization back in 2008, NATO membership in 2009 and granting the candidate country status to becoming member of the European Union is the third stage, out of 5 to becoming a full member, are essential events that have accompanied Albania in reference to the European Union during these years. Moreover, it is worth mentioning the fact that the European Union Commission provided Albania with 15 recommendations and 5 priorities, to be completed, as a precondition to aligning the Albanian legislation with that of the European Union (Biberaj 2011, 29).

In consideration of the political development over the years, and the level of the integration process and the international historical and political circumstances, we may say that Albania integration perspective is clear, for this is based on the facts that; Albania is part of the Balkan, located in the centre of Europe and the Albanians are one of the oldest nations in Europe, moreover Albania has played a very important role for the political stability in the region, with the objective, following an isolation period of more than 40 years, to implementing political and diplomatic relations with the European countries, Albania is a country that respects human rights and, on a continent level, is the country with the greatest religious tolerance (Gjevori 2015, 33).

Therefore, all these indicators do sufficiently tell that our country, in addition to the political technical-institutional development, is inclined and holds a clear integration perspective for becoming member of the European Union and the Albanians are a society that observes with accuracy the diversities and changes and as such, it is considered a society that is well acquainted with communitarianism that accompanies the European Union. These are incontestable elements that do tell that the Albanian perspective is solely the European Union.

Integrating standards and nature in the European Union. The community values and principles underlying the process.

The foundation and the development of the European Union to the level and institutional structure at present, is based on the rules, laws and institutional principles that the international institutional founded and comply with (Dinan 2011, 70). The integration, developing and institutionalizing foundation of the European Union are definitely the treaties. In the past, the EU has gone through many ups and downs and was these precise crises that strengthen and solidified it to an international political structure. The EU expanded and was developed to give end to past separations and conflicts and the countries aiming at becoming member of the Union, should relinquish a portion of its sovereignty for membership in this international political and institutional organization (Jacque 2010, 44).

There are two main theories on the way how countries may become member of the European Union, one is the theory of intergovernmental in other words the collaborative countries, under which, the European Union may be considered as an intergovernmental structure and the state that become member, shall give their contribution for the institutional improvement and development. On the other hand, there is the theory of supranational, under which the European Union is a supranational authority and all states that want to become member must relinquish all elements and state authority, such as sovereignty, functionality, territoriality, etc. Both these views have been developed and improved with different arguments during the development of the EU expansion process (Jacque 2010, 46).

The European Union, when it asks a country to become its member, apart from the technical and political elements, which we will mention below, pays great attention to community values and principles. Thus, the EU is a sovereign union of states in a supranational institutional authority that is based on communitarianism, diversity, Christianity, democracy and liberalism, respect for freedoms and human rights based on the ECHR, as well the protection of privacy and the development of private initiative, etc. (Dinan 2011, 72)

On an institutional and political aspect, there are some criteria to be met by countries that want to become member of the European Union, approved by the EU institutions themselves, mainly from the European Union Commission, which is the institution that closely monitors the work and the integrative developments of the government. First, for a country to become a candidate country of the EU, it must meet five basic criteria, steps which are determined by the will and the political, institutional and legislative progress of the countries that are part of this process. The first step is to submit the document that made it an aspirant country to become member of the EU. The second step is the signing of the SAA, the third step is the announcement of the candidate country, the fourth step is the opening of negotiations for EU accession, and the last step is the country's full rights to the European Union (Gjevori 2015, 15).

On the other hand, based on the progress nature of the integration project of the countries, the EU determines during their integration path, the objectives, recommendations and priorities for the countries to focus on those aspects where they have the most deficiencies. Thus, for Albania, the establishment of 12 recommendations and 5 priorities is done so that Albania pays more attention to the implementation of the law, political cooperation, institutionalization, alignment of the country's legislation with that of the EU, etc. At present, the following steps will be focused on the work to complying with those steps and the political, legal and institutional elements, to facilitate the transition to the next step that is the accession of membership negotiations (Dinan 2011, 75).

What is noticeable, during this integration process, and understood from EU institutional nature, is the fact that this political organism is very dynamic, variable, and active and has a major role in world, regional and European policies. Already, the EU is an important and irreplaceable reality, beeing a compass for all the Balkans countries and Albania as well. On the other hand, to the European Union, the Balkans is one of the most important gateways to create a new integration tradition in this region.

Albanian image evolution analyses through the integration process in the European Union

The fall of communism regime in Albania occurred behindhand, a regime that governed for more than 45 years in this small country, that had no state-forming, no democratic and economic traditions. The development of closed and socialist policies isolated and further damaged the europeanizing and developing aspirations of our nation. The important political developments that brought about the fall of the communist regimes in Central, Eastern and South-eastern Europe undoubtedly also involved Albania, although compared to other countries, in our country happened relatively later. Although the overthrow of the communist regime in Albania happened peacefully, meaning there were no shootings to the protestor, as was the case in other countries, the transition toward the democratic developments and the process of political pluralism brought with it a series of problems from the most diverse ones that were primarily related to the lack of political culture and political tradition of constructing political dialogue and stable institutions (Kreshani 2021, 55).

Therefore, in consideration of the political, social, integrative, economic and cultural nature of development processes in Albania, the political parties and the Albanians in general, during these years, demonstrated a chaotic developing model, influenced by the absence of political culture, sustainable political institutions, etc. Hence, in consideration of the general social,

political and economic development nature, the mass migration of the Albanians and the establishment of financial business relations, were many of the elements that directly influenced to the image of Western societies towards the Albanians and Albania in general (Baroni 2017, 36). Some of the most important elements that influence this opinion were:

The creation of criminal groups that dealt with the trafficking of human beings, narcotics, weapons, expensive works, works of art, etc. Characteristic of these groups was their creation and internationalization, violence and secrecy of actions.

For a long period, Albania was the most important source not only of transit but also for producing and supplying Italy and all of Europe.

Albania for a long time has given the impression of a country where the political class and politics as a whole are very conflicted, polarized and corrupt and which is not at all at the appropriate level to govern a country that is aspiring to be integrated into EU.

Whereas the Albanians, hold an image that we are dealing with a country that has totally corrupt institutions, political class, system of justice and the establishment of production relations and these relations are built on the basis of corruption. Corruption is a key important element that has actually accompanied the political development in Albania, which is a product of the previous regime.

Albania is deficient of political institutions that will monitor and control the territory and borders and this phenomenon brings about the failure of law enforcement institutions to attack organized crime.

The image that Albania has in the European countries is of a country whose citizens attempt to forcefully enter the European Union borders (Arapi 2020, 43).

It is precisely for the aforementioned elements that for a long time, shaped the opinion of the European societies for the Albanians, that we are a source of organized crime and corruption, that we are a country where the number of murders and crime is at high levels that we are a country with a very high rate of corruption, as well as with highly polarized and uncooperative political developments, etc. (Arapi 2020, 45).

Precisely, the integration process of Albania in the EU, the completion of the recommendations and criteria imposed by the EU, did influenced the image of European countries on Albania to change radically, from the stability of the political and institutional system, the improvement of legislation, the improvement of our country's relations with its neighbours, the performance of Albanian society at all social levels such as the case of football fans in the French European contest, the economic exchanges and tourism, etc., that made them realize that Albania is now a stable country and that Albanian society is as emancipated as all other European societies and contributes to the development of values on a continental level.

The importance of proper Public Administration Department functioning and the integration process.

In a democratic, developed and modern state, the development of public policies and the creation of inter-institutional political lines cannot be considered if the Department of Public Administration (DPA), which is included in the institutional dimension of the integration process, does not function or exist. This Department represents a broad line of public institutions at all levels with the aim of implementing and bringing the citizen closer to the legislation approved by the Parliament and the Government.[152]

What is public administration? The explanation has two definitions. In its objective sense, the term defines the set of activities performed that respond to the needs of a general interest of the population (public order, public services market, etc.); this meaning is related to the public function (administrative function). In the subjective sense, it is a set of subjects that implement the above function. So, public administrations are governmental institutional units that regulate the functioning of the society. It implements public policies undertaken by the government thereby increasing social cohesion and trust between the state and citizens. In other words, the Public Administration includes all the bodies that exercise the state will directly or indirectly with the aim of providing direct services or regulating the important relations of the political life of our country, which affects the general interests of the Albanians.[153]

Therefore, within the European integration of Albania, the role and importance of the Public Administration Department is essential to understanding the whole process, this is due to the very fact that it is all the institutions of the department that will be needed to implement and implement European Union directives at a technical level. Pursuant to its mission, the Public Administration Department performs the following main functions:

Manages the civil service in all institutions of the central administration;

Leads and implements the functional and structural reform in the public administration institutions;

Drafts and implements the salary related reforms;

Coordinates the reform for the implementation of Information Technologies ('IT') in the e-government field.[154]

On the other hand, the Public Administration Department provides a number of public services:

Develops the civil service admission procedure;

Determines the reference salary for those benefitting from supplementary pensions;

Organizing the internships;

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[152] "*Administrata Publike*," n.d. https://shtetiweb.org.

[153] Ibid.

[154] *"Reforma strategjike e Administrates Publike 2015-2022,"* n.d. https://www.dap.gov.al.

Provide information on the progress of the reform implementation in the public administration in general.[155]

Moroever, with the important legal changes approved back in 2007, this Department was granted extensive functions in the interaction, coordination and development of policies between institutions at all political levels in Albania. The Public Administration Department should continue to have the role of a standard central management unit (mainly dealing with: drafting civil service legislation (primary and secondary), approving guidelines and standards for civil service management, preparing and proposing policies of personnel, negotiations with unions of civil servants on behalf of the government, internal supervision of personnel management in the ministerial system, planning, organization and management of the general training system for the entire civil service, maintaining a register-database of subordinate employees civil servants and advising institutions in matters of civil service management, etc.).But in order to complement and play a constructive role in this direction, this Department should have stronger legal powers in order to request and exchange information with ministries, participate in internal institutional committees on mobility, discipline and systematization of civil servants affected by the restructuring process, to have a central role in personnel planning, etc.[156]

In this way, the strengthening, legislative and institutional development of DPA in Albania, within the integration processes, is an important moment in terms of the institutional dimension because Albania will now have a legal and institutional framework according to all EU directives.

Therefore, the reform and development of the Public Administration, towards a new dimension and scope, with the new law on Public Administration, gives the latter the most important and central position of the integration process of Albania, the possibility that with the legal capacities, its institutional, to be able to align and adapt the legislation of Albania with that of the EU. Even so, the DPA has as its function not only the orientation but also the legislative and institutional connection between all political and law enforcement levels in Albania.[157]

The integration dimensions of the Public Administration in the light of European Commission 2022 Albania report.

The dimensions with regard to the developments that have occurred in Albania over the course of a year, the degree of improvement and development in terms of adapting the legislation, constitute absolutely one of the most important developments in this dimension.[158]

The dimension surrounding the developments that have taken place in a country aspiring to become part of the EU is evaluated through the annual progress report, which makes a general

[155] Ibid.
[156] Ibid.
[157] Ibid.
[158] "*Administrata Publike,*" n.d. https://shtetiweb.org.

analysis and evaluation of all elements that can be considered important and decisive in the integration steps. [159]In this way, the latest EU progress report regarding the DPA integration dimensions deserves special attention and meriting evaluation. The main points in which the European Commission report was focused, were as follows:

Strategic framework for public administration reform **[160]**

Throughout 2021, the government continued to monitor the implementation of the 2015-2022 public administration reform strategy. Despite the COVID-19 crisis, the Albanian institutions made substantial efforts to maintain a good implementation of the public administration reform strategy. Progress has been achieved in results-oriented monitoring, including performance analysis. However, the implementation of the public administration reforms requires a continued political steer.

Policy development and coordination [161]

The legal basis and the institutional set-up for coherent policy making system are partially in place. The quality of performance and the regularity of the integrated policy management groups mechanism vary across sectors. Albania should strengthen its efforts to improve evidence-based policy making by increasing the administrative capacities of line ministries in policy planning, monitoring, and data collection. The three pillars of the integrated planning system must become fully functional and the user training for civil servants must continue, in particular on data quality and indicators.

The National Strategy for Development and Integration, which is the top reference document for the planning system, expired in 2020. The new strategy, covering the period up to 2028, needs to be drafted and adopted. The authorities need to improve coherence between policy planning and budgeting by making full use of the Integrated Planning System Information System. The newly created state Agency for Strategic Programming and Aid Coordination has the mandate to enhance coordination. However, the roles and responsibilities of the Agency and the Department for Policies and Good Governance in the Prime Minster's Office need to be clarified.

The administration needs to further strengthen its capacity in inclusive and evidence-based policy and legislative development. Progress was achieved in increasing the use and quality of regulatory impact assessments for legislative proposals and trainings on these issues were delivered across the administration. The government needs to continue its efforts to improve regulatory impact assessments.

On public consultation, the electronic web-portal is operational, and the regulatory framework has been improved. The usage of the electronic register continued, but the share of legal acts undergoing public consultation and usage of the electronic register decreased in 2021 to 65.8% from 79.6% in the previous year.

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[159] *"Albania 2022 Report."* European Commission, Brussels, October 12, 2022, https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Albania%20Report%202022.pdf

[160] Ibid.

[161] Ibid.

Public service and human resources management [162]

Progress on merit-based recruitment, promotion and dismissal needs to be consolidated by applying consistent standards across the public administration.

Greater legal compliance is needed in recruitment procedures. The merit principle needs to be complied with both for senior and entry level positions. Across the public administration, job descriptions are not yet fully in line with the categories set out in the civil service law.

In 2021, the number of dismissals of civil servants decreased to 346 from 619 in 2020 and the authorities explained that these were in compliance with the civil service law. The backlog in implementing court decisions confirming dismissal of civil servants as unlawful has been further reduced during the reporting period. A system to monitor and follow up the final court decisions has been created and is managed by the Department of Public Administration.

The human resources management information system continues to be filled with the necessary data, although at a slow pace. It does not yet cover the entire public sector, does not include completely up-to-date data on civil servants and it still needs to be extended to the local level. The data it contains on civil servants needs to be up-to-date. The government has managed to put in place measures to create a coordination mechanism between central and local level to monitor and evaluate human resource management.

The remuneration system is based on a job classification system that needs to be revised including with a broad public consultation. The lack of a salary policy based on clear criteria for pay supplements and salary increases weakens the fairness and coherence of the system. The automation of the payroll system through the human resources management information system needs to be extended to the whole public sector.

The Albanian School of Public Administration continued to adapt its training programmes for professional development in line with the COVID-19 measures. Compared to the previous year, it increased the thematic scope and the number of trained public servants. However, the lack of infrastructure hinders its capacity to deliver online courses. A training cycle on quality management has not yet been set up. The administrative skills of local-level civil servants need to be improved.

Accountability of the administration [163]

The legal framework for the organisation of the central administration does not provide a comprehensive and coherent framework to ensure that supervisory and subordinated bodies are held accountable. Agencies such as the State Agency for Strategic Programming and Assistance Coordination, the Agency for Media and Information and the Co-Governance Agency need to be better structured and assigned clear roles. The law on the organisation and functioning of the state administration does not set a clear typology and criteria for the creation of subordinated bodies. Additionally, policy-making institutions do not always monitor policy implementation by their subordinated agencies and these agencies do not always report on their performance.

[162] Ibid.

[163] Ibid.

Legal changes are needed to improve how policy-making functions are defined, including setting requirements for planning and performance reporting by subordinated bodies and supervisory ministries. State administration workflow and decision-making processes should be more transparent. The legal framework for ensuring managerial accountability needs to be improved. [164]

European Commission concludes that Albania remains moderately prepared in the area of public administration reform. It made limited progress in delivering on last year's recommendations. Capacities for public consultations and regulatory impact assessments were strengthened, preparations for the salary reform started, and the automated payroll system was expanded. Implementation of the 2015- 2022 public administration reform and the 2014-2022 public financial management reform strategies continued. However, bodies subordinate to ministries (agencies) continued to be created without a comprehensive steering framework, systematic attention to oversight or clear reporting lines. [165]Provisions on merit-based recruitment in the civil service law remain to be fully implemented, especially for senior level positions. Albania has rolled out a comprehensive platform for digital services – a rapid shift towards 100% online services took effect on 1 May 2022. However, it needs to ensure equitable access for citizens with limited digital skills.

The Commission's 2021 recommendations remain mostly valid. In the coming year, Albania should, in particular:

→ increase the capacities for policy planning and monitoring and ensure that the central administration's supervisory and subordinated bodies are well-structured and assigned clear roles;

→ prepare new public administration and public financial management strategies in line with relevant sectoral strategies, while at the same time review the effectiveness of the current monitoring structures;

→ effectively implement the provisions on merit-based recruitment in the civil service law at all levels, especially at senior level; reform the salary system for civil servants and further expand the automation of the payroll system. [166]

Therefore, in consideration of this report of the European Union Commission, it is clearly observed that a series of evaluations had to do with the criterions of integration and more specifically with the functioning of the Public Administration, with the role and importance of the legal scope of DAP and the innovations it brings.

In this way, above all the integrative dimensions, evaluating all the principles and values on which the European Union stands, as well as taking into account the recommendations and priorities that the EU itself has left to Albania as "homework", the emphasis in the last progress

[164] Ibid.
[165] Ibid.
[166] Ibid.

report, was in the Public Administration of Albania, giving it the most important and central position in the integration process of Albania.

Conclusions

Albania is a country with very fragile political scenarios and which at no time guarantee the creation of a stable and reliable climate upon which you can begin to trust that the political class has already entered into a dialogue on which the stones will be placed to determine the political future of the country or the end of a long and tiring journey such as the European integration process, sustainable economic development, the eradication of corruption practices, the creation of a peaceful and cooperative political climate, etc.

Although the last European Commission report was generally positive in its evaluation, emphasizing and noting the achievements of the political class in Albania, especially in terms of combating criminality, organized crime and trafficking, in the direction of improving the legal framework that regulates the Public Administration, it was clearly established that Albania still has a lot of work to do, especially in terms of fulfilling some criteria that still keep the European aspiration of Albanians at a distance and that in order to fulfil these conditions, a wider political consensus, political will and engagement of civil society and the political spectrum in general has been requested.

The Public Administration, as we have pointed out hereinabove, has seen great progress and in this way, some interventions are needed, especially in the legal framework of the new civil service law, the regulation of aspects of recruitment, the payment and dismissal system of civil servants, which must be adjusted and reviewed, also the reconceptualization of the role and political functions of the DPA within the PA, is another element that must be considered.

In summary, during the theoretical consideration of this work, the following dimensions emerged:

The European integration process of Albania has positively influenced the improvement of Albania's image in the world, through its most important elements, political, social, institutional, legal, economic, etc.;

Albanian European integration process, is the only political alternative of Albania after 30 years of democracy, a European nation but left forgotten by the outdated policies and ideologies;

There were many elements that influenced the creation and perception of a negative image of Albanians and Albania, among them two were the most important, drug and human trafficking originating in Albania and corruption at very high levels;

Albania must pass important political, legal and institutional tests and align its legislation with that of the EU;

The historical, political, social, economic and cultural context do greatly influence the image of Albania by European countries and societies;

As part of this transition picture, Albania should become part of joint actions with those of other EU countries to overcome the gap of challenges which seem to be more complicated and deep with the expansion and deepening of the current financial crisis that has included EU countries.

The institutional dimension where emphasis is placed on the role and importance of the operation of the DPA according to the principles of the European Union, the creation of a more complete legal framework which better defines its role and legal importance within the AP.

The legal dimension where emphasis is placed on the impact of the new law on civil service in increasing the effectiveness of the work of the Public Administration in Albania, as one of the primary and most important requirements of the European Union for the PA and its operation.

The political dimension has to do with the analysis of the reports of the Commission of the European Union in relation to the concrete results of Albania in terms of fulfilling the political criteria where an important place is occupied by the Public Administration and its operation according to a similar legal framework with that of the EU.

The integrative dimension has to do with the role and importance of the Public Administration in Albania in the path of Albania's European integration.

Therefore, since we are dealing with an integration process, which has its ups and downs and is constantly changing, the definition of some recommendations, as below, is valid to highlight the fact that Albania still needs a lot of work to be part of the European community:

Albania should involve a greater and serious political commitment in terms of improving political, legal and institutional standards for the European integration of the country;

Albania should do more in terms of improving and aligning Albanian legislation with that of the EU;

Albania needs a new approach in the context of shaping the image and all the elements that directly affect it;

Albania must undertake radical reforms in all the most important economic sectors and must be more concrete, better prepared and more progressive in its programs so that the final step of integration is as close as possible.

In conclusion, Albania, learning from the mistakes of the past, as well as correcting the mistakes of the present, is capable of having a qualified Public Administration, with the necessary standards and human resources, with the necessary legislation and adapted to that of the EU, very soon will be part of the big European family, which is the biggest dream of Albanians.

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The role of trainings in the development and enhancement of work performance in the public and private sector.

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Abstract:

Training is an active learning method that refers to the acquisition and improvement of knowledge, abilities, skills and vocal or practical wonts, as well as knowledge related to specific areas of professional activity. The aim of training is to enhance the abilities and performance of an individual or a specific group. The development and training of employees is the strategic investment of time, energy, and resources in improving the company's personnel.

Some of most important advantages of trainings are:

- Improved Employee Performance;
- Self-Confidence;
- Self-Esteem;
- Self-Image;
- Increased Team Morale;
- Development of Employee Skills;
- Consistency;
- Enhanced the Reputation and Company Profile;

The essence of any training relies in the transformation of three key components of an employee's qualifications**: knowledge, skills, and attitudes.** Through training, companies "earn" change in these three parameters. Training serves as a mechanism for improving the efficiency of the enterprise by developing the competencies of its personnel. The goal of any training is to develop specific skills, assess opportunities, and aid in achieving desired results.

In this article, we will explore and analyse, among other things, practical cases demonstrating how employee training impacts job performance and final company outcomes.

Keywords*: training, personal development, job market, institution, strategy, skills, knowledge.*

I. Introduction to the Training Sector

Training programs and employee's development are essential for the success of businesses worldwide. These programs not only provide staff's opportunity to improve their skills but also enable employers to increase employee productivity while simultaneously enhancing the company's culture. Companies can also reduce employee turnover, and a recent 2020 American Labour Institute study shows just how important this can be to a company's bottom line. Voluntary employee turnover, according to the report, costs American businesses more than $630 billion annually[167].

It's no wonder that employees who have regular opportunities to learn, develop and advance are more likely to stay with a company. Bob Nelson, author of "1001 Ways to Engage Employees," reports that learning and development are among the key factors in employee engagement[168]. Employee development is an ongoing effort to enhance job performance through approaches such as training, training sessions, and leadership mentoring.

Training is a specific event that not only teaches new information or skills, often offered to new or recently promoted employees, but also serves as a refresher and motivates the existing staff. Therefore, **everyone needs to be trained**, starting from CEO-s to the bottom-level employees in a company. Every department manager identifies the training needs for themselves and their team, and the Human Resources department coordinates the trainings.

The importance of training goes beyond controlling a task to be done for your employees. A comprehensive training program of a high level provides employees with greater knowledge about the processes, procedures and goals of your organization. It also enables them with the knowledge and skills needed to be effective in their roles. Providing employees with relevant and ongoing trainings is one of the best ways to increase productivity and performance. According to IBM[169], 84% of employees in high-performing organizations receive the trainings they needed, compared to only 16% of employees in low-performing organizations. On the other hand, according to Gallup, organizations that makes strategic investments in employee training and development report a 11% higher profit[170].

II. Objectives and Reasons for Investing in Training

To grow the company, you need to develop the people within it. Some organizations seek training assistance only during periods of employee turnover or when they have a significant business change in Organization. High-performing companies, on the other hand, understand

[167] 2020 USA Job Institute Report
[168] Bob Nelson, 1001 Ways to Engage Employees
[169] IBM, The Value of Training, 2014.
https://www.ibm.com/training/pdfs/IBMTraining-TheValueofTraining.pdf
[170] SHANNON MULLEN O'KEEFE, What Companies Are Getting Wrong About Employee Development, May 2020
https://www.gallup.com/workplace/311099/companies-getting-wrong-employee-development.aspx

the importance of offering sustainable and ongoing training. Some of the common objectives of training include:

- Convey essential knowledge: Training is one of the most effective ways to equip employees with the necessary knowledge to be successful. This includes company and role specific training.

- Ensure and improve skills: Skill development is an important aspect of any training program, as new employees need to learn personal and professional technical skills. Moreover, experienced employees require ongoing training to improve - and maintain - their high-level skills over time. LinkedIn[171] revealed that the top skills cited by professionals are:

1. Resilience and adaptability
2. Technological proficiency and digital fluency
3. Communication
4. Emotional intelligence
5. Collaboration

- Familiarity with general industry standards: If your organization is part of a highly regulated industry such as financial services, asset management, or healthcare, your employees must complete mandatory compliance training. This ensures that employees understand the laws, policies, and regulations they need to adhere to.

- Digital transformation: Digital transformation has brought significant changes to almost every industry. It is important to provide technological training for employees so that they understand how new tools operate and how they can enhance their work. This can unlock higher levels of efficiency, skill, and value for your organization.

- **Keeping teams updated with organizational changes and updates:** Organizations grow and evolve over time, and employees need to learn how to continue working with these changes. Ongoing training ensures that everyone is aware of the products, services, best practices, and more.

The benefits of training are numerous, and their variety is extensive. Each organization needs to assess the specific field that requires training, along with the goals and objectives of that training. Today, common types of training practices include:

On boarding: The "on boarding" process is the training cycle that a new employee goes through to familiarize themselves with their new job and company. The main goal of "on boarding" is to introduce new employees to the organization and provide them with the essential knowledge they need for their role.

Cross-training: Cross-training enables an employee to work in various roles or perform a task that may involve multiple job responsibilities within their scope. This training method is beneficial for their career development as it expands the range of skills and knowledge of an employee.

[171] 2021 Workplace Learning Report
https://learning.linkedin.com/resources/workplace-learning-report-2021/download-report

Reskilling: Recent data[172] suggests we have moved from major resignation to major reorganization as more than two million people have changed their field of work or profession. While most of these workers transferred to a new company, others chose to stay with their current employer and move into a new department or role. This requires reskilling to ensure that they can perform a different job effectively.

Upskilling (skill enhancement): Gartner, Inc.[173] found that **nearly 60%** of the current workforce needs new skills to perform their current job effectively. With technology rapidly changing the way most organizations operate, organizations must help their employees improve their technical knowledge and skills through upskilling.

Sales training: Sales training provides your salespeople the skills, techniques, and best practices they need to interact with buyers throughout the entire sales cycle. This is key to building relationships, improving negotiation skills, and preparing for any buyer interaction.

Customer service training: When agents are trained on service standards, products and services, and company processes, they are more likely to provide consistent and exceptional service to customers.

Motivational training: This is one of the trending training programs where the staff is entertained, trained, and given the opportunity to think "out of the box" and disconnect from the daily routine. Motivational training is essential for staff engagement, as it prompts employees to "critical thinking" about solving their own life and work problems. The solution is not given ready-made, but through smart questions, you can find solutions yourself and overcome obstacles.

III. Training Process

The training process consists of a series of steps that need to be followed systematically in order to have an effective training program. *Training is a systematic activity carried out to modify the skills, attitudes, and behaviour of an employee to perform a specific job*. The training process involves five steps:

1. **Needs Assessment:** The first step in the training process is assessing the need for employee training. The need for training can be identified through diagnosing current and future challenges and the performance gap between the employee's current performance and the standard performance. Needs assessment can be approached from two perspectives: individual and group. Individual training is designed to enhance the efficiency of an individual who is not performing up to the expected level. On the other hand, group training aims to instil new changes among employees due to a shift in the organization's strategy.

[172] https://www.forbes.com/sites/jeannemeister/2022/04/19/the-great-re-shuffle-of-talent-what-can-employers-do-to-retain-workers/?sh=293cd9cc4cf3
[173] https://www.gartner.com/en/newsroom/press-releases/2021-02-03-gartner-hr-research-finds-fifty-eight-percent-of-the-workforce-will-need-new-skill-sets-to-do-their-jobs-successfully

2. **Setting Training Objectives:** Once the needs are identified, training objectives are determined. The objectives can be based on the gaps observed in previous training programs and the skill sets developed by employees.

3. **Designing the Training Program:** The next step is designing the training program in line with the established objectives. Every training program involves addressing issues such as: Who are the employees that need to be trained? Who are the trainers? Which methods should be used for training? What will be the level of training? etc. Additionally, a comprehensive action plan is developed, which includes the training content, materials, learning theories, instructional design, and other training requirements.

4. **Implementing the Training Program:** Once the training program is designed, the next step is implementation. The key decision to be made is where the training will take place, within or outside the organization. Once determined, the timing of the training is scheduled along with the trainer who will conduct the training session. Trainees are continuously monitored throughout the training program to see if it is effective and if it can maintain the employee's interest.

5. **Evaluation of the Training Program:** After the completion of the training, employees are asked to provide their feedback on the training session and whether they found it beneficial or not. Through feedback, an organization can identify any weaknesses it may have and make corrections for future sessions. Evaluation of the training program is necessary because companies invest large sums in these sessions and **need to know EXACTLY** how effective it is in terms of the money invested for this training.

In addition, every company follows a series of steps to develop an effective training program that serves its intended purpose.

IV. Main Advantages

Training is the most effective tool for developing employee performance and growing the company. As mentioned earlier, when you provide employees with training opportunities for personal and professional development, you build a culture of learning that benefits the entire organization. Employees can develop a range of skills to achieve their career goals, while you benefit from increased engagement and productivity resulting from training initiatives. Businesses that create and execute a strong enterprise learning strategy will also experience other positive impacts. These benefits extend well beyond expected outcomes such as increased efficiency. In addition to retaining engaged workers, there are several other reasons why organizations should establish a robust learning and development strategy. Below, we highlight some of the major benefits that both employees and organizations gain from training and development.

While some positive attributes, such as willingness to work hard and empathy, are certainly natural assets, these days they are being eclipsed by the value of learning. **Today, knowledge can be relevant one moment and outdated the next.** Without access to learning and development to keep knowledge updated, skills, or other attributes lose their impact. Furthermore, when organizations invest time and money in professional development, they see a significant return on their investment. Companies with an effective learning strategy are twice as likely to achieve their production goals.

An important point in employee training is determining the training content focused not only on the growth and development needs of the company but also towards the career development of the employees themselves. In today's world, employees are likely to stay where they are only if they believe they are contributing to their career advancement as well. Organizations that want to retain talent need to balance their training needs with employees' expectations for professional development opportunities. Employee training impacts employee retention and helps companies attract new employees. If your organization offers excellent training opportunities, this should be an important feature in your job proposal. It is more important than ever for employers and employees to share the same values, as only in this way can they achieve common goals.

Regarding the benefits of training, we can also say that there is scientific evidence today linking learning and happiness. The effects of learning include increased self-determination and motivation. Learning also provides people with a broader worldview, offering perspective. When people work in organizations that provide them access to learning, they are more likely to be motivated and engaged. This motivation and engagement will lead to innovation, creativity, and an increased willingness to take on responsibilities. On the other hand, when knowledge is available to everyone, teams better understand each other's goals and barriers, leading to improved communication and collaboration, thereby strengthening the role of the team within the organization.

Conclusion and Recommendations

Trainings, as an exceptional tool for enhancing work productivity, play a crucial role in the development and ongoing success of companies.

It is important to emphasize the benefits that businesses derive from trainings:

• **The concept of "Lifetime learning"** which is prominently promoted in trainings, relates to continuous and never-ending improvement (the philosophy of Kaizen).

• **Socialization of employees.** In such programs, employees perceive themselves and their colleagues in a different dimension, a more personal dimension, understanding and recognizing each other's values and personal needs, resulting in better collaboration within groups.

• **Fulfilling the need for growth.** According to studies conducted by psychologists, one of the six basic human needs is the need for growth. This need is not only related to physical aspects but also to mental and emotional ones. Fulfilling this need brings internal happiness, and

employees feel happier in their work. If employees do not learn anything new, are not promoted, or do not change job positions, their performance tends to decline.

• **Develop staff skills:** Specialized trainings help in developing employees' skills. Improving technical, managerial, communication, and leadership skills contributes to enhancing employees' qualifications and raises their professional level, ultimately leading to increased productivity.

• **Increased work productivity leads to cost reduction for the company:** Effective trainings have a positive impact on employees' productivity. By providing employees with new knowledge and skills, they can utilize these competencies to perform their work better and more efficiently. As a result, work performance improves, achievements are increased, and costs are reduced since the output is higher with the same cost.

• **Increased motivation:** Effective trainings have a positive impact on increasing employees' motivation. When employees see that the company invests in their personal and professional development, they feel more motivated and committed to their work. This leads to increased loyalty towards their work and employer.

• It affects the social aspect of the friendship of the staff with each other as well as their communication in another dimension, new and different from the daily routine.

• **Enhanced employee engagement:** Good trainings contribute to increasing employees' sense of appreciation and engagement. By investing in their development, the company demonstrates confidence in employees' potential, helping them feel more involved and connected to the organization's goals and values.

• **Retention of valuable employees:** By offering trainings and development opportunities, companies can help retain valuable employees. Employees who feel that they are growing and have opportunities for advancement within the organization are more likely to stay and engage in the long term.

• **Enhancement of company image:** Companies that invest in good trainings demonstrate a commitment to employee development and care for their team. This contributes to a positive company image in the market and can impact attracting new talent and creating a good reputation in their industry.

• **Elevating the industry level and fostering a business culture:** Investing in trainings can contribute to raising the standards and developing the business culture within the industry, which serves as a form of marketing and attracts attention.

• **From a financial perspective,** the role of trainings holds indisputable value. According to a study by IBM, the cost that companies paid solely as a result of "Staff Turnover," meaning employees leaving their jobs, amounted to around $630 million in 2020.

Recommendations

Find good coaches who not only know how to convey the message or the development, but who are charismatic, fun people, so that the teams don't get tired, bored or annoyed. Breaking the mind-set that training is boring is a big challenge for trainers today, where an important mind-set that needs to be challenged is that training is an entertainment industry and not a learning industry, regardless of the purpose and focus they have.

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The right to freedom of peaceful assembly and its implementation in Albania

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Abstract

The freedom of assembly is one of the fundamental freedoms declared in a series of international legal documents and sanctioned in the domestic law of many states. In recent years, under the influence of economic, social, and political circumstances or those related to the pandemic, this freedom has been a tool in the hands of citizens or different entities to organize together and voice their concerns and grievances. In addition to the progress made in Albania, in practice, in many cases, problems have been identified in guaranteeing the exercise of the freedom of assembly of citizens by public authorities due to a lack of understanding of the purpose of the law or the lack of training of State Police employees in regards to taking measures for the management of gatherings.

In addressing freedom of assembly in this paper, the methodology based on the assessment of the legal framework has been taken into consideration, as well as the challenges arising in the implementation of this right in an Albanian context. The sources of information are based on the reports of various institutions inside and outside Albania, on the legal framework that regulates the freedom of assembly, as well as on concrete situations of the organization of assemblies and emerging problems.

The paper in conclusion reflects some recommendations in the context of improving legal guarantees as well as the taking of measures by public authorities in Albania in the exercise of freedom of assembly.

Keywords*:* *freedom, assembly, convention, jurisprudence, assembly law, public authorities.*

1. Meaning of the right to freedom of peaceful assembly and its guarantee in the domestic legal framework

"*Freedom of assembly is not a privilege granted by the government, but a natural right of the people*." - Martin Luther King Jr. [174]

One of the pillars of a democratic, diverse, and tolerant society, where people and groups with various opinions and origins can coexist peacefully, is the right to freedom of peaceful assembly. We can express minority viewpoints and make underrepresented or marginalized groups visible thanks to this freedom.

Effective protection of the right to freedom of peaceful assembly can also help foster a culture of open democracy, enable non-violent participation in public affairs and strengthen dialogue on issues of public concern. Assemblies can help hold public bodies and government officials accountable and thus promote good governance in accordance with the rule of law.[175]

An "assembly" means the intentional gathering of a number of individuals in a publicly accessible place for a common expressive purpose. This includes planned and organized assemblies, unplanned and spontaneous assemblies, static and moving assemblies. An assembly can be entirely "peaceful" even if it is "unlawful" under domestic law. [176]

The relevant state authorities must make sure that the general public has convenient and simple access to reliable information regarding the gatherings, the applicable rules and regulations, as well as the procedures, and the way the authorities facilitate them. The responsibility to safeguard extends to defending event planners and attendees from people or groups attempting to violate their right to freedom of peaceful assembly.

In order to enable each individual to assess whether his actions may violate the law, and to know the possible consequences of any such violation, legal provisions covering freedom of peaceful assembly should be sufficiently clear. For defining and limiting the discretion and powers of public authorities and law enforcement officers based on legislation that reflects applicable standards and plainly and transparently outlines decision-making processes, it is essential that legislation be drafted in accordance with international human rights standards.

Anyone seeking to exercise the right/freedom of peaceful assembly should have access to a prompt and effective remedy against decisions that are alleged to be disproportionate, arbitrary, restrictive or unlawfully prohibitive of protest.

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[174] Martin Luther King Jr., "Stride Toward Freedom: The Montgomery Story", 1958.

[175] *Guidelines on Freedom of Peaceful Assembly*, Doc. CDL-AD(2019)017, OSCE/ODIHR & Venice Commission, 8 July 2019, pg.4, paragraph 1, 2.
https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)017-e

[176] *Guidelines on Freedom of Peaceful Assembly*, Doc. CDL-AD(2019)017, OSCE/ODIHR & Venice Commission, 8 July 2019, pg.8, paragraph 18,19.
https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)017-e

According to the Albanian legal framework, the freedom of assembly is provided for and guaranteed by the Constitution of the Republic of Albania, respectively in Article 47[177] where it is provided that:

"1. Freedom of peaceful and unarmed assembly, as well as participation in such assembly is guaranteed.

2. Peaceful assembly in public squares and public places are held in conformity with the law".

Freedom of assembly and organization is also guaranteed by Article 11 of the European Convention on Human Rights,[178] *(ECHR) which expressly states that:*

"1. Everyone has the right to freedom of peaceful assembly and association with others, including the right to form and participate in trade unions for the protection of their interests. 2. The exercise of these rights cannot be subject to restrictions other than those provided by law, and which are necessary in a democratic society, in the interest of national security or public safety, for the protection of order and the prevention of crime, for the preservation of health or morals, or for the protection of the rights and freedoms of others…".

While the procedural rules that discipline or condition the exercise of this right are expressly defined in law no. 8773, dated 23.4.2001 "On Assemblies", which also provides for exhaustive restrictions or prohibitions which cannot be exceeded in the exercise of the right of gathering. In this law, as it determines that *every person has the right to organize and participate in a peaceful and unarmed assembly*,[179] also provides that the State Police guarantees and protects the right of any person to participate in and organize peaceful and unarmed assemblies. Stopping and dispersing a gathering is allowed only in the cases provided by law. [180] From the reference to the content of the provisions of this law, it clearly results that the State Police in relation to gatherings have competences performing the actions and taking the necessary measures to guarantee the exercise of this right/fundamental constitutional freedom of citizens. On the other hand, these structures can prohibit the exercise of this freedom or disperse a gathering only for limited cases which are clearly and exhaustively defined in the law. They cannot and must not violate the essence of freedoms and rights and in no case can they exceed the limitations provided for in the ECHR.

For the exercise of this right, the only requirement for the interested entity is to make a notification[181] at a specified time to the police entities where some data related to the implementation of its duty as a guarantor of the exercise of this freedom are reflected, giving it time to take the necessary measures for the success of the gathering. Even the current law, in

[177] Part II, "Fundamental human rights and freedoms", Chapter III "Political rights and freedoms".

[178] Law no.8137, date 31.7.1996 "On the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms", Official Gazette No.20, date 12.08.1996.

[179] Article 1 of the law No. 8773, date 23.04.2001 "On Assemblies".

[180] Ibid, article 3 of the law.

[181] The freedom to assembly is currently not subject to any formalities for approval by police structures, as provided for in the previous law no. 8145, dated 11.9.1996 "On the right of assembly", which was abrogated by law no. 8773, dated 23.04.2001 "On Assemblies".

Article 7 provides for the right of citizens to hold emergency meetings in cases where there are urgent circumstances, which can take place without respecting the deadline provided in Article 5[182] of this law, but a written notification must be made, containing the elements defined in Article 5, point 2 of this law, as well as the reason of the emergency. In these cases, the notification must be made immediately, but no later than 3 hours before the time of the rally.

The fact that the law uses the term "notification" addressed to the Police Station for the hold of the gathering and not "a request" is very important and significant in favor of exercising and guaranteeing this freedom by citizens. So, the "decision" to exercise this freedom was taken by the notifying entity itself and the approval of the police entity is not required. On the contrary, it cannot be considered as such and loses the meaning and purpose of being included in these important normative acts, seriously undermining its practical exercise. If the announcers do not make the announcement with the data provided and required by law, the Chief of the Police Station has the legal right to communicate with the organizer to complete the data or to take a reasoned decision to prohibit the gathering in public squares or walkways or to change the place and time of its planned gathering. It is important to bring to attention that the positive spirit of the current law that is clearly reflected in its article 12,[183] which foresees the hold of assemblies in places open to the public without prior notification to the police according to the provisions of article 5.

[182] Article 5 of this law stipulates that:

1. In the event of a gathering in public squares or walkways, the organizer and leader are obliged to notify the chief of the police station in writing no later than three days before the date of the assembly.

2. The written notice must contain:

a) the identity and address of the leader and organizer of the assembly;

b) the purpose of the assembly;

c) the date, place, beginning and end time of the assembly and its itinerary (if there is any);

ç) the approximate number of the people who will attend the assembly and those who will support the organizer;

d) list of people that will give speeches during the assembly.

3. In the event that the written notice does not contain the elements provided for in point 2 of this article, it is returned for completion to the organizer and leader of the assembly, who must resubmit the completed one no later than 24 hours before the time when the gathering will take place.

[183] In article 12 of this law is defined that:

1. Assemblies in places open to the public are held even without prior notification of the police, according to Article 5 of this law.

2. The organizers of these assemblies can request the support of the police outside these countries, to avoid disturbances during or after the gathering.

2. Implementation in Albanian practice of the right to freedom of assembly and related issues

3.

The right to freedom of peaceful assembly is related to other civil and political rights, such as that right to freedom of association, expression, etc., and is of particular importance, given the expressive nature of the assembly which impacts public opinion.

Subsequently, under the influence of economic, political, and social circumstances or recently those related to the pandemic and the lack of transparency of decision-making by state authorities, this freedom has been a tool in the hands of citizens to organize together and to give voice to their grievances and concerns. It is more necessary for citizens to be encouraged to use their rights, but also to remind the institutions of their legal obligations to respond to these requests, which essentially reflects the democratic capacity of society in general.

Under international human rights law, it is not necessary for domestic legislation to require prior notice of an assembly, but prior notice may enable state authorities to better ensure its peaceful nature and to establish arrangements to facilitate the gathering of protesters or to protect public order, public safety and the rights and freedoms of others. The procedure for providing advance notification to the public authorities should not be overly bureaucratic. Furthermore, the domestic legal framework should ensure that spontaneous assemblies can lawfully be held, and laws regulating freedom of assembly should clearly explicitly exempt such assemblies from prior notification requirements[184].
In Albanian practice, have been identified problems in many cases, in guaranteeing citizens' practicing of freedom of assembly by public authorities due to a lack of understanding of the purpose of the law or lack of training of State Police officers in relation to taking measures for gathering management.

From various entities, such as citizens, NGOs, trade unions, students, etc., there have been claims against the State Police bodies for not allowing their practicing, being rejected or hindered by the latter for various causes[185]. The obstruction of the practice of the freedom of assembly of civil society activists and various citizens due to the restrictive measures imposed by the state authorities during the period of the pandemic due to the Covid-19 virus has also been made public in the media. For these cases, the People's Advocate as a constitutional institution in defense of freedoms and human rights has made several recommendations to the central and local institutions of the public administration for the removal of obstacles and the creation of facilitating conditions for citizens, regarding the practicing of freedom of assembly by citizens as one of the basic human rights and freedoms.[186]

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[184] *Guidelines on Freedom of Peaceful Assembly*, Doc. CDL-AD(2019)017, OSCE/ODIHR & Venice Commission, 8 July 2019, pg.10, paragraph 25.
https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)017-e

[185] The refusal was made for reasons such as: not making the notification to the police bodies within the deadline provided by the law; for lack of identity or address of the organizer or leader of the gathering; not reflecting in the notification the purpose of the gathering, the date, the place, the start and end time of the gathering or its itinerary (if any); the approximate number of participants and the number of people assisting in the smooth running of the gathering, the identity of the persons who will speak at the gathering, etc.

[186] Rekomandim i Avokatit të Popullit me datë 18.07.2018, drejtuar Drejtorisë së Përgjithshme të Policisë së Shtetit.
https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20p%C3%ABrgatitjen%20dhe%20vendosjen%20n%C3%AB%20Website%20e%20Policis%C3%AB%20s%C3%AB%20Shtetit

Article 15/2 of the Constitution of the Republic of Albania stipulates that, "*The bodies of public power, in fulfilment of their duties, shall respect the fundamental rights and freedoms, as well as contribute to their realization*". In this context, public authorities are required not only not to become an obstacle to the exercise of freedom of peaceful assembly of citizens, but on the contrary, they must contribute to facilitate and protect the right to freedom of peaceful assembly. This duty should be reflected in the legislative framework, as well as relevant regulations and law enforcement practices.

A positive step regarding this freedom is the Constitutional Court's decision to abolish the phrase "*without first obtaining permission from the competent body according to special provisions*" in the first paragraph of Article 262 of the Criminal Code; and the obligation of the Assembly of the Republic of Albania to fulfill the legal norm from the date of the announcement of the decision of the Constitutional Court no. 24 dated 04.05.2021 until its entry into force, 6 months after publication in the Official Gazette[187]. But, until now, the provision has not been fulfilled.

Under these conditions, Article 262 "Organization and participation in illegal gatherings and demonstrations" continues to treat the organization of gatherings and demonstrations of people in squares and places of public transit as conditional on the approval of the permission of the police body. As a result, the prosecutor's office prosecuted protesters for the criminal offense provided for in this article, when this article is completely contrary to the domestic legal framework, international acts and the purpose of the law "On Assemblies".

Regarding the freedom of assembly and the problems created by the state during its exercise, the European Court of Human Rights (ECtHR) has a broad jurisprudence. In the case of *Eva Molnar v. Hungary*, the ECtHR is clearly in favor of its exercise. In this case the applicant complained before the ECtHR that the policy had all peaceful demonstrations in which she had participated only because of her prior notices, thus violating Article 11 of the Convention. According to the Court, *the lack of prior notice can never serve as a legitimate basis for crowd dispersal……. Prior notice serves not only the purpose of reconciling the right to assembly with the legitimate rights and interests including the freedom of movement of others, but also the purpose of preventing disorder or crime. Even in the case where no prior notice of protest has been given, this technical element must not in any way violate the essence of the right to exercise the freedom of assembly.* [188]

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Rekomandim i Avokatit të Popullit me datë 07.10.2020 drejtuar, Prokurorit të Përgjithshëm, Ministrit të Shëndetësisë dhe Mbrojtjes Sociale, Drejtorit të Përgjithshëm të Policisë së Shtetit dhe Komitetit Ndërministror të Emergjencave Civile.

https://www.avokatipopullit.gov.al/media/manager/website/media/Rekomandim%20p%C3%ABr%20marrjen%20e%20masave%20t%C3%AB%20nevojshme%20p%C3%ABr%20respektimin%20e%20liris%C3%AB%20kushtetuese%20t%C3%AB%20tubimit%20edhe%20gjat%C3%AB%20gjendjes%20s%C3%AB%20jasht%C3%ABzakonshme.%20.pdf

[187] Decision of Constitutional Court no. 24 date 04.05.2021, Official Gazette no.87, date 7.6.2021.

[188] See, *Éva Molnár against Hungary, 7 October 2008, request no. 10346/05*.

Even in the case of *Bukta and others v. Hungary*, the ECtHR found that Hungary had violated Article 11 of the Convention because the police bodies had dispersed a peaceful assembly on the grounds that it had been held without prior notice from the organizers. According to this decision, *although the police were acting under Hungary's 1989 Act on Assembly Affairs, which requires the police to be informed of a rally at least three days in advance and gives the police the authority to disperse a rally that takes place without prior notice, the ECtHR ruled that a decision to disperse a peaceful assembly solely because of the organizers' failure to comply with a notice requirement, without any illegal conduct by the participants, is a disproportionate restriction on the right to conduct a peaceful assembly provided for by Article 11 of the Convention.* [189]

This Court in its practice has considered that notification, and even authorization procedures for a public event do not normally violate the essence of the right under Article 11 of the Convention as long as the purpose of the procedure is to allow the authorities to take measures reasonable and appropriate to guarantee the normal development of any assembly, meeting or other gatherings.[190]

While referred disproportionate use of force and escalation of situation in relation to the protests which took place in December 2020 in Albania, the Council of Europe Commissioner for Human Rights, in the statement has expressed her concern. Among other things, she has been stated that: *"The response to the COVID-19 pandemic does not give authorities 'carte blanche' to use force when policing assemblies, ... It is crucial to ensure that police officers operating in the context of demonstrations receive specialized training in the negotiated management of assemblies and the proportionate use of force……. The Albanian authorities must show restraint in policing demonstrations and ensure thorough, independent and effective investigations into all allegations of excessive use of force,"*[191].

Whereas, in the European Union enlargement reports for Albania, in the following in the chapter on fundamental rights, it is evident that the freedom of assembly and organization is expressly provided for in the Constitution and legislation for assemblies and are broadly in line with international standards as well as with in line with Guidelines on Freedom of Peaceful Assembly of the OSCE/ODIHR. Despite this, the law on Assemblies does not address the right to spontaneous assemblies and counter-assemblies.[192]

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[189] See, *Bukta and others against Hungary, no. 25691/04.*

[190] See, *Sergey Kuznetsov against Russia, no. 10877/04, § 45, 23 October 2008*.

[191] Statement, Commissioner Dunja Mijatovic, Strasbourg 16.12.2020.
https://www.coe.int/en/web/commissioner/-/albanian-authorities-must-prevent-further-police-violence-and-uphold-the-right-to-freedom-of-peaceful-assembly

[192] Albania Report, Communication on EU Enlargement Policy 2019, 2020, 2021.

Albania 2019 Report, European Commission, Strasbourg 29.05.2019, pg.27.

https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf

Albania 2020 Report, European Commission, Strasbourg 06.10.2020, pg. 32.

https://neighbourhood-enlargement.ec.europa.eu/system/files/2020-10/albania_report_2020.pdf

Albania 2021 Report, European Commission, Strasbourg 19.10.2021, pg.31-32.

On the other hand, the fact of the dispersal of dozens of protests as well as the detention and arrests of hundreds of protesters by the police for organizing or participating in protests is stated in these reports.[193] In many cases, the actions of the police have been criticized by civil society organizations and Ombudsperson, who have argued that they were not carried out in line with domestic law and international practices.[194]

4. Some recommendations in the framework of improving guarantees in the exercise of freedom of assembly.

The exercise of the right to freedom of assembly cannot be subject to restrictions other than those provided for in the Constitution of Albania, in Article 11/2 of the ECtHR and in Article 8 of the particular law "On Assemblies", which are necessary in a democratic society, in the interest of national security and public safety, for the protection of order and the prevention of criminality or for the protection of the rights and freedoms of other persons.

In fulfillment of international standards and those established by the Jurisprudence of the ECtHR, one of the challenges for guaranteeing the freedom of assembly is the improvement of the legal framework by providing for the organization of spontaneous assemblies and counter-assemblies.

In this context, the relevant structures must take the necessary measures to make concrete proposals to enable changes in law no. 8773, dated 23.4.2001 "On Assemblies", to guarantee the right to spontaneous assemblies as well as counter-assemblies in accordance with recommendations and international acts.

Also, competent state structures should take proactive measures for the continuous training of police officers to respond effectively to the welfare of gatherings, both announced in advance and those that are organized spontaneously. The use of force by these structures must be the last resort and in any case in accordance with all the rules and legal procedures provided for. Unnecessary or disproportionate sanctions for the behavior of citizens during assemblies may prevent their organization in the future and have a discouraging effect on the participants in them, indirectly constituting a violation of the freedom of peaceful assembly.

A great importance for guaranteeing the principle of legal security regarding the right to freedom of assembly is that the public authorities take measures as soon as possible to amend/repeal the first paragraph of Article 262 of the Criminal Code in order to complete the legal provision, pursuant to decision no. 24, dated 04.05.2021 of the Constitutional Court.

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https://neighbourhood-enlargement.ec.europa.eu/system/files/2021-10/Albania-Report-2021.pdf

[193] Ibid, (Albania Report, Communication on EU Enlargement Policy 2019, 2020, 2021)

[194] Albania 2022 Report, European Commission, Strasbourg 12.10.2022, pg.32.

https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Albania%20Report%202022.pdf

Human rights in the face of global challenges

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Abstract

Human rights in the face of global challenges are becoming increasingly important as the world becomes ever more interconnected. The global community is facing a multitude of challenges, from climate change, wars and displacement to political instability and economic inequality. In response to these issues, the international community has renewed its focus on human rights. This renewed focus has led to an increased emphasis on the protection and promotion of fundamental rights, such as the right to life, liberty, and security of the person. At the same time, global challenges threaten to undermine the progress made in protecting human rights. For example, the displacement caused by climate change has the potential to create conditions in which human rights abuses can flourish. Similarly, economic inequalities can lead to social exclusion and discrimination. In order to protect and promote human rights in the face of these global challenges, governments must work in partnership with non-governmental organizations, civil society groups, and individuals. This collaboration should focus on strengthening existing human rights laws and creating new ones to tackle the issues of climate change, displacement, and economic inequality. In addition, governments should ensure that everyone has access to the justice system.

Keywords: *Human rights, Climate change, Governments, Education, COVID-19, Legislation, Protection.*

JEL classification: O10, O31, O19, F20.

1 Introduction to Human Rights and Global Challenges

Human rights are fundamental rights that are inherent to all human beings, regardless of their nationality, ethnicity, religion, or any other status. These rights include the right to life, liberty, and security of person, freedom of thought, conscience and religion, and the right to work and education, among others. Human rights are based on values such as dignity, fairness, equality, respect, and independence, and are protected by international law[195]. The Universal Declaration of Human Rights (UDHR) is a cornerstone document in the history of human

[195] Human Rights | United Nations.https://www.un.org/en/global-issues/human-rights

rights and enshrines the rights and freedoms inherent in all people. It is important to address human rights in the face of global challenges, as they are essential for ensuring the well-being and dignity of all individuals[196]. Global challenges, such as climate change, wars, pandemics, and economic inequality, are complex and interconnected issues that affect people worldwide. Climate change, for instance, poses a significant threat to food production and increases the risk of natural disasters such as floods and droughts[197]. Economic inequality and poverty also remain major challenges, with millions of people around the world living in extreme poverty. The COVID-19 pandemic has further highlighted the importance of addressing global challenges, as it has had a profound impact on societies and economies worldwide[198]. Addressing human rights is essential for tackling global challenges, as it helps to ensure that the most vulnerable and marginalized individuals are not left behind. Human rights provide a framework for addressing social and sustainable development, gender equality, and other key issues. In fact, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has emphasized the importance of human rights in achieving sustainable development[199]. Therefore, incorporating human rights into policies and programs aimed at addressing global challenges can help to ensure that the well-being and dignity of all individuals are protected.

Objectives, research and questions

a. In simple terms, this research aims to examine the role of human rights to provide a framework for addressing social and sustainable development, gender equality, and other key issues.

b. The study is exploratory in nature and aims to provide important insights into the dynamics and interactions of various factors for the creation of sustainable emphasis on the protection and promotion of fundamental rights.

c. The main questions asked in this research:

- What are the some of the basic human rights?
- To what extent have these rights been respected in the period of Covid 19?
- What is the role of governments, civil society and individuals to guarantee the protection of human rights?

Research methodology

196 What are human rights?.https://www.equalityhumanrights.com/en/human-rights/what-are-human-rights

197 A Proclamation on Human Rights Day and.https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/09/ a-proclamation-on-human-rights-day-and-human-rights-week-2021/

198 Global Issues | United Nations.https://www.un.org/en/global-issues

199 What are the 10 biggest global challenges?.https://www.weforum.org/agenda/2016/01/what-are-the-10-biggest-global-challenges/

Analysis issues: There are several levels of analysis where challenges can arise due to various factors. A challenge for developing countries and underdeveloped countries. By protecting the right to freedom of expression, we can promote democracy, accountability, and human rights around the world.

Research methodology: A qualitative methodology is the most appropriate and effective tool to address the objectives of this study with the aim of answering the main questions that have been raised.

Data collection method: This study refers to the behavior patterns of the protection of human rights is in addressing global challenges. Considering the theoretical framework, the methodology was built to answer the main issues raised and the materials that supported the research argument were used.

Looking into the future: The findings of this study can renew the applicability of research in the future, e.g. conducting a comparative study and how much human rights have been respected in developing countries.

Right to Life and Health

The right to life and health is a fundamental human right that encompasses access to healthcare services. However, many individuals face barriers to accessing healthcare, including lack of health insurance, poor access to transportation, and limited healthcare resources[200]. The opportunity to use appropriate healthcare services in proportion to healthcare needs is essential for ensuring the right to health. In the United States, for example, the healthcare system has been criticized for its high costs and limited access to care. Ensuring access to healthcare services, especially for vulnerable populations such as refugees and those living in poverty, is crucial for upholding the right to life and health[201]. The right to life and health also includes protection from environmental hazards. Environmental factors such as air and water pollution, exposure to toxic substances, and climate change can have negative impacts on health[202].

In Albania, for instance, the historical conviction that differences between groups should not lead to discrimination has established a strong sense of unity in protecting the environment and

[200] How the IMF Continues to Change To Confront Global https://www.imf.org/en/Blogs/Articles/2022/01/18/blog-how-imf-continues-to-change-to-confront-global-challenges.

[201] (PDF) Value Pluralism and Liberalism: A Conflictual or a https://www.researchgate.net/publication/367465368_Value_Pluralism_and_Liberalism_A_Conflictual_or_a_Supportive_Connection_between_Them

[202] Pandemics: Risks, Impacts, and Mitigation.https://www.ncbi.nlm.nih.gov/books/NBK525302/

the right to life and health[203]. Global negotiations have also been held to address environmental degradation and protect the ocean. Upholding the right to life and health requires addressing environmental challenges and promoting sustainable practices. The right to life and health also encompasses the eradication of diseases and epidemics[204]. Pandemics and disease outbreaks can greatly increase morbidity and mortality, causing significant harm to individuals and communities[205]. Disease outbreaks are defined as the occurrence of disease cases in excess of normal expectancy, while pandemics are global disease outbreaks that affect a wider geographical area[206]. Eradicating diseases and preventing pandemics requires global cooperation and investment in healthcare infrastructure and research[207]. By upholding the right to life and health, individuals and communities can thrive and flourish.

Right to Education

Access to education is a fundamental human right that is essential for the development of individuals and societies. However, many individuals around the world still lack access to education. According to a study by Roser et al. in 2016, school attendance is a key indicator of access to education[208]. To ensure that everyone has access to education, it is necessary to mobilize resources and implement innovative solutions to provide education remotely, leveraging hi-tech and low-tech solutions. Initiatives such as the Global Partnership for Education and the Coalition for Girls' Education are working to support millions of children, particularly girls, to fulfill their right to education in countries with the greatest gender disparities in education. By addressing the issue of access to education, we can help to create a more equitable and just world. In addition to access, ensuring quality education for all is also crucial. The UNESCO Global Education 2030 Agenda aims to provide quality education for all, with a focus on improving learning outcomes and developing the skills needed for the 21st century. Every child has the right to learn, and it is essential to provide a safe and supportive learning environment that fosters creativity, critical thinking, and problem-solving skills[209]. Moreover, promoting interfaith tolerance and spiritual enrichment can also contribute to a more holistic and well-rounded education. By prioritizing quality education, we can help to build a more educated and empowered global community.

However, there are still many barriers to education that need to be addressed. Poverty, child marriage, gender-based violence, and overcrowded classrooms are just a few examples of the barriers that children living in poverty face when trying to access education. Overcoming these

[203] Interfaith Dialogue in Albania as a Model of Interreligious https://www.jstor.org/stable/48710259

[204] Outbreaks, epidemics and pandemics—what you need to https://apic.org/monthly_alerts/outbreaks-epidemics-and-pandemics-what-you-need-to-know/

[205] Access to Health Services - Healthy People 2030.https://health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/access-health-services.

[206] U.S. Health Care from a Global Perspective, 2022.https://www.commonwealthfund.org/publications/issue-briefs/2023/jan/us-health-care-global-perspective-2022.

[207] Access to Healthcare during COVID-19 - PMC.https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7999346/

[208] Global Education.https://ourworldindata.org/global-education

[209] Education | UNICEF.https://www.unicef.org/education

barriers requires a collaborative effort from governments, civil society organizations, and the private sector. The Global Education for Peace campaign is one example of a network of educators and activists working to promote equality and human rights through education[210]. By addressing these barriers, we can help to ensure that every individual has the opportunity to reach their full potential and contribute to a more peaceful and prosperous world.

Right to Work and Fair Wages

The right to work and fair wages is a fundamental human right that is essential for individuals to live with dignity and security. This right includes protection from exploitation and forced labor. In Albania, for example, religious beliefs have always emphasized the importance of treating workers fairly and providing them with just compensation. The transformation of society also involves addressing the issue of forced labor and exploitation, which requires a deliberate and concerted effort The U.S. Trafficking.

Victims Protection Act (TVPA) provides legal recourse for victims of forced labor and exploitation[211]. Thus, ensuring that individuals are protected from exploitation and forced labor is crucial for safeguarding their human rights. Fair wages and safe working conditions are also essential components of the right to work. The UNESCO Global Labour University has emphasized the importance of fair wages in promoting social justice and reducing inequality. In Cameroon, for example, the Baha'i community has worked to improve working conditions and promote fair wages for workers. Addressing unemployment and underemployment is also critical in ensuring that individuals have access to fair wages and safe working conditions. In Ghana, youth unemployment and underemployment rates are higher than overall unemployment rates in the country. Therefore, addressing unemployment and underemployment is crucial for promoting the right to work and fair wages[212].In addition to fair wages and safe working conditions, addressing underemployment and unemployment is also essential for promoting the right to work. Underemployment and unemployment are national occupational health risk factors that can have a significant impact on an individual's physical and mental health. In the United States, for example, black workers are at a higher risk of losing their jobs and experiencing unemployment. The official concept of unemployment includes all jobless individuals who are actively seeking work. Addressing underemployment and unemployment requires identifying areas of strength and opportunities for improvement[213]. Thus, promoting the

[210] UNESCO's Global Education Coalition.https://www.unesco.org/en/global-education-coalition

[211] AT THE UN: Launch of a Global Alliance to Eradicate Forced https://fxb.harvard.edu/2016/10/06/at-the-un-launch-of-a-global-alliance-to-eradicate-forced-labor-modern-slavery-human-trafficking-and-child-labor/.

[212] Civil Litigation as a Tool to Combat Forced Labor in Global https://traffickinginstitute.org/civil-litigation-as-a-tool-to-combat-forced-labor-in-global-supply-chains-a-douglass-fellow-advocacy-event/.

[213] Addressing Youth Unemployment in Ghana Needs Urgent https://www.worldbank.org/en/news/press-release/2020/09/29/addressing-youth-unemployment-in-ghana-needs-urgent-action

right to work and fair wages requires addressing the systemic issues that contribute to underemployment and unemployment.

Right to Food and Water

Access to clean water is a fundamental human right that is essential for maintaining good health and well-being. However, according to a report by the United Nations, one in four people around the world do not have access to clean drinking water. Poor access to water, sanitation, and hygiene continues to be a major challenge for billions of people worldwide, leading to numerous health problems. It is crucial for governments and organizations to prioritize the development of infrastructure and policies that ensure universal access to clean water and sanitation[214].

The availability of nutritious food is another important aspect of the right to food. A healthy diet is essential for maintaining good health, yet many people around the world struggle with food insecurity and malnutrition[215]. The State of Food Security and Nutrition in the World 2020 report notes that despite progress in some regions, global trends in child undernutrition, including stunting and wasting, remain concerning. This highlights the need for policies and programs that address the root causes of food insecurity and malnutrition, such as poverty, inequality, and climate change[216]. In conclusion, the right to food and water is a fundamental human right that is essential for maintaining good health and well-being. Access to clean water and nutritious food is crucial for addressing global challenges such as poverty, inequality, and climate change. Governments and organizations must prioritize the development of infrastructure and policies that ensure universal access to clean water and sanitation, as well as address the root causes of food insecurity and malnutrition. Only by working together can we ensure that everyone has access to the basic necessities of life[217].

Right to Housing and Shelter

The right to adequate housing is a fundamental human right that is enshrined in international law. Adequate housing means having secure tenure, which includes protection from forced evictions and the ability to live in a safe and healthy environment. Unfortunately, many individuals and families around the world lack access to adequate housing, which can have

[214] Public Health Impacts of Underemployment and .https://www.mdpi.com/1660-4601/18/19/10021

[215] Energy has a role to play in achieving universal access https://www.iea.org/commentaries/energy-has-a-role-to-play-in-achieving-universal-access-to-clean-water-and-sanitation

[216] Food | United Nations.https://www.un.org/en/global-issues/food

[217] Addressing world hunger, malnutrition, and food insecurity.https://pubmed.ncbi.nlm.nih.gov/12891157/

significant negative impacts on their physical and mental health, education, and employment opportunities[218]. Therefore, it is essential to prioritize and ensure access to adequate housing for all individuals Homelessness is a global human rights violation that affects millions of people worldwide. It is a complex issue that requires a multifaceted approach to address. Governments and organizations must work to protect individuals from homelessness by providing access to affordable housing, social services, and employment opportunities. Additionally, addressing the root causes of homelessness, such as poverty and discrimination, is crucial to prevent individuals and families from becoming homeless. Housing inequality is a significant challenge that must be addressed to ensure that all individuals have access to adequate housing. In many countries, housing inequality is closely tied to racial and socioeconomic disparities[219]. Therefore, it is essential to implement policies and programs that address these disparities and promote housing justice. Lawmakers must also make amends for past discriminatory housing policies and work to eliminate housing discrimination in all forms. By addressing housing inequality, we can ensure that everyone has access to safe, secure, and affordable housing, regardless of their race or socioeconomic status[220].

Right to Freedom of Expression

Freedom of expression, including freedom of speech and press, is a fundamental human right that is crucial for the functioning of democracies. The United Nations has recognized the importance of this right, with Irene Khan being appointed as the UN Special Rapporteur for Freedom of Opinion and Expression in 2020. The US government has also recognized the importance of freedom of expression, with the Freedom in the World report tracking global trends in political rights and civil liberties for 50 years. However, despite these efforts, censorship and online privacy continue to be major challenges to the right to freedom of expression. It is essential that governments and tech companies work together to protect this fundamental right and prevent censorship and surveillance[221]. Access to information is another critical aspect of the right to freedom of expression. The development of technology has made it easier for individuals to access information, but censorship and restrictions on access to information remain a significant challenge. In many countries, governments control the media and limit access to information, making it difficult for citizens to make informed decisions. It is essential that governments work to promote transparency and accountability, and ensure that citizens have access to accurate and reliable information. Addressing censorship and online privacy is essential to protecting the right to freedom of expression. Censorship can limit the ability of individuals to express their opinions and ideas, and can also limit access to

[218] Hunger and Undernourishment.https://ourworldindata.org/hunger-and-undernourishment.

[219] The Human Right to Adequate Housing: A Tool for https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1447150/

[220] Racial Differences in Economic Security: Housing.https://home.treasury.gov/news/featured-stories/racial-differenc- es-in-economic-security-housing

[221] Women and the right to adequate housing. https://www.ohchr.org/en/special-procedures/sr-housing/women-and-right-ade- quate-housing

information. Additionally, online privacy is crucial for protecting individuals from surveillance and other forms of government intrusion. It is essential that governments and tech companies work together to protect these fundamental rights, while also ensuring that individuals are protected from harmful content and cyber threats[222]. By protecting the right to freedom of expression, we can promote democracy, accountability, and human rights around the world.

Right to Equality and Non-Discrimination

One of the fundamental rights of every individual is the right to equality and non-discrimination. Discrimination on any grounds, such as race, ethnicity, religion, gender, or sexual orientation, is a violation of human rights. Albania has taken steps to protect its citizens from discrimination, as reflected in its 2010 law "On protection from discrimination". The Albanian people have also demonstrated tolerance and awareness of their shared identity, regardless of external factors. However, there is still a long way to go to achieve true equality and non-discrimination on a global scale. Addressing gender inequality is an essential component of promoting equality and non-discrimination. Despite progress made in recent years, gender inequality remains a significant challenge worldwide. The United Nations has set a goal to achieve gender equality and empower all women and girls through its Sustainable Development Goals However, the Global Gender Gap Report 2022 indicates that gender parity is not recovering, and it will take another 132 years to close the global gender gap. The climate crisis also has a disproportionate impact on women and girls, exacerbating existing gender inequalities[223]. Addressing gender inequality requires continued efforts and a coordinated approach across sectors and countries. Promoting diversity and inclusion is another critical aspect of ensuring equality and non- discrimination. Diversity and inclusion are essential for creating a culture of respect and acceptance of differences. Many organizations worldwide have recognized the importance of diversity and inclusion and have implemented programs to promote them However, managing diversity and inclusion in the global workplace can be challenging. Successful organizations actively embrace diversity, equity, and inclusion, recognizing their importance in promoting a culture of respect and acceptance. As such, promoting diversity and inclusion should be a priority for individuals, organizations, and governments worldwide[224].

Right to Peace and Security

[222] Policy Recommendations: Internet Freedom.https://freedomhouse.org/policy-recommendations/internet-freedom

[223] Executive Order on Preventing Online Censorship.https://trumpwhitehouse.archives.gov/presidential-actions/execu- tive-order-preventing-online-censorship/

[224] Global Gender Gap Report 2022 | World Economic Forum.https://www.weforum.org/reports/global-gender-gap-re- port-2022/

The right to peace and security is a fundamental human right that must be protected. This includes protection from violence and conflict, which can have devastating effects on individuals and communities. In Albania, religion has never been a source of conflict in society, and religious communities have always succeeded in coexisting peacefully. However, in many other parts of the world, conflict and violence are ongoing issues that threaten the safety and security of individuals[225]. The promotion of peaceful societies is therefore crucial in ensuring that individuals can live free from fear and violence The Global Campaign for Peace Education is an example of a movement that seeks to promote peace through education and awareness-raising campaigns Addressing terrorism and extremism is also an important aspect of protecting the right to peace and security. Goal 16 of the United Nations Sustainable Development Goals specifically focuses on promoting peaceful and inclusive societies. The United Nations Counter-Terrorism Centre (UNCCT) works to promote international cooperation in the fight against terrorism and supports member states in implementing the Global Counter-Terrorism Strategy.

The State Department also engages in global efforts to address terrorism and encourages countries to build their capacity to prevent and respond to terrorist threats[226]. However, right-wing extremist groups have experienced a revival in recent years, with a surge of anti-immigration and xenophobic sentiment[227]. It is therefore important to continue to address and combat extremism in all its forms to ensure the right to peace and security for all individuals. In conclusion, protecting the right to peace and security requires addressing a range of global challenges. This includes promoting peaceful societies, addressing terrorism and extremism, and protecting individuals from violence and conflict[228]. It is important for governments, international organizations, and civil society to work together to ensure that individuals can live free from fear and violence. By doing so, we can create a more just and peaceful world for all.

3 Conclusion

Upholding human rights is crucial in addressing global challenges such as poverty, conflict, and climate change. As the ongoing tragedy in Darfur reminds us, protecting the human rights of individuals is a significant challenge at the international level. Universal human rights are at the center of the Global Goals, and unless they are met, none of the goals can be achieved. Governments, civil society, and individuals all have a role to play in ensuring human rights are

[225] What is diversity, equity, and inclusion (DE&I)? https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-diversity-equity-and-inclusion

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[228] The Global Challenge of Protecting Human Rights.https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1316&-context=djilp

upheld and protected. Governments must prioritize the promotion and protection of human rights through policies and legislation. For example, Pakistan has established a National Commission for Child Welfare and Development to assess and promote children's rights. Canada works closely with other governments, Indigenous peoples, civil society, and international organizations to promote human rights. Civil society also plays an essential role in increasing accountability and promoting human rights, as demonstrated by the experiences of Human Rights Watch and the Global Alliance for National Human Rights Institutions. Finally, individuals can advocate for human rights in their communities and support organizations that promote human rights. Addressing global challenges through human rights approaches requires the collective effort of governments, civil society, and individuals. It is essential to prioritize the promotion and protection of human rights in policies and legislation, increase accountability, and advocate for human rights in communities. As the concept of human rights has become a universal value since the adoption of the Universal Declaration of Human Rights by the United Nations in 1948, it is crucial to continue the work towards realizing these rights for all individuals. Only by upholding human rights can we tackle global challenges and achieve sustainable development and lasting peace.

However, global challenges may require temporary limitations on certain human rights. In times of war, some human rights may need to be temporarily limited for national security reasons. For example, limiting freedom of movement may be necessary to prevent the spread of a deadly virus during a public health emergency. Furthermore, economic crises may require temporary limitations on certain economic rights to prevent economic collapse. Therefore, in some situations, it may be necessary to limit certain human rights temporarily. Moreover, some countries may have cultural or religious differences that make it difficult to uphold certain human rights. For example, some countries may have different views on the role of women in society, which may make it difficult to enforce gender equality. Some countries may also have different views on freedom of speech, which may make it difficult to promote open and free discourse. Therefore, it may be challenging to impose Western values on non-Western societies. Finally, protecting human rights can be costly and may not always have immediate benefits. Providing access to education and healthcare can be expensive, and protecting the rights of marginalized communities may not have immediate economic benefits. In some situations, it may be more practical to prioritize economic development over human rights. For example, a developing country may need to focus on economic growth to lift its citizens out of poverty before it can prioritize human rights.

4 Recommendations and calls to action

Human rights are fundamental values that ensure equality and dignity for all individuals. However, in the face of global challenges such as war, economic crises, and public health emergencies, protecting human rights can be a challenging task. Scientific research describes how the human rights should not be compromised in the face of global challenges. This paper argue how protecting human rights can help mitigate global challenges and why international cooperation is crucial to protecting human rights. Addressing counter-arguments stating that global challenges may require temporary

limitations of certain human rights, some countries may have cultural or religious differences that make it difficult to uphold certain human rights, and protecting human rights can be costly and may not always have immediate benefits.

Firstly, upholding human rights is a fundamental value of democratic societies. Limiting human rights can set a dangerous precedent and undermine the legitimacy of governments. History has shown that limiting human rights can lead to authoritarianism and human rights abuses. Therefore, protecting human rights is necessary to maintain social justice and prevent the erosion of democracy. Furthermore, human rights must be protected to ensure that marginalized communities are not left behind in times of crisis.

Secondly, protecting human rights can help mitigate global challenges. Ensuring access to education and healthcare can improve public health outcomes and reduce the burden on healthcare systems. Protecting freedom of speech can promote scientific advancements and innovation, leading to new solutions for global challenges. Protecting the rights of marginalized communities can create more inclusive societies and reduce tensions that can cause conflict. Therefore, protecting human rights can lead to more resilient societies that are better equipped to face global challenges.

Thirdly, international cooperation is crucial to protecting human rights. International organizations can hold governments accountable to human rights standards and provide support to countries in need. International cooperation can lead to better human rights policies, as countries can learn from each other's successes and failures. Furthermore, international pressure can help improve human rights in countries with poor records, as governments may be more likely to make changes if they face consequences for their actions. Therefore, it is important to strike a balance between protecting human rights and addressing global challenges.

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Legislative solution to prevent the interference of foreign financing in the electoral campaign and their destabilizing effects

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Abstract
The Albanian legislation, the Electoral Code and the Law for political parties, prohibit the financing of the election campaign by foreign governments, institutions and/or public or private entities, for political parties and their candidates. Among the effects that such financing can cause, the main ones are: (i) misgovernance and the promotion of destabilizing situations in the country, (ii) the promotion and generation of destabilizing situations in the Balkan region. For well-known geostrategic reasons, the countries of the Western Balkans, including Albania, are really exposed to the interference of foreign funding in election campaigns. This situation conditions the need for further adjustments in the legislation with the following objectives: (i) preventing the interference of foreign financing in the election campaign (ii) strengthening the sanctions (ii) treating this legal violation as a serious criminal offense that must be included in SPAK jurisdiction. Among the issues that should be treated with priority are also the necessary legal regulations through which must be prevent the use of social media and portals as channels for the realization of the objectives aimed at by foreign fundings. Together with these changes, support for strengthen of the capacities of law enforcement institutions for tracking, identifying and punishing violations of the law that prohibits the financing of the election campaign of political parties and their candidates with foreign fund is necessary.

Keywords: *Electoral campaign, foreing funds, legislation*

Introduction
The political parties financing is one of the important issues that is dealt with in the legislation of countries that are governed in a multi-party system. In these countries, political parties are citizens' voluntary associations, which have as their main objective the acquisition of power for the governance of the country at the central and/or local level. In representative democracies, political parties are the most important institutions to which citizens, through voting, delegate their will to build institutions that govern their affairs and interests. This mode of action of democracy requires for political parties to be built and operate based on the rules and principles that arise from the need for a good and democratic governance of the country and the society. Among these, the rules for financing political parties are very important (https://aceproject.org/; Ingrid van Biezen (2003; Borzea, (2020). These rules are an important part of the legislation that deals with issues of organization and development of political parties.
According to Ware (1996) political parties are voluntary social organizations with common programs and goals, the aim of which is to acquire state power, to preserve or participate in state power. In representative democracies, political parties are the most important institutions

to which citizens, through voting, delegate their will to build institutions that govern their affairs and interests. This mode of action of democracy requires for political parties to be built and operate based on the rules and principles, an important part of which are the rules for their financing. In CDL-AD (2002) 23 "Code of good practice in electoral matters" and in CDL-AD (2009)021 "Code of good practice in the field of political parties", Venice Commission, it is emphasized that:

> "Political parties need appropriate funding to fulfil their core functions, both during and between election periods." *and* "the regulation of political party funding is essential to guarantee parties' independence from undue influence of private donors, as well as state and public bodies."

The OECD (2016) emphasis that "Finance is a necessary component of the democratic process. It enables the expression of political support, and competition in elections. However, money may be a means for powerful narrow interests to exercise undue influence, resulting in inadequate policies that go against the public interest

According to Scarrow (2004), political finance is one of the most problematic regulatory areas of democracies, because it is connected to the aim of guaranteeing a certain minimum level of political equality in a context where wealth is unequally distributed. Pinto-Duschinsky, (2002), emphasis that the appropriate way of financing the electoral campaigns has been a controversial debate for over a long period of time..

Ingrid van Biezen (2003) stated that the

> "Legal framework of party financing" includes, where applicable, constitutional provisions, laws on political parties and laws on the financing of political parties and election campaigns as passed by the legislator and all other laws that impact on the financing of political parties"[229]

The treatment of issues related to the financing of political parties and in particular the financing of electoral campaigns with foreign funds is one of the legislative issues of special interest in EU countries. The phenomenon of interference of foreign funding in elections in EU countries is present. Meanwhile, it should be noted that

> More than half of all EU member states do not have any restrictions or allow foreign donations in specific circumstances (e.g. under a certain threshold or for selected foreign actors). This lack of strict regulations allows foreign money to flow into political campaigns in a large number of EU member states. Consequently, the disparate and sometimes lax regulations on the national level represent a major vulnerability on the European level[230].

Assessing the undesirable effect caused by foreign financing in the national policies of the EU member states -se, Herzog, (2020) emphasizes that:

[229] Financing political parties and election campaigns – guidelines. https://eos.cartercenter.org/uploads/document_file/path/309/Financing_Political_Parties_en.pdf

[230] Herzog, L. (2020) Foreign funding for political parties: why should we care? https://polis180.org/polisblog/2020/01/29/foreign-funding-for-political-parties-why-should-we-care/

> The EU has to promote cooperation between its member states and European institutions to develop a common guideline and a minimum standard on transparency of party and election financing.

The same considerations regarding the need for the treatment in legislation of foreign financing for the election campaign, with the aim of preventing the negative effects that this financing generates, are also published by researchers in the USA. According to Powell J. K (2014), in The Language of 2 U.S.C. § 441e, emphasis that:

> It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national[231].

Elena & Shein (2020) emphasis that

> The corruption problem that threatens democracy is more vast than illicit finance in elections, but this is often the gateway to more pervasive political corruption. The consent of the governed-established through credible elections-is the foundation of democracy. If elections are merely a currency to manipulate at will, this foundation collapses. It is unsurprising then that political corruption fuels foreign malign influence and the entrenchment of autocrats.

The negative effects of the financing of the election campaign by foreign governments, foreign private or public entities appear especially through the impact they have on the foreign policy and in the governance of the country. Such financing exposes the country to the increased risk of economic and political corruption and, therefore, increases the possibilities for economic and political destabilization.

Albania is a country with new experiences in terms of democracy and the rule of law. The changes in the political system that occurred at the beginning of the 90s confronted this country with the challenges of building a pluralistic system, which is achieved through the realization of democratic elections. Political parties, as well as the main participants in the elections, use significant financial resources to achieve their objectives. As it was emphasized above, such resources are always exposed to the risk of the interference of unidentified funds. In particular, financing from foreign governments, donors and foreign public or private entities are among the financings that are associated with negative effects on the governance of the country. In countries like Albania, where institutional capacities, culture and behavior towards the requirements of the rule of law, as well as the capacities and legislative preventive and penal solutions are insufficient, foreign financing is a factor with great risk for corruption and political instability. Such a risk is also related to the opportunities that these donations generate for interfering in foreign government politic, based on geopolitical interests, that are present in the Western Balkans region. These circumstances increase the need for strengthening the

[231] Donna M. Ballman, Political Campaign Contributions by Foreign Nationals in Florida Elections, 65 FLA. B. J. 31, 32 (1991) (summarizing the provisions of 2 U.S.C. § 441e).

legislation related to the financing of the election campaign and a comprehensive commitment for its implementation.

In this paper, the solution defined in the Albanian legislation for the financing of political parties and their election campaigns with foreign funds is analyzed and considerations are given regarding the instruments and paths that can be followed for their effective implementation.

Albanian legislation related to foreign financing of political parties

In Albania, the issues related to the financing of political parties and their electoral campaign are dealt with in Law no. 8580, dated 17.2.2000 "On Political Parties" and Law No. 10 019, dated 29.12.2008 "Electoral Code of the Republic of Albania", amended.

> Article No. 21, Law no. 8580, dated 17.2.2000 “On Political Parties” amended, stresses out that “Financial assistance and materials from foreign public or private entities and from foreign governments is prohibited. Gifts and assistance that come from a party or international union of parties, from political foundations and organizations, Albanian and foreign, and from individuals who are Albanian private natural person and legal entities is permitted”.

According to the Electoral Code, Law No. 10019, dated 29.12.2008 and amended by Laws No.74/2012, dated 19.07.2012, No. 31/2015, dated 02.04.2015, No. 101/2020, dated 23.7.2020, and No. 118/2020, dated 5.10.2020, the electoral subjects and their candidates may receive funds for the purposes of their electoral campaigns only from domestic natural or legal persons. For the purposes of Electoral code, an Albanian citizen who resides outside the territory of the Republic of Albania shall also be considered a domestic natural person”. The law allows only

> "... gifts and assistance coming from parties or international associations of parties, from local and foreign political organizations and foundations, as well as from individuals, private natural person and legal entities”.

The Electoral Code of the Republic of Albania, Article 92/1 reiterates that for the needs of the election campaign "Electoral subjects and their candidates can receive funds only from local natural person or legal entities”.

In the Albanian legislation, the violation of the legislation on the financing of political parties and their election campaigns is treated as an administrative misdemeanor, punishable by a fine. In the case when a political party or its candidate accepts and uses funding from foreign sources, the legislation does not deal with it in a clear and special way.

In some countries of the Balkans, such as Turkey, Romania, Greece, Bulgaria, Serbia, Slovenia, the identification, tracking, investigation and judgment of cases of acceptance and use of foreign funds is treated as a criminal offense. In the Albanian legislation, the reaction that the institutions should have in the event that political parties/their candidates violate the provision that prohibits the receipt and use of foreign funds is not dealt with exhaustively.

Possible ways to strengthen the bans for foreign financing for election campaigns and their implementation

Albania, as a country in the Western Balkans and as a country with little experience in the exercise of democracy, is exposed to interference in the financing of political parties by foreign

governments and foreign physical and legal entities that have economic and geopolitical interests in this region. Such financings are the factors that significantly affect the growth of economic and political corruption in the country and, therefore, its destabilization. This makes the commitment to prevent the financing of political parties with funds coming from foreign governments one of the most important, current, challenges for Albania. In order to realize the objectives in facing this challenge, it is necessary to plan and implement complex actions, which should aim at the development of capacities in two main directions:

(i) Drafting of an effective legal framework for the prevention, identification and punishment of financing of political parties and their election campaigns by foreign governments and by foreign physical and legal entities

Referring to the current legal framework, it can be affirmed that, in the Albanian legislation, the issues related to the financing of political parties and their election campaigns with funds from the government, foreign physical or legal entities are treated in the same way as the treatment done for financing with private funds from Albanian donors who do not declare the source of the funds they donate. The legal treatment of these two possible sources of illegal financing does not take into account the important differences that these two sources of financing have in their negative effects on the governance of the country, the stability of the country and the region and in geopolitical developments.

The current legislation considers the foreign financing for political parties to be a serious problem, and classifying them as illegal financing. But that is not enough. It is necessary that the legislation, in addition to this classification, also deals with and gives solutions to the issues related to the ways and instruments that should be used to track and identify the cases of these financings. In the legislation, the issue of sanctions that should be applied to law breakers should be dealt with in a special way. Such violations must be classified in the Criminal Code of the Republic, clearly and without leaving any room for interpretation, as serious criminal offenses. In addition, the Electoral Code of the Republic should provide for the administrative sanction, the removal of the mandate obtained by the electoral subject who has committed this criminal act.

Among the ways and instruments that are currently being used more and more to influence elections are social media and portals. Their activation in favor of an electoral subject or candidate has every possibility to be realized by using, for this purpose, the support that can be offered by foreign governments, legal or private entities. Our legislation does not deal with this case. In these conditions, the elections and the product obtained from them are really exposed to this influence, with effects almost the same as those brought by monetary financing of political parties and their election campaigns by foreign governments. Addressing the issues related to this phenomenon, the use of social media and portals that are financed by foreign funds, during the election campaign, with the objective of preventing it, is an actual need.

(ii) Building institutional capacities for tracking, identifying and punishing the financing of political parties and their election campaigns by foreign governments and by foreign physical and legal entities.

The Electoral Code of the Republic of Albania charges the Central Election Commission with the task of monitoring and auditing the financing of political parties and their election

campaigns. Considering the fact that financing with funds from foreign governments and/or from foreign physical or legal entities, as a rule, is a process that takes place in a complicated way and with sophisticated instruments, the possibility of this institution to track and identify such cases are practically zero. Therefore, it is necessary that in order to make this possible, the legal framework foresees the inclusion in these processes of the tracking and identification of law enforcement institutions, including the State Information Service (SHISH).

In order to increase the transparency of the funding sources of political parties and the election campaign, the legislation should provide that, in addition to the CEC, political parties should also report to other institutions, to the anti-corruption structures and the Directorate of Taxation. The establishment of the Office for monitoring and auditing the finances of political parties and the election campaign, as a constituent structure of the CEC, for which a dedicated budget can be planned, is one of the solutions that will serve to increase the transparency of the financing of political parties

Conclusions

The financing of political parties and election campaigns by governments, foreign private physical or legal entities is a factor that generates economic and political destabilization, especially in countries that have insufficient capacities in the exercise of democracy and are located in regions of increased geopolitical interest.

Albanian legislation prohibits the financing of political parties and election campaigns by foreign governments and/or by foreign natural and legal persons, except in the case when this financing is done by parties or international associations of parties, by foreign political organizations and foundations.

Avoiding the risk of economic and political instability of the country and the region as a result of foreign funding for political parties and their election campaigns requires improvements to be made in the Albanian legislation aimed at:

-Strengthen of the capacities of law enforcement institutions for tracking, identifying and punishing violations of the law that prohibits the financing of the election campaign of political parties and their candidates with foreign fund that are ndaluar nga ligji

- Drafting legislation for monitoring social media and portals in elections and during the election campaign.

-Increasing institutional capacities for monitoring and transparency of financing of political parties and election campaigns

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Social protection through adequate minimum wage in the states of the european union

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Abstract

The need to improve living and working conditions in the European Union, but also the idea of ensuring economic and social progress within it, required that the minimum income of each worker could be determined transparently and predictably by each member state, in accordance with social reality and in accordance with national legislation.

Directive 2.041/2022 on the adequate minimum wage in the EU, states that from the moment of its entry into force (October 2022), member states have two years to transpose the provisions into domestic legislation.

Not all EU countries will have the same adequate minimum income. Each state will establish its level according to social and economic conditions, purchasing power, productivity level and the evolution of macroeconomic indicators at the national level, but having as a guide precisely the provisions of the European directive and the principles it includes.

Thus, countries that already have a minimum wage per economy are committed to changing its level according to a formula that ensures a decent living, is consistent with the inflation rate and can cover the minimum shopping basket for various necessary goods and services.

Member States are recommended to update their minimum wages at least every two years, and in countries using an automatic indexation mechanism, at least every four years.

In order to correctly calculate this income, the directive recommends that member states take as a starting point the value of the consumption basket (as provided by national statistical reports), or set this income at 60% of the median salary or at 50% of the salary gross average per economy. For example, a consumption basket for a decent living can be composed of costs for: food, clothing and footwear, housing insurance, furnishing and maintenance, household products and personal hygiene, services, education and culture, health care, recreation and vacation, savings fund.

Romania (with just over 600 euros) ranks among the last EU countries, in 20th place out of 22, just ahead of Hungary and Bulgaria, on a scale of this indicator between 2,387 euros in Luxembourg and 399 euros in Bulgaria.

The EU directive will generate greater transparency, certainty, stability and predictability on the labor market, and in times of crisis it will become an anchor for vulnerable citizens from EU countries, implicitly also for those from Romania.

Keywords: *decent living; adequate minimum wage; consumption basket*

1. Social Protection Through Adequate Minimum Wage

The need to improve living and working conditions in the European Union, but also the idea of ensuring economic and social progress within it, required that the minimum income of each worker could be determined transparently and predictably by each member state, in accordance with social reality and in accordance with national legislation.

Directive 2.041/2022 on the appropriate minimum wage in the EU[232], provides that from the moment of its entry into force (October 2022), the member states have two years to transpose the provisions into domestic legislation. The directive is a consequence[233] of the permanent concerns of the European Union regarding the social market economy with a high degree of competitiveness, which tends towards full employment and social progress. This necessarily implies respect for the health, safety and dignity of workers, their right to fair remuneration, sufficient to ensure a decent standard of living for them and their families.

The initiative of this regulation dates back to 2017[234], when the entire institutional set of the European Union proclaimed the European Pillar of Social Rights. Its principle number six refers to the "fair minimum wage", with the express mention that in the EU there is a need to ensure a decent income for all workers, considering that adequate minimum wages have an important role in protecting vulnerable categories.

Not all EU countries will have the same adequate minimum income. Each state will establish its level according to social and economic conditions, purchasing power, productivity level and the evolution of macroeconomic indicators at the national level, but having as a guide precisely the provisions of the European directive and the principles it includes.

Thus, countries that already have a minimum wage per economy are committed to changing its level according to a formula that ensures a decent living, is consistent with the inflation rate and can cover the minimum shopping basket for various necessary goods and services (but not limited to the list of essentials, but can additionally cover even certain expenses dedicated to well-being and the running of recreational, cultural, educational or social activities).

Member States are recommended to update their minimum wages at least every two years, and in countries using an automatic indexation mechanism, at least every four years.

In order to correctly calculate this income, the directive recommends that member states take as a starting point the value of the consumption basket (as provided by national statistical reports), or set this income at 60% of the median salary or at 50% of the salary gross average per economy. For example, a consumption basket for a decent living can be composed of costs for: food, clothing and footwear, housing insurance, furnishing and maintenance, household products and personal hygiene, services, education and culture, health care, recreation and vacation, savings fund.

From the latest Eurostat data on the monthly minimum wage, it appears that Romania[235] (with just over 600 euros) ranks among the last countries in the EU, in 20th place out of 22, just ahead of Hungary and Bulgaria, on a scale of this indicator comprised between 2,387 euros in Luxembourg and 399 euros in Bulgaria.

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[232] Published in the Official Journal of the European Union, L 275/33 of 25 October 2022

[233] Alexandru Țiclea, *Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 regarding adequate minimum wages in the European Union*, in the Romanian Labor Law Review no. 1/2023, p. 29

[234] Dan Țop, *European social law*, 2nd edition, Zven publishing house, Târgoviște, 2018, p.191

[235] Claudia Sofianu, *Romania must implement the appropriate European minimum income by 2024. What an impact does it have a mandatory directive for Romanians?* avocatnet.ro, February 16, 2023

The EU directive will generate greater transparency, certainty, stability and predictability on the labor market, and in times of crisis it will become an anchor for vulnerable citizens from EU countries, implicitly also for those from Romania.

Directive no. 2.041/2022 on adequate minimum wages in the European Union does not establish a value of the gross minimum wage at the European level, i.e. one to be respected by all member states, which would be impossible to achieve in the near future anyway, but it imposes on them member states, i.e. also Romania, a series of minimum criteria[236] that must be the basis of an adequate minimum salary:

- the purchasing power of the minimum wage, taking into account the cost of food, clothing and housing expenses, as well as, possibly, the need to participate in cultural, educational and social activities;
- the general level of salaries and their distribution;
- the salary growth rate;
- long-term national productivity levels and developments.

The transposition deadline of the directive is November 15, 2024 and, in the context in which in Romania not only does there not currently exist a nationally applicable collective labor contract/agreement[237], nor does the coverage percentage of collective negotiations come close to that suggested in the directive (80%), the discussions in the Government will have to be about the choice between the adequacy of the salary according to the average salary and the adequacy according to the median salary[238].

Member States may use indicative benchmarks commonly used at international level, such as 60% of the gross median wage and 50% of the gross average wage, and/or indicative benchmarks used at national level, and most likely it will go according to the option that the minimum salary represents 50% of the average salary because, in Romania, "nobody calculates the median salary officially".

The Economic and Social Council (CES) publicly presented the report of the study on "Correlation of the minimum wage with what is necessary for a minimum decent living"[239], in which the provisions of Law no. 174/2020[240], which stipulates that the minimum wage should be calculated mainly based on the consumption basket for a decent living.

According to the law, the value of the minimum consumption basket for a decent living must be established annually by the National Institute of Statistics (INS). "The official non-calculation by the INS of the value of the minimum consumption basket for a decent living was attributed by the INS representatives to technical reasons: the annex to Law no. 174/2020 does not include the quantities for all items, which makes it impossible to calculate the value of those items and, consequently, the total value of the minimum basket for a decent living," the CES report states. As such, as indicated in the CES report, Law 174/2020 needs additional changes so that the INS can calculate the consumption basket in a concrete and useful way.

In the study carried out, CES analyzed three scenarios of correlation of the minimum wage with the value of the consumption basket necessary for a decent living in Romania:

• keeping the current situation, in which the Government, together with the social partners (unions, employers) decide the methodology for increasing the minimum wage and the amount of the increase, without making a correlation with the minimum consumption basket (for a decent living);

• the increase in the weight of the minimum wage to the average of the 21 European states included in the analysis, correlation with the consumption basket

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[236] Dan Țop, *Turning points in labor relations in Romania. Reintroduction of the possibility of negotiating the collective labor agreement at the national level*, Revue Européenne du droit social no. 2 (59) 2023, pp. 7-10

[237] Simona Voiculescu, *By the end of the year, the Government should establish the appropriate minimum wage, but relating it to the minimum basket for a decent living will not be so easy, loc.cit*

[238] www. juridice.ro, March 9, 2023

[239] www. juridice.ro, March 9, 2023

[240] Report of the People's Advocate

• the correlation of the minimum wage with the value of the consumption basket for a minimum decent living, in accordance with Law no. 174/2020.

In Romania, the minimum guaranteed salary is much lower than the minimum income necessary for a decent living, if we consider that: the minimum gross monthly salary at the national level (from January 1, 2023): 3,000 lei (to whom it belongs, depending of deductions, a net of approximately 1,900 lei); the value of the minimum consumption basket for a decent living for a single adult: 2,708 lei per month[241]; the average gross salary is 6,430 lei, and the average net salary is 3,974 lei.

At the level of the Ministry of Labor, there is already a working group, in order to transpose the European directive into the national legislation, the option being agreed that the minimum wage should represent 50% of the average wage because, in Romania, no one calculates the median wage officially. And, then, the variant of 60% of the median salary would require other changes and other calculations to be made by the INS in addition. The directive gives us the opportunity to choose between the two options - and, implicitly, in this situation, we choose the option that the minimum wage is 50% of the average wage.

The topic of the minimum income is still positioned as a priority on the work agenda of the European institutions.

The transposition of the "Minimum Wages Directive" is analyzed in the Revue de Droit du Travail no. 2/2023[242], but also in the Romanian Review of Labor Law no. 1/2023[243].

Thus, the object of the Directive is to establish a legal framework at Union level to ensure that minimum wages are set at an appropriate (ie suitable, appropriate) level, as well as that workers have access to minimum wage protection, in the form of a statutory or established by collective agreements/contracts. The Directive does not interfere with the freedom of Member States to set minimum wages and to protect the minimum wage through collective agreements.

The scope of the directive includes workers who have concluded employment contracts or an employment (service) relationship defined by legislation, collective agreements or practices in each member state. Workers in atypical forms of employment, such as domestic workers, on-demand workers, temporary workers, bogus self-employed workers, online workers, interns and apprentices, may also fall within the scope, as long as they meet the criteria set by the Court of Justice regarding the definition of worker. Indeed, undefined by the rules of the E.U. the concept of worker was defined by the jurisprudence of the Court of Justice.

As a rule, the category of workers includes[244] those who perform an economic activity, remunerated, for a certain period of time, within an employment relationship and who are subordinate to the beneficiaries of their work. From this perspective, workers are: employees, regardless of the type of their individual employment contract; those who are in a professional training/training internship (at employers); civil servants, including those with special status.

They are not workers, those who exercise liberal professions (for example, lawyers, authorized natural persons, those who perform independent activities, etc.). are assimilated to workers, expressly, by certain EU directives. and other people (those who are looking for a job, the unemployed who are able to work and who were previously employed, people who are incapacitated for work or occupational diseases, people who have reached the normal retirement age during the activity in the host state[245].

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[241] Published in the Official Monitor of Romania, Part I, no. 741 of August 14, 2020

[242] Alan Eustace, João Zenha Martins, *Directive sur les salaires minimaux adégvats: quelle réception pour les member states?* (second part)

[243] Alexandru Țiclea, *Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 regarding adequate minimum wages in the European Union, art. cit*., pp. 29-43

[244] Ibidem, p. 33

[245] IT Ștefănescu, *Theoretical and practical treatise on labor law*, ed. IV, revised and added, Universul Publishing Legal, 2017, pp. 80-81

The text of art. 4 seeks to expand collective bargaining. To this end, Member States are required to take measures for the social partners to carry out constructive, meaningful negotiations for determining wages. In addition, those states where collective bargaining coverage does not benefit at least 80% of workers are required to provide an action plan to promote collective bargaining, particularly regarding adequate minimum wages[246].

Art. 5 requires the member states with legal minimum wages to provide: national criteria for establishing and updating the legal minimum wage; regular and timely updates; the establishment of advisory bodies on minimum wages. Atari criteria must include at least the purchasing power of minimum wages, the general level of gross wages and their distribution, their growth rate and the evolution of the level of labor productivity. The criteria in question must be defined in accordance with national practices, either by normative acts, or by decisions of the competent bodies or by tripartite agreements (organizations of workers, employees and the state).

In order to promote an appropriate degree of adequacy of minimum wages for all categories of workers, member states are requested, through consultation with the social partners, to limit the variations of the legal minimum wage, as well as the duration and extent of their application. Art. 6 also provides for the protection of legal minimum wages against unjustified or disproportionate deductions[247].

It is provided in art. 7 of the Directive, an effective and active involvement of the social partners in establishing and updating legal minimum wages, including through the participation of advisory bodies. The member states are requested to involve the social partners in defining the criteria mentioned in art. 5 in updating the minimum wages, in establishing the variations and deductions mentioned in art. 6, as well as in collecting data and conducting studies in the field.

The text of art. 8 requires member states to take the necessary measures, in cooperation with the social partners, to ensure the effective access of workers to the protection of the legal minimum wage. They are aimed at strengthening the system of controls and inspections, in particular, at employers, providing guidance for law enforcement authorities and adequate information to workers about the applicable legal[248] minimum wages.

Art. 9 requires economic operators and their subcontractors to comply with the obligations regarding applicable wages, the right to organize and collective bargaining for the establishment of these wages, in the execution of public procurement or concession contracts, respecting European and international norms.

Art. 10 refers to the creation of an effective system for monitoring and collecting data on minimum wages. Member States are required to require competent authorities to develop effective and reliable data collection tools that allow them to report to the European Commission relevant data on the coverage and adequacy of minimum wages.

From the point of view of the amount of the gross minimum wage, there are differences between EU member countries, as follows:

- with values between 332-642 euros are registered in Bulgaria, the Czech Republic, Croatia, Estonia, Poland, Romania[249], Hungary;

– with a minimum salary between 758 euros (Greece) and 1100 euros (Spain) there are also Malta, Portugal, Slovenia;

– more than 1500 euros are registered in Belgium, Germany, France (1555 euros), Holland, Luxembourg (2202 euros).

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[246] Alexandru Țiclea, *Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 regarding adequate minimum wages in the European Union, art. cit*., p. 35

[247] Ibidem, p. 37

[248] Ibidem, p. 38

[249] Government Decision no. 1447/2022 (published in M. Of no. 1186 of December 9, 2022) established the salary minimum gross in Romania, starting from January 1, 2023 at 3000 lei.

At the same time, the Directive requires Member States to ensure that information on collective agreements and their wage clauses is transparent and publicly available. At the same time, the text also establishes[250] obligations for the European Commission regarding the analysis of the data and information transmitted by the member states and the presentation of reports to the European Parliament and the Council once every two years.

Article 11 requires Member States to ensure that information on legal minimum wages and the protection of the minimum wage established by convention is made available to the public in a comprehensive and accessible way.

The text of article 12 concerns the operative (quick) and useful resolution of disputes in case of violation of rights related to minimum wages or the protection of the minimum wage and the production of damages that give rise to reparations [par. (1)]. Special importance is given to the protection of workers and their representatives, trade union members and trade union representatives against unfavorable treatment by employees [para. (2)], and art. 13 requires[251] Member States to provide for effective, proportionate and dissuasive sanctions in case of violation of national provisions establishing the protection of the minimum wage.

Conclusion

Currently, the minimum wage is regulated[252] in 21 of the EU member countries. In Austria, Denmark, Finland and Sweden there are no national regulations imposing such a salary, but here there are collective labor contracts (conventions) concluded by the social partners that provide for minimum salary thresholds, from which individual negotiation starts.

According to art. 16, the application of the Directive cannot lead to a reduction in the level of protection already offered to workers, especially in terms of the reduction or elimination of minimum wages (paragraph 1). Also, the member states have the freedom to apply their own rules or to allow the social partners to adopt more favorable provisions than those offered by the Directive (paragraph 2). At the same time, these provisions do not affect another right conferred on workers by other legal acts of the Union (paragraph 3)[253].

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6. Report of the People's Advocate

How much is understood the importance of mental health at work?

Jonida Haxhiu, [254],

Marvina Troka[255]

Abstract

Mental health is considered a priority today all over the world; in terms of treatment and especially prevention. Studies also show that, year after year, mental health problems are becoming the cause of problems at work, absenteeism, disability, which, in addition to mental health, also affect productivity at work.

For the realization of this study, a qualitative approach has been considered, in order to better understand such a problem, which has not been addressed often in our country. 6 focus groups were conducted: three in the private sector and three in the public sector. Each of them had 8-11 participants. The composition, in terms of sociodemographic variables, was diverse.

The study showed that, in institutions, leaders and managers do not yet have the proper awareness to take care of the mental health of employees. Employees state that they cannot complain if they have such problems, that they cannot be absent from work for this reason and that, in general, elements such as relations between employees, etc., are not taken into consideration. No significant difference was observed in the comparison between the private and public sectors.

This study brings attention to the need to focus on mental health at work, so that policy makers, managers and employees themselves appreciate its importance. A number of aspects are recommended to be taken into consideration, including division of labor based on skills and opportunities, fostering effective cooperation between employees, working conditions, etc.

Keywords: *mental health at work, disability at work, productivity at work*

Literature review

Researchers have found that individuals often identify work as providing several important aspects including a sense of purpose, acceptance within society and opportunities for development and that it can therefore play a key role in the recovery of a person with mental health problems. But on the other hand, the presence of a stressful work environment can influence the promotion of mental health problems.

Most mental health problems seen in the workplace are treatable and in many cases preventable. Employers and workplaces can play an active and important role in maintaining the health and well-being of their employees as well as assisting in recovery from mental health problems.

Poor mental health and stress can negatively affect the employee in aspects such as:

[254] Institutte of Public Healthk
[255] Durres Local Health Care Unit

 Work performance and productivity.

 Commitment to work.

 Communication with colleagues.

 Physical ability and daily functioning.

The workplace is an optimal environment for creating a culture of health because:

 Communication structures are already in place.

 Programs and policies come from a central team.

 Social support networks are available.

 Employers can provide incentives to reinforce healthy behaviors.

 Employers can use data to track progress and measure effects.

The authors of such studies advise employees and employers to think of mental health care as an investment—one worth the time and cost.

Studies have found that when depression is adequately treated, companies reduce work-related accidents, sick days and employee turnover, as well as improve the number of hours worked and employee productivity.

But studies also suggest that treatment for depression is not a quick fix. Although adequate treatment relieves symptoms and improves productivity, one study found that for a short time, employees may need to take time off to attend clinical appointments or reduce their hours in order to improve. There are four main types of stress:

1. Eustress. Eustress is a positive stress that arises when motivation and inspiration are needed. Eustress is a short-term type of stress that gives immediate strength. Eustress arises at the points of increased physical activity, enthusiasm and creativity.

2. Distress (Anxiety). Anxiety is a negative stress creating a feeling of restlessness and unfamiliarity. There are two types of concern. Acute stress is intense stress that comes and goes quickly. Chronic stress is prolonged stress that exists for weeks, months, or even years. An employee who experiences movement or changes in the workplace may experience anxiety.

3. Hyperstress. Hyperstress occurs when an individual is pushed beyond what he or she can handle. An employee may experience hyperstress from being overworked. When someone is in this state, even the smallest thing can cause a strong emotional reaction.

4. Hypostress. Hypostress is the opposite of hyperstress. Hypostress occurs when an individual is bored or irrepressible. People who experience hypostress are often anxious. A factory worker who performs repetitive tasks may experience hypostress.

Types of stress behavior

TYPE A. Type A people tend to be competitive, aggressive, impatient and hot-tempered individuals who are constantly under stress. People of this type are impatient with others who do not follow a rhythm with them. They are the types who only want to compete by racing against time itself. The type A person seeks at all costs to successfully achieve their goals, but often fail due to their lack of impatience. A-types are more capable and effective than B-types

in a distracting atmosphere. They are more than capable of handling the job at hand as well as concentration bullies.

TYPE B...Type B people react calmly to the demands of the environment and therefore do not experience constant stress like behavior type A. They are not aggressive, they are not competitive, they are not characterized as urgent types. They are flexible and know how to solve situations calmly and patiently. ABOUT

Stress at work is of great importance in the general behavior of man, since man spends half of his daily time at work. On the other hand, it is difficult to separate private life from work life, as they have great effects. Stress has been called the "invisible disease". It is a disease that can affect the individual, the organization and the people within it, therefore it should not and cannot be ignored.

A good management and work of the organization is the best form of prevention of mental health problems in the workplace. If employees are stressed, the manager must be informed and know how to help them. Stress at work occurs when individuals face demands at work, pressures that are not related to their knowledge and skills, which are a challenge for them. Stress occurs for various work factors, but often a tense situation is created where employees feel that they have little support from supervisors and colleagues, when they have little control over work, or they do not know how to cope with the demands and pressure in justification for bad management practices.

The main concepts of employee motivation are:

Linear motivation - The person motivated by the linear concept thinks that success comes from climbing the career ladder in the company. Although very popular as a concept, it seems a difficult road to bring about continued success. Moving up the organizational pyramid provides little opportunity for further advancement.

Expertise- Success for a person motivated by the concept of expert is known as the best concept. He is the best craftsman, the surgeon who is known in his country for an innovative method or the financier with the best knowledge. Those who have the concept of an expert were told during childhood to "grow up and become great at something".

Spiral Motivation- Career success is the ability to move from one position to another with more responsibility, usually every 5 or 10 years. Expanding responsibilities is the essential factor. The parents of a person who has this concept may have taught them to be "Well Formed". New positions are a natural extension of previous work. One such example could be the engineer who moves to project management, then to budget preparation and finally to financial functions of the company. Spirals take a large amount of information, knowledge and experience. Many spiral people at a certain stage of their career have a great desire to share their knowledge with others. This desire pushes some of them to leave the big companies and continue working as consultants or teachers.

Mobile - The success of "mobile" is the ability to change jobs often. The move is more frequent than spirals, perhaps every two or three years, and successful jobs are not tied to previous professional experiences. The "mobile" can move from a position as a sales manager to a draftsman. These are people with extreme economic backgrounds who do not value security very much.

Usually these people have grown up in a household with a high economic income and assume that money will always be there or they have grown up in a poor economic environment and

know that they can live on little money. "Mobile" can play an important role in companies that are expanding geographically or into new markets. These people excel at startups and appreciate work that involves many people. Each of the career concepts have a set of motives, reasons that make people happy at work and give them energy. Linears are motivated by power and achievement. Experts require expertise and certainty. Spirals value growth and creativity**.**

Mobiles are passionate about variation and independence. Many people have a certain concept of career success that they have built into their belief system, but they have other strong motivations related to other concepts as well. Such a misunderstanding between concept and motivations can lead to despair, lack of motivation and restlessness.

If an employee has some motives that do not fit with his concept of a successful career, he can change the concept of success more easily than the motivations to achieve unification and end this dysfunction between feelings and behavior.

Satisfaction at work

Job satisfaction is a pleasant feeling of the employee. The definition of job satisfaction includes three main components:

- •Values
- • The importance of values
- • Perception of values

Job satisfaction is a function of the values that a person consciously or unconsciously wants to get from work. Values are not the same as needs in the sense that needs are thought of as "Objective Demands" of the body that are essential to sustaining life, such as the need for oxygen and water.

Values, on the other hand, are "subjective demands" that exist in the mind of the person. The second component of job satisfaction is the importance of these values. People differ not only in the values they hold, but also in the weights they give to these values.

Increased stress and aggravation have been linked to the inverse relationship of demands, tasks and the capacity of employees to perform the task (Wickens & Hollands, 2000).

Critical differences affect their level of job satisfaction. The final component of our definition of job satisfaction is perception. Contentment reflects our perception of the current situation and our values.

Some businesses allow staff to choose their own benefits, i.e. staff can choose between vacation or a company car, or health insurance and gym membership. Promotion and training opportunities are not exactly incentives so much as ways of meeting business needs. Negative incentives, i.e. the threat of dismissal, may work in the short term, but can reduce morale and loyalty. Incentives can be used to reward goals which can be qualitative, quantitative or both.

Rewards are generally a good method to motivate employees. Rewards can encourage staff engagement with the business. There is a wide range of rewards, including:

Professional pensions;

Vacation longer than the minimum vacation defined by law;

Gifts, i.e. on birthdays or at the end of the year;

Health benefits, i.e. health insurance/assessments;

Benefits balance (family-social and work-life i.e. flexible working hours subsidized staff buffet, tea/coffee making facilities and amenities/services i.e. holidays, cinema tickets, access to gyms for exercise or sports buildings);

Lending (ie season tickets, social events, Christmas, excursion or club memberships);
Additional training (ie that goes beyond the skills required for the job).

The main points to consider regarding rewards are:
The workers must feel that they really deserved it;
They should not cost employers more than they would cost employees;
They must be more valuable to the employee than the payment of any tax that will be paid to him.
The rewards chosen should be relevant to both the employer and the staff. Care should be taken when offering or changing any of the rewards offered.
Payment benefits, i.e. financial ones, are not the only motivation for performance the staff. Other important motivations include job security, good working conditions and adequate training.

Steps for setting up the rewards scheme
Important aspects to consider include: should the incentive be financial or non-financial? Also think about the connection of the proposed incentives with other benefits of the payment and what effects such a scheme could have on the administration.

Human resources management in public administration
Human resource management in public administration is about human resource management as it is specifically applied to the field of public administration. It is considered to be a structure that ensures impartial treatment, ethical standards, and promotes a value-based system.
It is widely accepted that the management of Human Resources plays an essential role in the development and in particular, in the implementation of important activities of the organization.
A good operation requires good people.
The modern concept of the human resources function covers the evaluation of the strategic needs of human resources, the identification of the competences obtained in order to realize the strategies and the organizational vision, the management of recruitment, the integration of employees, of the cadres, training, promotions as well as the evaluation of the performance and its management.
Training. The training process itself also contains positive side effects. The main thing is the benefit of the employees from what they have learned. In the same way, a feeling is created in the employee that someone cares to teach them how the work should be done. He understands that the institution appreciates his work and will further invest in him. This always leads to better and more effective work.

Responsibilities and rights. People do not have the same freedom rights in their work that they have as citizens. Employees must be on time, must follow rules and requirements, accept limited freedom of speech. A key issue of the paradox of freedom is that people "give up" some civil rights when they join an organization: To get something (money, opportunity to make a difference), you have to give up something (freedom and time).
Although labor laws give managers great rights in many matters, workers' rights cannot be overridden without fear of legal action. Being legally informed helps managers and staff do the right thing, the right way.
Employment law also describes how officials must act to meet a variety of objectives such as ensuring equal opportunities. Much of the framework for understanding the legal requirements of human resource management in the public sector is based on state constitutions such as the United States.

Effective management involves understanding how the law affects individual and organizational goals. Personal decisions should not be based simply on personal feelings or preferences. Decisions related to work should not only be legal but also fair to the agency and the employees. They thus minimize the organization's legal and personal rights.
Awareness of the legal context of human resource management is critical for agency managers as functions from recruitment through evaluation of the law. It helps them know when to seek help from human resources professionals (who can serve as a neutral party and familiar with how similar issues have been handled) and legal counsel (who help apply laws in specific circumstances: the legal issue is always changing).

Management of disciplinary problems. Managing disciplinary problems may be the least desirable function in the Human Resources management process.

First and foremost is to go back to the concept of communication and make sure all workers know what the rules are and what is expected of them.

Not all offenses are the same. A series of punishments appropriate to the offense should be prescribed. In some cases a small penalty for a first offense can be the most effective and can solve a problem permanently. Continuity of punishment should be a function of the seriousness of the violation and the number of violations. The exact continuum to be used should be at the discretion of each individual municipality but should be well documented in the personnel policy.

Some types of disciplinary measures used may be:

Oral warning

Verbal rebuke

Written warning/reprimand

Suspension from work

Dismissal

Ensure supervisors are well trained to take disciplinary action. This should include the concepts of personnel supervision as well as a thorough understanding of the institution's rules and regulations.

Orientation of the employee, drafting of the employee handbook. In every contract between employer and employee, there are conditional rights and responsibilities on the part of both parties. Ensuring that these rights and responsibilities are clearly understood is very important and minimizes the chances of problems later. The best way to do this is to reduce the number of rights and responsibilities, expectations and rewards and general written information about employment and then distribute it to all employees. The best method to do this is through the Employee Handbook. The event of putting a Mayor on trial for allegedly violating the rights of a worker is in no way beneficial to the municipality. Regardless of whether the complaint is valid or not, officials must do their best to avoid such problems. One of the best ways to avoid such incidents is to issue an Employee Handbook. In addition, the manual serves many other purposes. The actual content of an Employer Handbook varies from community to community, but should at least contain some basic information.

Principles of Human Resource Management. Managers must be aware not only of the changing environment but also of some principles of human resource management. The fundamental priority has been and will continue to be organizational effectiveness.

The rule of law. Personnel systems, processes and rules are often based on legal requirements. The complexity of this environment is a fundamental difference between the public and private sectors, and it affects the way human resources are managed. For example, legal requirements set minimum standards of behavior and specify the missions of the public workforce. The law is important, limiting liability is a legitimate managerial concern, but administrators need to be more than compliance officers. Merely complying with the legal requirement does not ensure

high performance.

Performance. Human resource management requires optimal contributions from an organization by acquiring, developing, motivating personnel. This requires understanding human relationships and what motivates workers. Monetary incentives alone are insufficient motivators. Managers must be aware of the tools that are available and ways to use them to ensure high performance.

Methodology

For the realization of this study, a qualitative approach has been considered, in order to better understand such a problem, which has not been addressed often in our country. Janw realized 6 focus groups: three in the private sector and three in the public sector. Each of them had 8-11 participants. The composition, in terms of sociodemographic variables, was diverse.

For the construction of the instrument, several instruments used in different studies were used; at different times and places, in such a way that the instrument was as suitable as possible for the purposes of the study but also for the context in which it would be administered.

Regarding the ethical principles in the study, the obligation to maintain confidentiality was made clear to the participants. Also, the participants were informed that they were free to participate or not participate in the study, or to leave it at any time.

Conclusions

The study showed that, in institutions, leaders and managers do not yet have the proper awareness to take care of the mental health of employees. Employees state that they cannot complain if they have such problems, that they cannot be absent from work for this reason and that, in general, elements such as relations between employees, etc., are not taken into consideration. No significant difference was observed in the comparison between the private and public sectors.

From the processing of the data collected in the study, the following conclusions result,

Mental health problems in the workplace can occur when there is a mismatch between the demands of the work environment and an individual's ability to perform and complete these demands (Henry, O. & Evans, A.J. 2008). For the management of organizations and for human resource leaders, mental health in the workplace is of particular importance. It actually has great importance in the general behavior of man, since man spends half of his daily time at work. On the other hand, it is difficult to separate private life from work life, as they have great effects. Stress has been called the "invisible disease". It is a disease that can affect the individual, the organization and the people within it, therefore it should not and cannot be ignored.

Employees who are stressed are usually unhappy, unmotivated, less productive and less fast at work. Their organizations are unhappy and less successful in the market. Stress can bring pressure at home and at work. Organizations usually cannot protect employees from the stress they experience outside the workplace, but they can protect employees from the stress they experience on the job. Stress at work can be a real problem for the organization as much as for

the employee. A good management and organization work is the best form of stress prevention. If employees are stressed, the manager must be informed and know how to help them. Stress at work occurs when individuals face demands at work, pressures that are not related to their knowledge and skills, which are a challenge for them.

Stress occurs for various work factors, but often a tense situation is created where employees feel that they have little support from supervisors and colleagues, when they have little control over work, or they do not know how to cope with demands and pressure at work.

Here there is often a confusion between pressure or challenge and is sometimes used as an excuse for bad management practices. Pressure in the workplace is indisputable due to the demands and changes that occur in the work environment. The pressure is perceived as acceptable by individuals, as it is claimed that it can keep employees alert. However, when this pressure becomes excessive or unmanageable, it leads to stress. Stress can damage employees' mental health and reduce business performance. A healthy work environment is when the employee feels motivated and satisfied in the position he covers. Some factors that damage psychological well-being at work are:

- Work intensity;
-Lack of regenerative factors during work, such as long short breaks
work, opportunities to eat or drink coffee;
- The conflicting style of the manager;
- The inappropriate use of disciplinary measures;
- The deepening of hierarchy and authority beyond reasonable limits;
- Uncertainty at work;
- Complicated organizational structure and reporting;
-An inappropriate salary system that does not take into account the real contributions of each employee;
-In the conditions of poor countries and those in transition, stress has an increased presence.
To work means to survive and move forward with will, honesty and fatigue. Often times, the act of working is accompanied by stress, that is, a burdened psychological state. Stress is the main factor of decreasing effectiveness and in terms of work we cannot say that this is an avoidable element from the cause-effect relationship chain in every sector. This stress is present and always dependent on the cause that caused it to be born. Every field of life, every step towards progress requires great perseverance to face and triumph Who? How? Why? And where do the obstacles that burden us emotionally and physically come from? These early and sometimes constant harassments are caused in most cases by the non-objective reasoning of colleagues, subordinates or superiors. Precisely, the reason from which I aspired to treat the stress which is evident in everyday life, is this non-objective reasoning that is created at work without which life would have no meaning and they will always talk about this phenomenon along with life.
Stress is defined as a change in the physical or mental state in response to situations that present a challenge or threat (Krantz et al, 1985; Zimbardo et al, 2003). Work stress can occur when there is a mismatch between the demands of the environment/work and an individual's ability to perform and meet these demands.
Many jobs require employees to adapt to conditions that place unreasonable demands on them. Over time, these demands create stress that can affect the health of employees, as well as their efficiency and satisfaction. For this reason, greater attention should be paid to ways of identifying and preventing stress at work. Even more attention should be paid to identifying and avoiding sources of stress. Stress is any demand on the individual that requires enduring behavior.

Recommendations

Why do we need motivated employees? The answer is survival (Smith, 1994). Motivated employees are needed in workplaces because they help organizations survive. Motivated employees are more productive. To be effective, managers must understand what motivates employees within the context of the roles they perform. Of all the functions a manager performs, motivating employees is perhaps the most complicated. This is because what motivates employees is constantly changing (Bowen & Radhakrishna, 1991).

By taking care of mental health, for example, through an effective incentive and reward system, you can recruit and retain valuable staff, reward performance and productivity, and bring out the best in your employees. Incentives are rewards tied to real goals. Rewards are benefits, mainly in salary increases. Incentives and rewards can be financial or non-financial. Individual, group and team incentives can also be provided.

Performance-related incentives such as bonuses can encourage higher levels of staff performance. Rewards are usually related to the achievement of real goals, either personal, team of the organization, or lobbying of all.

Rewards are benefits given in addition to salary as a sign of increased job satisfaction. Pay is often the main motivator for staff and incentives and rewards should not be seen as a substitute for a good pay scheme.

An effective employee mental health care system can help:

Convincing the staff to connect with the business;

Retention of existing staff;

Increasing staff motivation;

Productivity increase;

Linking individual and business performance

Focusing on achieving goals;

Building teamwork.

Also, an effective system of care for the mental health of employees affects by:

Increased quality of work;

Reward the efforts of the staff;

Added value to the employment contract.

There are a large number of incentive schemes, each with different costs. They include financial and non-financial schemes, individual and group schemes, long-term and short-term schemes.

Financial incentives are useful for improving performance and can be

Schemes related to profit and shares

Bonuese

Percent

The non-financial (and indirect financial) incentives are:

Official recognition/rewards

Acknowledgment

Additional holidays

The gifts
Company cars

The incentive scheme can provide employees with additional pay based on individual or group performance. Incentives can also be offered on a short-term and long-term basis, e.g. based on weekly goals or general business objectives.

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Historical epistemological cycles of the relationship between science and philosophy"

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Abstract

The close connection of philosophy with science and vice versa, of science with philosophy, makes necessary a brief analysis for the creation of epistemology as a special discipline of philosophy. The importance of this analysis is related to a number of reasons. On the one hand, because it has a long way to go as a separate discipline and that, in a way, even though it has clearly defined its field, and inherited many aspects of philosophy over the centuries. On the other hand, it appears to briefly show the complexity of knowledge, its flows and sources, as well as epistemological features. Therefore, in the following, the historical aspect as well as the establishment of epistemology as a philosophical discipline starts from the origin to the rationalist theories in epistemology

The common denominator of epistemological theories is that they all without exception derive from the history of the development of science, a history which serves to build relevant theories that cover the entire development of science, and at the same time explain that in terms of how the activity scientific should be developed in different researches. The purpose of this paper is to present the specific perspectives of each of the approaches, be they epistemological or scientific. Also, what features do they consider characteristic during the scientific development of science and how do they think that scientific research should be carried out as an activity of scientists.

Key words: Science, Verification, Scientific paradigm, Competition of scientific programs, epistemological anarchism

Intoduction

As you know, philosophy - a theoretical reflection on the relationship between man and the world - deals with a number of problems: the essence of man and the meaning of life, the specifics of knowledge and activity, questions about God, death and immortality. These questions are relevant and interesting to every person, and such topics can attract and excite you even outside the classroom. However, now you have to meet that face of philosophy, which is extremely necessary for you as professional scientists, but is not yet known to you to a sufficient extent - with the philosophy of science.

Our real practice of working with a bachelor's degree shows that students sufficiently master the content of this discipline, provided by the state educational standard of higher education. They already have some philosophical erudition, a certain amount of knowledge acquired as

students. In the historical and philosophical section, they got an idea of the structure and specifics of philosophy, examining its genesis and the main stages of its historical development. In theoretical (fundamental) philosophy, the problems of ontology, theory of knowledge and methodology are studied. In social philosophy, the main problems with which he came into contact were: man and society, social structure, civil society and the state, the role of values in human life, the future of humanity, etc.

All this volume of philosophical knowledge is quite enough for each of the graduate students to move on to a deeper study of philosophy, to rise to another level of philosophical formation. The need for such "philosophical growth" arises among the graduate students themselves as soon as they touch the basic problems of their science.

The text provides a meaningful description of the requirements of the State Standard for the course of philosophy and methodology of science and fills the lack of educational literature in this discipline, as well as:

Draws a philosophical image of modern science and methodology; It shows the historical and ideological results of its development, which can be summarized today;Outlines the problems of the original texts of contemporary epistemologists; Introduces basic Western concepts of science.[256]

Considering these and other problems, we did not have in mind special sciences, which, of course, are very different from each other, but science as a special form of knowledge, a specific type of spiritual production and a social institution . We can say that it is about "science in general", which, with all the variety of its manifestations, is undoubtedly different from other areas of human life - production, religion, morality, art, everyday consciousness, etc**.**

1. The history of the formation of science and its functions.

Until the 20th century. the problem of the history of science was not the subject of a special consideration either by philosophers or by scientists working in a certain field of scientific knowledge, and only in the works of the first positivists attempts to analyze the genesis of science and the history of her. and the historiography of science is created.

The specificity of the approach to the emergence of science in positivism is expressed by G. Spencer (1820-1903) in his work "The Origin of Science". Arguing that ordinary knowledge and scientific knowledge are identical in nature, he declares the illegitimacy of raising the question of the emergence of science, which, according to him, arises together with the emergence of science. human society. The scientific method is understood by him as a natural way of looking at the natural world for man, unchanged in different periods. The development of knowledge occurs only through the expansion of our experience. Spencer rejected the fact that philosophical moments are inherent in thinking. Precisely this position of positivist

[256] Freud, S. 1910/1943. Über der Gegensinn der Urworte. Gesammelte Werke 8. London: Imago.

historiography has been the object of harsh criticism from historians of science in other directions.

The development of the history of science began only in the 20th century, but then it was understood either as a part of philosophy, or as a part of the general theory of culture, or as a part of a special scientific discipline.[257] The recognition of the history of science as a separate scientific discipline occurred only in 1892, when the first department of the history of science was created in France.

The first historical and scientific research programs can be characterized as follows:

First, the task of chronological systematization of successes in each field of science was solved;Emphasis was placed on describing the mechanism for the progressive development of scientific ideas and problems;The creative laboratory of the scientist, the socio-cultural and ideological context of creativity was determined.One of the main problems characteristic of the history of science is to understand and explain how external conditions - economic, socio-cultural, political, ideological, psychological and others - are reflected in the results of scientific creativity: the theories created, the hypotheses presented, applied methods of scientific research. .[258]

The empirical basis of the history of science is the scientific texts of the past: books, journal articles, correspondence of scientists, unpublished manuscripts, diaries, etc. But is there any guarantee that the historian of science will have sufficient representative material for his research? Indeed, very often a scientist who has made a discovery tries to forget those wrong paths of research that led him to false conclusions.

Since the object of historical and scientific research is the past, such research is always a reconstruction that seeks to claim objectivity. Like all other historians, historians of science are aware of two possible biases on the basis of which research is carried out: presentism (explaining the past in the language of modernity) and antiquarianism (recovering a holistic picture of the past without any reference to modernity). By studying the past, another culture, another way of thinking, knowledge that is no longer reproduced in science today, is the historian of science not recreating something that is only a reflection of his era? Both presentism and antiquarianism face insurmountable difficulties, noted by many prominent historians of science.

2. Philosophy and methodology of science

[257] Gillett G. 2015. Culture, truth, and science after Lacan. Journal of Bioethical Inquiry 12(4): 633–644.

[258] Beaney, M. 2013. What is analytic philosophy? In The Oxford handbook of the history of Wellbeing: A cultural history of healthy living. Cambridge: Polity Press.

Science has always been closely related to philosophy. Prominent scientists of all times have made a great contribution to its development. Pythagoras, Aristotle, N. Copernicus, R. Descartes, G. Galileo, I. Newton, G. W. Leibniz, A. Smith, W. Humboldt, C. Darwin, D. I. Mendeleev, K. Marx, D. Gilbert, LE-Ya. Brauer, A.Poincaré, C.Gedel, A.Einstein, N.Bohr, VIVernadsky, N.Wiener, I.Prigozhin, AJToynbee, JM Keynes, P. Sorokin, F. de Saussure, LS Vygotsky, Z. Freud, MM Bakhtin not only had outstanding achievements that determined the main directions of the development of science, but also significantly influenced the style of thinking of his time, his point of view.

The philosophical understanding of the achievements of science began to take on a particularly great cultural significance from the 17th century, when science began to turn into an increasingly significant social phenomenon. But until the second half of the XIX century. their discussion was not systematic enough. It was at that time that the philosophical and methodological problems of science became an independent field of research.The predominance of empiricism in natural science in the late 18th and early 19th centuries. led to the emergence of illusory hopes that the functions of theoretical generalization in science can be taken over by philosophers.

However, their implementation, especially in the magnificent natural-philosophical constructions of F.V.I. Sheinin and G.V.F. Hegel caused scientists not only clear skepticism, but also hostility.“It is not strange,” K. Gauss wrote to G. Schumacher, “that he does not believe the confusion in the concepts and definitions of professional philosophers. If you look at least at modern philosophers, your hair will stand on end from their definitions.

G. Helmholtz noted that in the first half of the XIX century. "Uncomfortable relations have been created between philosophy and the natural sciences under the influence of the Schelling-Hegelian philosophy of identity". He believed that this kind of philosophy is absolutely useless to natural scientists, as it is meaningless."It is believed," wrote the famous historian of philosophy K. Fischer, "that at that time a witchcraft was developing in the natural sciences, and Schelling was a wandering light, followed by many; now this dream of Walpurgis night is gone, and has left nothing but the usual consequences of a feast. At the same time, science gradually began to overcome the lack of theoretical ideas. Literally in all its fields and, above all, in mathematics and natural sciences, fruitful scientific theories began to appear, significantly expanding the horizons of science, there was a significant enrichment of the tools of scientific knowledge, its apparatus conceptual.

Thus, for example, in mathematics the foundations of mathematical analysis and probability theory were formed, fundamental results were obtained in algebra and non-Euclidean geometry was created.

In biology, the theory of the cellular structure of living matter was developed, the theory of the evolution of species was built, the concept of the origin of man from monkeys was developed, and the widespread use of physical and chemical methods for the knowledge of life processes.

Scientists began to apply the methods of phenomenological description, mathematical analogy and modeling to the knowledge of physical phenomena.Along with the methods of mathematical analysis and differential equations, the methods of probability theory and mathematical statistics began to have increasing success. Various theoretical constructs were

constantly discussed in the pages of magazines, and no one was surprised either by their abundance or by the short life span of many of them.

It is not surprising that scientists themselves, and especially physicists, in an effort to understand what is happening in their science, are increasingly turning to philosophy. Interest in it, extinguished as a result of the collapse of the claims of natural philosophy, in the second half of the 19th century. reborn with renewed energy.[259]

The attention of scientists again began to attract the problems of the philosophy and methodology of science.

- What is the content of the concepts number, function, space, time, law, causality, mass, force, energy, life, species, etc.?

- How are analysis and synthesis, induction and deduction, theory and experience combined in scientific knowledge?

- What determines the descriptive, explanatory and predictive functions of the theory?

- What is the role of empirical and theoretical hypotheses?

- How do scientific discoveries happen and what is the role of intuition in gaining new knowledge?

- How should the concept of theory be interpreted?

- What gives science the opportunity to know the truth and what is it in scientific knowledge?

These and similar questions are actively discussed by scientists in reports and public disputes, special articles and monographs. All of them arose from the progress of science and its needs required their quick solution.

3. Conclusions related to philosophical analytical activity

So philosophy is fundamentally impossible as a separate science. Any aspiration to build a system of proper philosophical statements about reality or the process of knowing it, in whatever form they may be, is doomed to failure.[260]

Is this the end of the history of philosophy?

No, this is not the end, say the neo-positivists. On the contrary, it is appropriate to talk about its beginning. After all, only now has the real possibility of creating a genuine scientific philosophy appeared. We are witnessing a real revolution in philosophy, which, as is inherent in any radical transformation, not only breaks the old foundations, but also establishes new ones.

[259] Hyrje ne Epistemiologji, Aleksander Kocani, fq 22
[260] Culbertson C. 2019. Words underway: Continental philosophy of language. Lanham: Rowman and Littlefield.

Yes, philosophy is impossible as a science. But it does not follow that it is impossible and unnecessary.

But what is it then?

"Well, though not a science," wrote Schlick, "but, nevertheless, something so significant and magnificent that it may henceforth, as before, be honored as the queen of sciences; is it worth writing that the queen of science should to be science. We now recognize in it - and this positively marked the great reversal of modernity - instead of a system of knowledge, a system of actions: it is the very activity due to which the meaning of utterances is created or discovered.[261]

A new look at the essence of philosophy was presented by B. Russell, and then developed by L. Wittgenstein. In the Tractatus Logico-Philosophicus, published in 1921, Wittgenstein expressed all the main provisions of the future doctrine of logical positivism.

"All philosophy is a 'criticism of language.'

- "The goal of philosophy is the logical clarification of thoughts."

- "Philosophy is not a theory, but an activity".

- "Philosophical work essentially consists of explanations."

- "The results of philosophy are not a number of "philosophical propositions", but a clarification of propositions."

- "Philosophy must clarify and strictly limit thoughts, which without this are, so to speak, dark and unclear." The most important feature of the logical positivists' interpretation of the nature of philosophy is their emphasis on its scientific nature.

Philosophy must necessarily be scientific. But how is this possible if it cannot be science?

It turns out that there is nothing contradictory in this request. The scientific nature of philosophy is determined by the fact that it has the statements of science as the object of its analytical activity, and in addition, this activity itself is carried out by means of completely scientific methods - the methods of modern mathematical logic.[262]

R. Carnap sees in this the two most important features of the new philosophy, which distinguish it from the traditional one.

"The first distinguishing feature," he writes, "is that this philosophizing is carried out in close connection with empirical science, and even generally only in it, so that philosophy as a separate field of knowledge along with or above empirical science is no longer . known. The

[261] Heidegger M. 1954/2002. Was heißt denken? [What is called thinking?]. Gesamtausgabe, Band 8. Frankfurt am Main: Vittorio Klostermann

[262] Lafont, C. 2015. Continental philosophy of language. In International encyclopedia of the social and behavioral sciences, 2nd ed., edited by J. Wright, 790–795. Amsterdam: Elsevier.

8. Hyrje ne Epistemiologji, Aleksander Kocani, fq 22

second distinguishing feature shows what the philosophical work in empirical science consists of: in the clarification of its propositions through logical analysis; in particular, in the decomposition of sentences into parts (concepts), the gradual reduction of concepts to basic concepts and reduction gradual transformation of sentences into basic sentences. From this statement of the problem follows the importance of logic for the philosophical work; it is no longer just a philosophical discipline along with others, but we can directly affirm:

The logical analysis of the propositions of science has two functions: negative and positive.

- The first is aimed at eliminating meaningless concepts and propositions from scientific use, eliminating pseudo-problems and preventing various modifications of metaphysical thinking and its products from penetrating science.

- The second, positive function is to clarify the logical structure of theories of science and empirical mathematics, through their axiomatization to reveal the real empirical content of the concepts and methods used in science, to clarify real scientific statements.

The need for these functions arises due to the fact that scientific activity is a natural process, characterized both by the appearance of various types of spontaneity within science itself, and by the influence of various external factors on it.

The scientist makes extensive use of everyday language, which includes a significant component of uncertainty.

His activity always has a certain psychological color.

For various socio-historical reasons, it turns out to be burdened with the affiliations of the concepts and problems of traditional philosophy.

Science is constantly under the influence of religious and political interests external to its essence.

The task of the philosopher is to discover what is inherent in science as such in accordance with its nature. But it can be achieved, logical positivists believe, only on the path of logical reconstruction of science.

The need for a logical analysis of science has become, in the opinion of logical positivists, especially clear at the present time. His isolation was a direct result of the natural differentiation of a scientist's work, created by the rapid development of science.

"Before our generation," wrote H. Renchenbach, "there did not exist a new class of philosophers trained in the technique of the sciences, including mathematics, and focused on philosophical analysis. These men saw that a new division of labor was needed, that research scientific did not leave enough time for one person to do the work of logical analysis, and, conversely, logical analysis required a concentration that left no time for pair work—a. concentration which, because of its desire for clarification, more too many discoveries can also interfere with scientific productivity.Professional philosophers of science are the product of its development.

This is how the most prominent representatives of logical positivism prove their new philosophy. In this case, logic plays a completely extraordinary role. As Reichenbach said, philosophical anxiety "can only be soothed by a lesson in logic." Let those who do not like it not try to succeed in philosophy. Their part is different. Let these people try to apply their skills "to less abstract applications of the power of the human mind."

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The nature of the legal acts produced by the government essentially alienated the nature, spirit and constitution of the Albanian state 1944 – 1948

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Abstract

The first acts of the Albanian government produced during the years 1944 and 1948 passed into the ownership of the state the assets of the occupying states and those of their collaborators as well as those individuals who in some cases were not confirmed by some special legal provisions in force. These acts hit the foundations of the economic, legal and political order of free capital, which, in the ideological notion of "speculator", enabled the absolute limitation of the free private economy and alienated property as the foundation of human freedom. While through the extraordinary tax, radical control over society, industry and foreign trade was established, accompanied by the cancellation of the conventions of the National Bank and the creation of the State Bank. The legal acts issued during March 1946 February 1947, nationalized the means of production of industrial enterprises that were in the hands of Albanian owners or capitalists was done in a short time through the only method without remuneration.

The characteristic of the implementation of legal acts was radical, expressing class interests, ideologizing the state of the dictatorship of the majority against the ideologically conceived minority as "declassed" or "kulak".

Keywords*: state, legal acts, ideology, law, order, etc.*

Genesis of Albanian state constitution

Even before Albania was freed from the Nazi German occupation, the winners of the war arrived in an accelerated manner, to seize the political time, which seemed publicly to be in the service of the winner. In this contextual level, the platform was structured on which the spirit of the Congress of Përmet, May 1914 was based in Marx's doctrine on which the constitution of the Albanian state took its nature and spirit. This tendency is reflected in the theoretical works of Enver Hoxha[263]: only with the victory of the October revolution, only with the creation of the great powerful state of workers and free peasants of Russia, did the Albanian people have the hope of liberation from the heavy yoke of the Beylers and of capitalists, from the centuries-old yoke of foreign imperialist conquerors... . While, from a practical point of view, the logic of the leadership of the Albanian state also determined the path on which the Albanian political society would walk, which was "the path that we have described and describe today is the path previously broken by the Socialist Revolution of October, from the Soviet Union. This means that, even from the pragmatic point of view of the construction of the state, Albania had predetermined the political constitution in the example of an Asian state, which, even under itself, was a deviation from the natural constitution of the state

While, on the other hand, Marxist philosophy was concretized from a formal and legal point of view, in the Statute of the Republic of Albania, in the second chapter, the Social and Economic Order is defined, in order to utilize all opportunities and all economic powers, "the state directs life and economic development on the basis of a general economic plan". The plan, which was organized by the state and was based on two tracks of the state economy, Industry and agriculture, but with the absolute priority of promoting and developing the "state economic sector". At the same time, the Statute formalized the state control[264] expressed through article five and six over the "cooperative sector", which came under the grip of the "hands of the state", moreover the state extended its control to the initiative of small private, of the economy.

The program of nationalizations, moreover that of the nationalization of industry and mines was conceived of a specific importance, for the construction of the economic order processed in an accelerated manner by the Government emerging from the Congress of Përmet. What attracts attention is related to the economic policy followed by the Albanian government, which was "defined[265] as an anti-imperialist policy". Concreted in the ninth article of the Statute, which "prohibited monopolies, trusts, cartels", which were created with the aim of dictating prices and "monopolizing markets, to the detriment of the national economy[266]".

Whereas, from the public point of view, the antitrust and antimonopoly policy is materialized in the first meeting of the Antifascist Council, which through[267] its decisions decided to review all the agreements[268] that had been established with foreign countries, moreover, all the economic

[263] Jean Jacques Rousseau, The origin of human inequality, Tirana 2008, p. 34, 56, 78, 123, 134, 134, 156, 234, 345 "State Constitution"
[264] Ndreci Plasari, "Historical Studies", No. 3 year 1975, p. 10-35 "The policy and strategy of the Anti-Fascist War 1939-1944"
[265] E. Hoxha, Influence of the Great Theory Revolution in Albania, Tirana, 1957, p. 7
[266] Dilaver Sadikaj, "Historical studies", no. 3, Tirana 1975, p. 40-61. Reconstruction of the industry in 1945-1946.
[267] Statute of the Republic of Albania, Tirana 1946
[268] Ndreci Plasari, "Historical Studies", No. 4, 1975, p. 20-45 "The Anti-Fascist Congress of Përmet - The Establishment of the New Albanian State Anti-Imperialist Politics"

ties that had been built with the acts of Zogu's government, which, in the theoretical interpretation with strong dogmatic and ideological doses of Hoxha, are conceived to the detriment of the Albanian people, as a result they "had to be broken and new agreements made". Moreover, in the philosophy of the Hoxish state, the spirit was being created that, a people could not see with indifference the "concessions and subordinate ties", economic and political, made by the regime of Zogu, which, according to the communist doctrine, was justified as having been used as a tool of Italian fascism. Argued with the idea that Zogu had applied the "open door policy strongly disputed by the anti-fascist congress. So, in the Hoxha version, from a practical and formal point of view, Zogut was responsible in front of the Albanians for creating the premises for the "colonization of Albania and the aggression of April 7, 1939", therefore he had delivered Albania into the hands of "Italian fascism".

While, from a formal point of view, it was foreseen by the Decisions of the National Anti-Fascist Council - Clirimtar, for the review of all agreements with foreign countries, "the economic and political ties that were made by the government of Zog". This decision was accompanied by the other decision, which made possible the detention of Zog in Albania on the grounds that "the issue of the regime would be decided by the people and with their will after the liberation of all of Albania"

In this ideological context as well as, from the formal legal point of view, the state was being built with a deep class nature, to be used as a weapon in the hands of the "state party". This nature of transformation naturally led to the implementation of the policy against entrepreneurship and private initiative, "because private property brings every hour and every day the capitalist way of work and production". In this ideological context, the project was being applied, for the development[269] of the socialist revolution in all areas, for the "disappearance of the old economic bases of capitalism", while politically insisting[270] on the creation of the new economic basis of socialism. For this, the ground was being prepared for the separation from the hands of the rich classes or the hands of the bourgeoisie, of the economic power and, step by step, to create the state economy designed in three main directions: first, the creation of the necessary conditions for the planned development of the Albanian economy[271]. So, from a practical point of view with[272] the aim of replacing free competition, moreover avoiding "anarchy in production"; secondly, limiting and liquidating the foundations of the "capitalist economy"; thirdly, the creation of the basis of a state with a class nature, conceived with the establishment of "new social relations and radical economic transformation".

While, in connection with the project[273] of the eradication of private property, the method, form and terms of expropriation were applied and the formation of socialist property presented its own features, "features, which are different from those of the popular democracies of that time in Europe and Asia".

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[269] The Anti-Fascist Congress of Përmet - The establishment of the new Albanian state". Act, cit. The effect of the extraordinary tax on merchants, p. 287-290

[270] Ndreci Plasari, Historical Studies, No. 4, 1975, p. 20-45 "Antifascist Congress of Përmet - The establishment of the new Albanian state"

[271] Haris Silajxhic, Albania and the USA, Tirana 1999, p. 206 "Some efforts for economic cooperation"

[272] The 1st Antifascist National-Clearing Congress 1944, published by the Presidency of the National Anti-Fascist Council-Clearing, p. 42

[273] Official Gazette of December 21, 1944, Decisions of the Antifascist Council, No. 1 Through, May 24.

The justification for the uprooting of old relations was "legitimized" and based on the theory of Marx and Engels: "whether the expropriation will be done with or without compensation, it will depend more not on us, but on the circumstances in which we will to take power".

Whereas, the ownership of production assets as "capitalist property" was not realized through the combination of different methods, which expressed the right to compensation, but only based on the radical method as "the only method...without compensation". This method expressed the class spirit of the constitution of the newly built state, at a time when the state did not take into account the position of the respective owner whether the expropriated owner had participated or not in the movement against the fascist occupier. This means that the state was taking on its nature, the character of class ideology, moreover, nationalizations were carried out without any reward with "the characteristic that the state did not respond to any loans that third parties, whether natural or legal, who could they had against "nationalized property". To conceptualize[274] in a concrete way the conflict that the nationalization law was creating, we are referring to the clear order, from the Ministry of Finance, that no credit would be given to merchants charged with extraordinary tax, which had damaged the banking system, due to lack of funds and hindered and reduced communication to a minimum. From a theoretical point of view, the tatami of war profits would serve for the normalization of fiscal relations and for commercial activity on a large scale to bring effective services to the economy, but not to speculations, but, in the meantime, the phenomenon of the narrowing of the trade sector appeared, because "it had started to be carried out by the state[275]".

Nature of nationalization in Albanian state

Looking carefully at the political and legal phenomenon of the nature of nationalizations, the intervention of Enver Hoxha, at that time prime minister, who through decision no. 29 appointed Abdyll Këllez, Director of the Bank, who replaces Sejfulla Malishova, the latter was criticized, by Hoxha, for a liberal policy, in relation to the lending policy, because he had stimulated creditors with help, "for granting loans, keeping feet of a fruitful Albanian activity, which would produce for the Albanian economy, because not granting loans would lead to the closure of an industry". This policy was complicating the situation of the Albanian economy even more due to the situation that the Albanian economy[276] was going through, which was the lack of goods produced by the local economy, moreover the situation was aggravated due to the fact that "every commodity that was bought from outside Albania , was paid in gold".

Whereas, in Këllez's report, it is pointed out in a taxing manner that the granting of loans by Maliashova were given in opposition to the policies of the Albanian state, coming to the conclusion that loans could not be given to private enterprises and traders, but "only to the state,

[274] Official Gazette, December 21, 1944, No. 1. The 1st National Anti-Fascist Congress - Liberator of Albania, no. 3, Decision II.
[275] Ndreci Plasari, "Historical Studies", No. 4, 1975, p. 20-45 "The Anti-Fascist Congress of Përmet - The Establishment of the New Albanian State Anti-Imperialist Politics"
[276] Official Gazette 21 December 1944, Përmet, on 27/5/ 1944. Signed by the Chairman. Dr. Omer Nishani and Secretary Koco Tashko. National Anti-Fascist Congress - Clirimtar of Albania, Decision No. 1, II

enterprises, cooperatives and recently perhaps also to private individuals. The process reflected the state's radical policy towards the economy of freedom reappeared on March 11, 1946, the circulars of April 12 and August 1, 1945 on credit to merchants were discussed and why their activity had been suspended and they had been imprisoned until the previous payment of the extraordinary tax and after the loan.

While, on April 16, 1946, the State Bank managed to radically change its profile immediately after the speech of Enver Hoxha[277], held in the People's Assembly, among others it is said that "The State Bank will no longer be the supplier of loans to to enrich the big traders, but to help the big state enterprises, to help the economy and agriculture". The same phenomenon was reflected with the exchange of gold, which would be carried out by the Albanian Bank, at the time when the circulation of grains would also be done, by the autonomous entity of the collection and distribution of grains.

Whereas, from the point of view of the form[278] of nationalization of the means of production, that is, of the main means and means of production of factories, etc., the general one for branches of the economy has been used, accompanied by the terms of execution, which were relatively shortened and immediate[279]. Meanwhile, the measures undertaken consist of a more revolutionary-radical nature interwoven with it, which in Hoxha language is articulated as "intertwining the tasks of the socialist revolution with those of the democratic-bourgeois revolution", but, accompanied through a practical nature rough and fast in time.

The first acts of the 1st Antifascist Congress were directed against the wealth of the Italian and German states and those persons who had united with the occupier, but without neglecting those who had not declared their capitals, "confiscating and putting under the control of the state". With these acts, the embryonic system of the free economy was struck, which was conceived through the law as a capitalist system, moreover with a speculative nature. By making possible the limitation of the production of free goods and by placing the companies and industries under control over foreign trade, by canceling the convention of the National Bank and creating the State Bank.

While the embryonic phase of the crisis[280] of the Albanian state consisted of going from an ideological crisis to a political crisis, moreover to an existential crisis. Although in the embryonic stage of Albanian state formation, it was taking on a "savage antagonistic nature". This is argued through the discussion of Enver Hoxha, who accused Sejfulla Malishova of helping merchants with loans to escape the extraordinary tax. But, on the other hand, this meant that the extraordinary tatami was formalized by law, that is, the economic and legal policy of the state was being violated, in relation to the principles of the legal order, moreover, Malishova's economic philosophy consisted of "control and not for the deletion of the private sector".

[277] The disappearance of Capitalism as the old economic base and the construction of a new economic base.
[278] Hegel, Political Writings, Tirana 2000, p. 23, 45, 67, 78, 123, 134 "The bourgeoisie is conceived as citizenship, therefore, as a social stratum, it is not given an ideological nature"
[279] Con Fuci. Philosophy, p. 34, 56, 78, 89, 234, 235, 256, 256 "It was against the philosophy of rooting, moreover it seemed absurd"
[280] Niazi Bocari, Nationalization of the means of production of RPSH - December 1914-February 1944, Tirana 1973, p. 124.

While, on the other hand, we have reactions and disputes regarding the law, for the elections of December 2, 1945, for the Anti-Fascist Council. It was Gjergj Kokoshi, who described the law as anti-democratic, because "the law did not give freedom and equal rights to citizens who wanted to run for parliament". Kokoshi found the political and public courage to argue the idea that those Canadians who "are at the front, being in power, would use it to ensure victory". Kokoshi's public criticism had marked the criticism of the electoral law[281], which elements that were outside the Front had to "be given the necessary tools to develop their electoral campaign". Therefore, criticism was made of the construction and functioning of the electoral law, which failed to ensure equality of competition.

But, on the other hand, Hungary was also in its crisis, which, according to lawyer Spartak Ngjela, in his work, The Bending and Fall of Albanian Tyranny, gives the argument that the Communist Party won no more than[282] 17 percent in the 1945 elections. the same result was achieved by social democracy, at the time when the majority was won by the center-right party, which was called the "Small Owners Party". This had greatly angered the Soviets, who had declared that they would win "an absolute majority[283]".

In the context of the "initial crisis"[284] that the communist system was experiencing and in Albania right on the threshold of the elections for the Constitutional Assembly, it coincides with the rapid recognition of the Provisional Government of Albania, by the Soviet Union "through the head of its military mission in Albania" . Meanwhile, on the other side of world politics[285], the governments of the USA and England announced that they were ready to recognize the Albanian Provisional Government but with some conditions: first, the SBA and England insisted on the Albanian government to recognize all the agreements that had been created between The USA and Albania before April 7, 1939, which were thrown down by the Përmet Congress "Political and economic agreements[286] and ties which were declared invalid", moreover as "enslavement agreements". Moreover, the recognition was conditioned by the development of free elections, in this context, both political and legal, the question arises why the western countries contested the elections in Albania? I think that, on the basis of a system of free elections, the construction of the promenade is built and made possible through two phases, which realize two spatial concepts; first, it is the rule of law, according to which any limitation of the individual autonomy of the person or citizen can be done only on the basis of the law. Moreover, the state becomes legal, when each of its actions is developed and perfected by respecting the law, which expresses the general will of the nation or the people. The second phase is related to the "rule of law", in which other guarantees are added, such as the acts of public bodies, which must be subject to the control of the judge, who made it possible to ensure effective compliance. of the law. But, what is even more essential to understand the contestation of the West's policy towards the Albanian Government, is organically connected with "Individualism of power", from the point of view of law, it is conceived as a relationship of the individual taken in particular, but , that can enter the relationship and connect with

[281] Karl Marx and Frederik Engels, Selected Works, V. II-, p. 416
[282] Karl Marx, Critique of political economy, Tirana 1978, p...."The state with a class nature"
[283] Niazi Bocari, Citizen of the means of production of RPSH - December 1914-February 1944, Tirana 1973, p. 126
[284] Alvin Saraçi, Confiscation of property and robbery of gold, 1944-1955, Tirana 2012, p. 239
[285] Iljaz Meta, The monetary and credit system, 1925-144, Tirana 1971, p. 321-323
[286] Minutes of the meeting of the Administrative Council, No. 33, dated April 16, 1946, p. 24-25

others. This right cannot be prohibited or limited by the existence of different groups, moreover the principle of "Individualism of power" makes it possible to prohibit the forms of society, which in their practical or political activity, in Albania, could hinder[287] the autonomy of citizens "be they political parties". To be even more argumentative, we refer to Professor Omar, who explains[288] that the terminology in this case has a relative importance, as long as the two terms legal state or rule of law completely express[289] the same concept. But, while the main thing is its content, the fact that the state and law are organically related to each other. While, on the one hand, the state is presented as the embodiment of the very idea of the right, as a necessary factor to give the proper efficiency of the legal norm. On the other hand, the state cannot act without the right, its power is expressed in the legal norm[290].

Whereas, the process of transferring the means of production into the hands of the state was carried out in the conditions of war, a process which took place "without distinction of religion, class region and political current"[291]. This made it possible for all the means of production to be concentrated in the hands of the state, economic policy, which was sanctioned at the Conference of Peza, September 16, 1942, while, from the point of view of law, we see it reflected in the entirety of the legal provisions, regulated that appeared before the elections of December 1945, based on which the People's Assembly proclaimed the People's Republic of Albania on January 11, 1946. According to the Statute, the means of production[292] were legally considered "common property in the hands of the state", while, in this political-legal concept, the assets of "popular cooperative organizations" were also included, at the time when the law also included "the assets of private physical or moral persons" in the assets of the state. What personifies the Hoxish state in its most original way is related to the "Social and Economic Order" expressed in the second chapter, article nine "The land belongs to those who work it". This would mean that the alienation of property is being reflected, which even though it had been formalized for centuries through inherited laws and regulations, from the founding statutes of the Republic and Monarchy of Albania

[287] AQSH, State Bank, P. 505, V. 1945. D. 10, Instructions and regulations, of the Bank's directorate, sent to the bank's branches in the districts on the policy followed in granting loans, in favor of departments, entities and state enterprises, cooperatives and private persons. 6/2/1946, 21/12.1946, p. 5

[288] AQSH, State Bank, P. 505, V. 1945. D. 10, Instructions and regulations, of the Bank's directorate, sent to the bank's branches in the districts on the policy followed in granting loans, in favor of departments, entities and enterprises state, cooperatives and private persons. 6/2/1946, 21/12.1946, p. 5

[289] Official Gazette No. 94 dated October 15, 1948. Read; Government Decree No. 51 dated September 20, 1948, "On the new bank credit system"

[290] Official Gazette, December 21, 1944, Through May 27, 1944, No. 1

[291] AQSH, State Bank, P. 505, V. 1945. D. 10, Instructions and regulations, of the Bank's directorate, sent to the bank's branches in the districts on the policy followed in granting loans, in favor of departments, entities and enterprises state, cooperatives and private persons. 6/2/1946, 21/12.1946, p. 5

[292] Joseph Stalin, Work No. 13, p. 4-5. This is called the transition period!?. The period of transition from capitalism to socialism named by Lenin in his article "On the infancy of the left" and on the microbourgeois spirit. In this context, Stalin asked, What did we have in 1918 in the popular economic field? A destroyed industry and lighters, very few kolkhozes and sovkozes, the growth of the "new" bourgeoisie in the city and the "kulaks" in the countryside. In this context, Stalin argued in a Donkshotesque way that the Soviet Union today has a developed system of "sovkozes" and "kolkozes" and a new bourgeoisie that is giving life in the city, the kulaks who are taking life in the countryside. And he deduces in a quixotic way: in the years 1918 there was a period of transition and now in the years 1930-1935 we have a period of transition" Referring to Stalin, I am trying to reason that, in his early days, that is, the communist state, at the same time reflects his crisis, that is, the existence his as state nature. So, why the existential crisis?

National economy as a property of the country's capitalists

Meanwhile, the main characteristic of the first period of the Provisional Government was the taking of revolutionary measures, which were reflected in the legal provisions, which sanction the right to confiscate the property of the conquering states and those who had supported the conqueror. We find this reflected[293] in the newspaper Bashkimi, through the main articles the attention of public opinion is drawn[294]: The problem of nationalism of the assets of the occupier and traitors is a problem that appeared not only in Albania, but was reflected in all countries, which they had been occupied. In support of the legal provisions, the assets of the persons who violated the legal provisions in force were also confiscated. However, after the proclamation of the People's Republic of Albania, measures of a radical character were taken based on the special legal provisions from time to time, nationalizing the means of production of various branches of the national economy, "property of the country's capitalists[295]".

As it seems, in the first phase, when the state was still in the initial period of the dictatorship, it carried out the first attacks on the property of those persons, who joined the occupier and under the guise of "imperialist capital" sought to protect their interests and property . While, in the second phase, the measures were more formalized, from a legal point of view, because the radicalism of the state was formalized through the law, which hit the "industrial capitalism of the country".

What constitutes special interests is related to the state's radical attention to those persons who had naturally inherited real estate and property, but in the ideological view of the state they had the form of private property with a capitalist nature and why they were owners and small producers", against these forms of private property, the "right" based on the absurd reason of the state, for the "radical transformation into state property" has been exercised

For this reason, the task of socializing the means of production was achieved through two ways: First, the main means of production "owned by the users, who occupied commanding positions in the country's economy", were nationalized, turning into state property. This process ends in February 1947, forming the initial basis, the main foca of the common economy. shared by a group[296].

While the radicality of the economic policy was escalating in an accelerated form, formally concretized through Law No. 20 dated December 15, 1944, which established the "foreign trade

[293] Work No. 13, p. 6. "The two periods 1918 and 1930-1935 differ radically from one another, they differ like the earth and the sky." According to him, Russia was on the threshold of the liquidation of the last class of capitalists and the class of kulaks. This was considered the exit from the transition period in its old sense and Russia had entered the period of socialism, because the socialist sector had in its hands all the economic levers of the entire national economy. Moreover, even though we are far from the complete construction of the socialist society and the disappearance of class differences". (See, work, cit. Stalini, V. No. 13, p. 7)

[294] Work No. 13, p. 6. "The two periods 1918 and 1930-1935 differ radically from one another, they differ like the earth and the sky." According to him, Russia was on the threshold of the liquidation of the last class of capitalists and the class of kulaks. This was considered the exit from the transition period in its old sense and Russia had entered the period of socialism, because the socialist sector had in its hands all the economic levers of the entire national economy. Moreover, even though we are far from the complete construction of the socialist society and the disappearance of class differences". (See, work, cit. Stalini, V. No. 13, p. 7)

[295] Spartak Ngjela, Bending and the fall of the Albanian tyranny, Tirana 2011, p. 135

[296] Ndeçi Plaasari, Përmet Congress, "Historical Studies" No. 4 year 1975, p. 31, 32

monopoly[297]". The Presidency of the Anti-Fascist Council reasoning that the exports were made for the benefit of a "speculative minority" and to avoid smuggling and the black market, decided through Article 1 the prohibition and export of valuable goods and precious stones, and, through Article 2, it is possible to ban the export - import of any type of goods, without the special permission[298] of the Ministry of Economy. While, on the other hand, the foreign trade monopoly became a powerful weapon against the state, it created an "iron fence" to make it impossible for foreign capital to enter Albania, from developed Western European countries, which had an experience to be admired, in the transmission of market models and freedom of commercial action also from the point of view of law.

At the same time, the law regarding requisitions of means of transport No. 24, article no. 1, which was produced by the Presidency of the Anti-Fascist Council, on December 15, 1944. On the basis of this law, the Albanian Government, the commands of the military departments, the commands of the districts, the national councils of the prefectures and sub-prefectures were authorized to requisition land and sea transport tools and vehicles for the needs of the armed forces and reconstruction. Even when the vehicle was driven by the owner, the latter was paid a monthly salary. The requisitioning of means of transport was done without compensation, a principle which was applied later in the case of their nationalization, property which was included in the group of property of small producers.

Meanwhile, the mines were declared[299] common property through historic decree No. 24, March 15, 1946 of the Presidium of the Constitutional Assembly "Proclamation of the statute of the People's Republic of Albania. This radical measure was conceived through the law as a defense of public interests on the basis that the state had to take over the exploitation of still non-nationalized mines, reasons that were presented in the Law on the revocation of mining concessions, which expressed claims that the exploitation of mines were made without technical criteria and practically the concessionaires had benefited from the position of the mines they used, creating "the monopolistic nature of the main markets". Moreover, the Law expressed the claim to the concessions, which were guided by profit motives, therefore they had reduced the investments in the direction of the maintenance of the mines. This Law through Article no. 1 states that the mining concessions granted on the basis of the mining law in force are revoked and the former concessionaires were not given any kind of remuneration". And under Article no. 3 it is expressly stated that any previous obligation was not recognized, for this third parties could not claim any right from the Albanian state, therefore the right of property and owners was conceived from a legal point of view as foreign to the nature of a society based to state property, therefore the state was the "biggest monopolist" and the main one was taking the anti-Albanian step that had been undertaken in the years of its existence since the foundation of the new Albanian state

With the decrees of April 18 and 20, 1946, it became formally impossible to transfer to state ownership "without compensation, agricultural machines, industrial sawmills, metal

[297] Ndeçi Plaasari, Përmet Congress, "Historical Studies" No. 4 year 1975, p. 33, 34, 35
[298] Jean-Jacques Rousseau, The Social Contract, p. 34, 56, 78, 89
[299] Official Gazette, October 1, 1945, Law, No. 123 d. September 27, 1945, Article 1. "For the people to express their sovereign will on the future regime, representatives will be elected for a Constitutional Assembly, the highest subordinate body of Democratic Albania"

construction factories". The law[300] was accompanied by an ordinance of the Minister of Economy in support of Article 3 of the decree of the president of the popular assembly no. 64, May 27, 1946, the oil factories of Elbasan, Vlorë, Berat, Fier, the soap factories of Shkodër, Elbasan, Gjirokastër, the leather factories of Korce, Gjirokastër, Vlorë, Durrës, Shkodër and the lithographic and typographic establishments were expropriated without compensation[301]. Based on the law no. 300 of October 4, 1946, the socialization of the means of production was carried out, which had to be done as soon as possible and without obstacles, for this served the ordinance accompanied by penalties no. April 7 and 11, 1946 of the Ministry of Economy, based on the law no. 144 of November 6, 1945 and in Law No. 35 of April 6, 1946, according to which all industrial or commercial firms or private persons who owned factories or machinery installed or not, with or without a permit, had to denounce them within the time limit of 15 days, from the moment of the publication of this ordinance in the official gazette.

Whereas, the denunciation was based[302] on article 2, in relation to any factory or factory parts, any machinery, spare parts, motors of any type or power, lathes, office tools with motor power. But, while taking into account the natural resistance of the "bourgeoisie", it was ordered administratively and on the basis of Article 5, which substantively considered them as saboteurs, therefore all opponents should be prosecuted by the military court.

At the time that, as an urgent measure for the needs of reconstruction and in the service of the war, were formalized[303] through the "law on the civil mobilization of specialists", moreover, according to this law, all specialists from different fields would be mobilized and could be taken to the service of to the government. The law provided for the loss of the permanent right to exercise the profession of those who were considered as saboteurs of the War and the power that was being built. Moreover, those designated as saboteurs were subjected to criminal trials by military courts, punishing them with imprisonment from one year to thirty years, or death.

Conclusions

The constitutional way of law and the state that was being established in Albania reflects a situation of war, which was a political product of the winner of the war, who, before the country was freed, in a radical way, did not respect the political time, which was being fermented . This is reflected in the social composition of the legislative power, which was fulfilled in a radical way, by those who, as winners of the war, had a military spirit and character. As a result, the production of the legal acts issued by the institutions of a military nature, moreover triumphant, does nothing but produce a radicalist, coercive legislation in order to coerce those Albanians, who throughout the war were taken as evidence with the market and had managed to develop their properties. This socioeconomic nature of this class conflicted

[300] Official Gazette, October 1, 1945, Law, No. 123 d. September 27, 1945, Article 1. "The Constitutional Assembly will give Albania the "Statute" and other fundamental laws and will decide on all the acts received by the National Anti-Fascist-Liberation Council and its Presidency"
[301] Official Gazette December 21, 1944, Anti-Fascist Congress of Albania, Decision No. 3, I, "The Anti-Fascist National-Liberation Council, which is the main Legislative and Executive body that represents the sovereignty of the people and the Albanian State at the time of the national-liberation war, elects the presidency which consists of the president, three vice-presidents, secretaries and twenty four members"
[302] Documents of the high bodies of the revolutionary national-liberation power (19142-1944), Tirana 1962, p. 19.
[303] Monika Shoshi Stafa, Monarchy against the Republic, Tirana 2011, p. 5-45

with the law that was the product of the winning legislation, which means that factory owners and merchants were legally conceived as opponents of the political and legal system that was being built in Albania. The nature of the law made it possible to limit the shown and the private initiative, in an artificial way, because the political doctrine on which the constitution of the law and the state was based in the years 1944-1946 was based on the work of Marx's Capital, which reasoned that relations between the owner of the land and the day laborer were two sides of a society in antagonistic conflict, which, from a concrete point of view, in the Albanian socio-economic terrain assumed the nature of exclusionary logic expressed through the law, which limited to the radical denial of the operation of the economic laws of capitalism, as a result, the way was opened for the action of the laws of economy, state planning and the artificial concentration of the economic enterprise. This, as a tendency, was nothing more than creating a monstrous state, which in the first steps seemed effective, because, apparently, it satisfied the interests of those who had no property and money, but, in a very short period of time, In short, the monopolistic monster of the state neutralizes and penalizes everything free, everything private. Furthermore, state propaganda insisted on the idea that, without the addition of political and economic banks to the economic and political order that was being created, it would lack one of the most important tools, in relation to the consolidation of the state, which was taking shape giants of a single monopolist, in a typical rural society. What constitutes special interests, in this scientific research, is related to the philosophy and the radicalist attention of the state to those persons who had naturally inherited real and immovable properties, but, while, in the ideological view of the state, they constituted a the immans were at risk because they were free in their private property, which according to the Hoxha political philosophy constituted the capitalist nature of work and production, and because this class of people were small owners and producers against these forms of private property, "right" was exercised based on the state's absurd reason for the radical transformation of property into state property.

This economic policy was exercised on the following principles: first, for the planned development of the Albanian economy, with the aim of replacing free and justified competition, to avoid "anarchy in production". Accompanied by the artificial liquidation of the foundations of the capitalist economy, moreover, the constitution of a state with a class nature, which contradicted all the laws of state construction. In the meantime, this radical class nature of the state was perfected through the law of sequestration and expropriation, in order to eradicate private property. For this, the method, form and terms of expropriation were applied, in the service of the formation of socialist property, which were different from those of popular democracies. In this context, it logically reflects that law is nothing but the legal system, which resists the legality of time, which is more powerful than human minds. Moreover, the right is reflected as such, that is, the right, in the moment of time, when the political class, which assembled this right, dies, precisely this moment of time tests the right, in this time that the right has the opportunity to find its freedom, because it is redeemed, from artificial dictates, in that it functions naturally, it is conceived, in its spirit, as right.

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Labor Market in Albania - Overview, Components, and Analysis.

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Abstract
The main part of the study is the assessment of the current situation of the labor market in Albania, focusing on the analysis of work structures as well as on the main problems faced by the employed, unemployed, and employers. Given the objectives of the main purpose of this paper, primary data were used through questionnaires carried out throughout Albania. To analyze the supply and demand of work, 400 individuals were surveyed on 16 enterprises and 100 private subjects of persons by means using the sea lection technique. Both parties interested in work find it difficult, on the one hand, job seekers find it difficult to find a place to work, and companies also declare that they find it very difficult to feel that they fit the requirements of the sector in which they operate. or that fit the objectives of the companies and their leaders. The results of this work will also be visible to guide scientific research for the determination of the instruments and paths that must be followed to verify the working hypotheses, formulated for different issues, and objects of study.

Keywords: labor market, employment, unemployment, labor supply, labor demand

JEL Classification: J2, J3, J6, J01

Introduction

The labor market situation determines a country's economic well-being, and being unemployed is closely related to being poor. Employment and unemployment are the two main features of the labor market.

Addressing issues and problems related to employment, having as the main objective the realization of conditions that will enable stable and effective employment, can lead to effective solutions, if they are treated in all their complexity, combining concepts of sciences economic, demographic, social, cultural, quantitative and qualitative analysis, etc. (Blanchflower & Freeman, 2000; O'Higgins, 2001 & 2003; Muller & Gangl, 2003; Freeman & Urti, 1982; Blanchard & Wolfers, 2000; Biagi & Lucifora, 2007; Korenman and Neumark, 1997 and 2000, Baccaro & Rei, 2005; Neumark and Wascher, 2004; Jimeno & Rodriguez - Palenzuela, 2002; Scarpetta, 1996, Braziene and Dorelaitiene, 2012).

The development and dynamics of the market in recent years have brought many problems which have often led to misorientation as well as the inconsistency of demand and supply for work in Albania. The presence of companies looking for free labor has increased a lot, which has brought a bad situation in the labor market where the importance is the quantity of work and not its quality and productivity! As a result, the gap between those employed in well-paid jobs and those in underpaid jobs has widened.

During the last few years, the economic structure of Albania has undergone many changes in all areas of the economy, as well as the labor market has undergone many changes. There is a high number of unemployed people, and the majority of them are not well qualified according to the requirements of the labor market and who, due to the lack of a job, cannot invest in their qualifications, so as much as possible remain unemployed, the more their human capital depreciates.

Our research aims to achieve several goals as follows: First, to be carried out as a study that evaluates the situation of the labor market in Albania. Secondly, to study the labor market through the analysis of its current characteristics, and the assessment of its dynamics. Thirdly, to analyze and evaluate the effects of the interaction of various factors that condition job seekers towards the labor market and the institutions that offer employment services in this market.

Research objectives

To be developed as a comprehensive document in which:

- To analyze the labor market in Albania, employment, the problem of unemployment, their dimensions, and structure.

- To elaborate on the main issues and problems faced by the labor market in Albania, focusing, in particular, on dealing with the current situation in the labor market, the level of employment, their capacities, and professional performances in response to the demands of the regional labor market.

- To evaluate trends, difficulties, ways, and instruments that can be used to develop labor market capacities.

- To evaluate the characteristics and level of performance that the various institutions that offer employment services have and that should be further developed.

Limitations of the study

Given that the findings of this study will be specific to Albania, these data cannot be generalized to other countries. Even in the case where there are other countries with similar characteristics, care should be taken in generalizing the data
In this context, in the future, it would be interesting to investigate the importance of other factors, which have been left out of this study. Scientific studies on them would complement the present study.

Literature review

After the 90s, Albania experienced many changes in the political system, administrative institutions, and economic relations with other countries and international institutions. Its economy has changed from a centralized economy to a market economy. One of the aspects that were most involved in these changes was the labor market.
"The labor market, also known as the job market, refers to the supply of and demand for labor, in which employees provide the supply and employers provide the demand. It is a major economic component and intricately linked to markets for capital, goods, and services" (Will Kenton (2022).
Employment and unemployment are the two main features of the labor market. Although they are related, this does not mean that the decrease in employment leads to the increase in the unemployment rate at the same rate, or even the opposite that the increase in the employment rate leads to the same decrease in the unemployment rate. According to Lyuben Tomev, this happens because the unemployment and employment rates are calculated in different ways. The employment rate means the rate of employment compared to the total number of the population who have the right to work (according to the standard definition of the ILO), while the unemployment rate means the rate of unemployed among the labor force (which is economically active). He adds that employment can occur through the establishment of a working relationship, through self-employment, or the establishment of an individual or family business.

2.1 Short Overview of the labor market in Albania

In 2021, there are about 1.25 million people employed in Albania, 0.56 million women and 0.69 million men. They are persons aged 15 and over, who work for pay or gain according to the results of the Labor Force Survey conducted by INSTAT. The number of people employed is essential to gauge the economy's ability to create jobs.
According to data generated by INSTAT, women are 1.7 times more likely than men to help on the farm or family business. On the contrary, self-employment is more common among men, with a participation of about 38% of their total employment, or 1.5 times higher than women. People aged 15 and over, who work in the service sector, make up more than 44% of the total employed, while agriculture also remains an important sector, employing about 34% of the employees in Albania. On the contrary, those employed in the construction and industry sectors account for only 22%. Agriculture and trade workers are currently the main occupations in Albania.

For the year 2021, for the working age of 15-64 years, an employment rate of 60.9% was registered in Albania. The labor force in Albania according to INSTAT registers about 1411 thousand people in 2021 and the rate of participation in the labor force reached 59.8% during 2021 (67.2% for men and 52.6% for women). The unemployment rate in Albania in 2021 was 12.7%, which was higher than Romania, Bulgaria, Croatia, and Serbia but lower than Montenegro, North Macedonia, Bosnia and Herzegovina, and Greece.
Albania is a low-wage economy compared to other countries in Southeast Europe. According to EUROSTAT statistics, the average salary differs a lot in different regions of Europe, but also the net average wage in Albania is the lowest in the region.

Tabela 1: Average wage

Country	**Average wage**	
	Net (EUR)	Gross (EUR)
Albania	412	498
Kosovo	416	466
Bosnia and Herzegovina	554	848
North Macedonia	557	832
Serbia	727	982
Montenegro	757	940
Bulgaria	773	995
Romania	858	1380
Greece	1050	1355
Croatia	1094	1499

Source: *EUROSTAT 2021*

2.2 Role of demographic variables in the labor market

Some papers have studied the role of demographic factors in the performance of employees and consequently influencing the labor market. In his work Godson Kwame Amegayibor sees that once more that age and department had a significant relationship with employee absenteeism. The study also found that age, education, and tenure all had a significant relationship with employee output.
In their study, K. Shukla, S. Shahane, and W. D'Souza (2017) argued that demographic variable has a definitive role in determining the work-related quality of life of hospital employees. This was a cross-sectional study conducted on the employees of a corporate hospital in Pune, India from March 1, 2014, to April 30, 2014.
Long-term unemployment or a high duration of unemployment may be associated with personal characteristics such as human capital impairment or demographic/socio-economic differences. The long time to find a job constitutes a serious problem, especially for low-income groups in the labor market, Deniz Keskġn Ozberk (2021). Also, the author has estimated that in Turkey women have higher unemployment than men.
Analyzing data from a survey of 6,041 police officers, it was found that demographic factors and job characteristics influence job satisfaction, and organizational characteristics have a major impact. The study highlights similarities and differences in organizational dynamics affecting job satisfaction in police organizations in India and other countries and highlights the relevance of theory across countries and cultures, T. K. Vinod Kumar (2020)

2.3 Education and Employment

Education has a positive effect not only in facilitating access to employment but also in improving the chances of gaining quality employment. Thus, it is clear that promoting higher

levels of educational attainment should remain a priority for countries where a large share of the labor force has received only primary education or less.
Research has shown that the skills more highly in demand nowadays - particularly, information-processing skills - are "learnable". Thus, it is important that both formal and alternative schooling be tuned to the current needs of the marketplace so that students of today are better prepared for the jobs of tomorrow. Career guidance can play an important role in informing young people about current and emerging opportunities and thus facilitating better matches between supply and demand.
The findings show that the higher one's level of education, the better one's chances of getting a job and keeping the status of an employed person in times of crisis in the labor market. Higher participation in education is not necessarily associated with a higher employment rate since entry into the labor market occurs for some individuals as an alternative to continuing their education.[304]

2.4 Information and Employment

The changing nature of work due to COVID-19 containment measures led to an increase in the share of job postings advertising “working from home” as a required condition. This result is consistent with the widespread use of remote working practices in the five countries examined, in the effort to sustain economic activity and overcome limitations to operations due to sheltering-in-place orders or recommendations.[305]

With the spread of the internet, online job portals have become important forums for job matching by employers and employees. Online job portals often collect a large number of data in the form of job vacancies and resumes that can serve as a valuable source of information about the characteristics of labor market demand.[306]
The Hiring process should be rewarding compared to activities like making tough decisions, firing, and disciplining. This is because the need to fill a new position indicates the growth and prosperity of a business. However, there exist challenges in the process for example in cases where human resource specialists believe that not hiring problem-causing employees is the best way to handle problematic workers.
Vacancies serve as a filtering device by employers to pre-filter applicants as well as a description of an ideal applicant and his/her features. Whether it is one or the other or a combination could plausibly be linked to a state of the labor market.
Recent studies evaluating online job searches and the matching quality already find a positive impact (Mang 2012). Compared to traditional employment channels (newspapers, friends, agencies), online job portals can provide a wider range of choices as well as increasingly more advanced tools to evaluate the suitability of a job or a job candidate. [307]

2.5 Hourly pay and working time

Although our findings suggest that beyond around 25 weekly working hours both male and female part-time work gives rise to employer rents, the welfare implications for men and women are quite different: compared to full-timers, male part-timers do not reap the full benefits of productivity increases but their hourly pay rates do not suffer from this. In contrast,

[304] https://www.researchgate.net/publication/263848494_How_does_education_affect_labour_market_outcomes

[305] https://www.oecd.org/coronavirus/policy-responses/an-assessment-of-the-impact-of-covid-19-on-job-and-skills-demand-using-online-job-vacancy-data-20fff09e/

[306] https://www.researchgate.net/publication/311453863_Online_job_vacancy_data_as_a_source_for_micro-level_analysis_of_employers'_preferences_A_methodological_enquiry

[307] https://www.wowessays.com/free-samples/good-hiring-and-selection-of-employees-research-paper-example/

while female part-time does not affect productivity, it is more likely to generate precarity due to the combination of fewer working hours and lower hourly wages.[308]
The findings here point to the possibility that cyclical earnings responses will differ according to the relative tightness of the labor market around which cyclical payment effects take place. Some background labor market motivation is presented via firm-union bargaining. Certainly, in the case of hourly paid workers, weak wage and hourly earnings responses in the inter-war period contrast with much stronger outcomes in the post-war period.[309]
We found a strong positive correlation between the incidence of low-paid jobs and excessive working hours. Even though long working hours and a high incidence of (paid) overtime may be a way to reduce wage dispersion/differentials and increase low-paid workers' labor earnings, this positive effect has to be balanced against the potential negative externalities related to the higher risks of illness, injuries, and accidents.[310]

1. Material and Method

In this paper, we will try to test the hypotheses raised regarding the variables taken in the treatment, using a deductive strategy. Meanwhile, a more inductive and investigative method will be used to understand the behavior of the employed and unemployed as well as employers. For this reason, the methodology will be a combination of qualitative and quantitative strategies (Bryman and Bell, 2004).
100 interview were conducted with managers and/or employees employed in these organizations, to discover their opinions regarding the problems of employing their staff. Primary data are collected for the main factors of the study, which cover different dimensions, applying the theory, primary data is collected using 380 self-report questionnaires.
In the first step, the problems of the employed and the unemployed are analyzed, using a content analysis technique. In the second step, several interviews are conducted with managers/employees, to obtain their opinions regarding some determinants of staff recruitment issues.
Scholfield (1996) explained that the relationship between sample size and population size is misunderstood. Determining sample size is considered one of the most controversial elements in research, in the design and sampling procedures for most studies. On the other hand, a small sample cannot provide accurate results, which will affect the validity and reliability of the research. Noorzai (2005) investigated the optimal sample size that can represent a portion of the population and provide a level of confidence. Many authors have proposed different ideas for determining the size of the sample that would be taken in the study. Comfrey and Lee (1992), for example, suggested rough guidelines for determining an appropriate sample size: 50 - very poor, 100 - poor, 200 - fair, 300 - good, 500 - very good, and 1000 or more - excellent. However, other authors, such as Nunnally and Bernstein (1978) suggested that the number of subjects ratio should be at least 10:0.1.
In economic studies using quantitative research methods, a margin of random error of up to 5 percent is acceptable. To calculate the number of people to be interviewed, with the objective of obtaining results with a chance margin of error of 5 percent, the formula given by Stangor (2001) and Bryman and Bell (2003) can be used:

$$n = \left(\frac{\mathrm{N}}{1 + \mathrm{Ne}^2}\right)$$

[308] https://docs.iza.org/dp7789.pdf

[309] https://www.econstor.eu/bitstream/10419/33834/1/523984456.pdf

[310] https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_663072.pdf

Where: n - the minimum number of persons to be interviewed
N - the number of people who belong to the community that is the target of the study
e = margin of error (5%).
Then n=?
N = 950,000 (according to INSTAT data, the labor force of the Durrës district in 2022) and according to the literature that e=5%,
Then:

$$n = \left(\frac{950000}{1 + 950000 \text{ x } (0.05)^2}\right) \approx 399$$

Based on the reasoning above, the sample size for this study should be 400 respondents. The response rate for the questionnaire was 92%.
The data analysis was done based on the anticipated evaluation indicators and the main findings of the study. The data obtained from the survey were recorded in a special database for the relevant statistical analysis, interpretation, and argumentation of the main findings of the study.

3.1 Multinomial logistic regression

Multinomial logistic regression will be used in this paper. This type of regression is similar to logistic regression but is more general because it does not require that the dependent variable necessarily have only two categories.
The characteristics of this regression are:

- Multinomial logistic regression is used when subjects need to be classified based on the values of a set of variables.
- The independent variables participating in the model can be categorical or continuous.
- If they are categorical, they are considered as factors during data processing, while if they are continuous, as 'covariates'
- This model is built, if it is accepted that the possibilities of the ratio of two categories of the variable, to be modeled, do not depend on other categories of the variable.

As in the linear regression model, the hypotheses Ho: β=0 will be checked, that is, is there a relationship between the variable we seek to model and the variables participating in the model? To check these hypotheses, the Wald test will be used.

3.2 Research hypotheses

Hypothesis H:1. Demographic variables are important for work status.
Hypothesis H: 2. The level of education completed is related to the time of finding a job after graduation.
Hypothesis H:3. Factors related to the area of residence, gender and level of education influence the formation of the behavior of job seekers towards the possibility of employment.
Hypothesis H:4. The study of the opinions and behavior of job seekers towards the labor market information system:
In order to classify the variables, the author proposes the following sub-hypotheses:
H: 4.1: The behavior of employees towards information about the labor market varies depending on gender.
H: 4.2: The behavior of employees towards information about the labor market varies depending on age.
H: 4.3: The behavior of employees towards information about the labor market varies depending on education.
H: 4.4: The behavior of the unemployed towards labor market information varies depending on gender.

H: 4.5: The behavior of the unemployed towards labor market information varies depending on age.
H: 4.6: The behavior of the unemployed towards labor market information varies depending on education.
H: 4.7: The behavior of the demand for labor to the information on the labor market varies depending on the sector of the exercise of the activity.
H: 4.8: The behavior of labor demand to labor market information varies depending on the location of the activity.
Hypothesis H:5. Assessment of labor demand in the regional labor market.
In order to classify the variables, the author proposes the following hypotheses:
H: 5.1: The number of employees in local firms and institutions is determined by the type of organization and the sector of activity.
H: 5.2: The demand for work is affected by the educational level of job seekers.
H: 5.3: The willingness of firms to increase wages in exchange for increased working hours matches the willingness of employees to increase working hours in exchange for higher wages.
H: 5.4: The way of information on the labor market for both the job offer and the job demand is consistent.
H: 5.5: The demand for work is affected by vacancies and the level of knowledge possessed by job seekers.

2. Analysis and Findings

The study was carried out with a basic, main hypothesis: Employment is a multidimensional challenge whose complexity is influenced by the interactions of various economic factors, related to macroeconomic development, and the sustainable economic development of the region. Referring to the point of view according to which the scientific research was conceived, the study of various issues, part of this paper, was carried out having as working hypotheses:
In the following, we will discuss the results of each hypothesis raised in this research.

Table 2: Summary findings of the hypotheses.

	H_0	**H_1**	**$p_{\text{-value}}$**	**vendimi**
	There is no difference between the level of education of the job seekers and the demand that the actors of the labor market have according to the level of education.	There are differences between the level of education of job seekers and the demand that the actors of the labor market have according to the level of education.	.000	H1 is statistically supported
	There is no difference between job supply and job demand in terms of job positions.	There is a gap between job supply and job demand in terms of job positions.	0.00E+00	H1 is statistically supported
	There is no difference between the level of skills that job seekers perceive they need to develop and the level of skills that firms	There is a difference between the level of skills that job seekers perceive they need to develop and the level of	.0057	H1 is statistically supported

	are interested in their employees possessing.	skills that firms are interested in their employees possessing.		
5	There is no difference between the way of information that job seekers and employers use to get information about the labor market.	There are differences between the information method that job seekers and employers use to obtain information about the labor market.	.0049	H1 is statistically supported
6	There is no difference between the perception of the difficulty of finding a job by job seekers and the perception that firms have of finding suitable staff.	There are differences between the perception of the difficulty of finding a job by job seekers and the perception that firms have of finding suitable staff.	.000	H1 is statistically supported
9	The level of education achieved is not related to the time of finding a job after graduation.	The level of education achieved is related to the time of finding a job after graduation.	.000	H1 is statistically supported
10	Factors related to the area of residence, gender, and level of education do not affect the formation of the behavior of job seekers toward the possibility of employment.	Factors related to the area of residence, gender, and level of education influence the formation the behavior of job seekers toward the possibility of employment.	.000	H1 is statistically supported
11	The behavior of employees towards information about the labor market does not differ depending on gender.	The behavior of employees towards information about the labor market varies depending on gender.	.842	H0 is statistically supported
12	The behavior of employees towards information about the labor market does not change depending on age.	The behavior of employees towards information about the labor market varies depending on age.	.001[b]	H1 is statistically supported
13	The behavior of employees toward information about	The behavior of employees toward	.573[b]	H0 is statistically

	the labor market does not change depending on their level of education.	information about the labor market varies depending on their level of education.		supported
14	The behavior of the unemployed towards labor market information does not differ depending on gender.	The behavior of the unemployed toward labor market information varies depending on gender.	.819[b]	H0 is statistically supported
15	The behavior of the unemployed towards information about the labor market does not change depending on age.	The behavior of the unemployed towards information about the labor market varies depending on age.	.070[b]	H0 is statistically supported
16	The behavior of the unemployed towards information about the labor market does not change depending on education.	The behavior of the unemployed toward information about the labor market varies depending on their level of education.	.224[b]	H0 is statistically supported
17	The behavior of job demand to information about the labor market does not change depending on the sector of activity.	The behavior of job demand to information on the labor market varies depending on the sector of activity.	.154[b]	H0 is statistically supported
18	The behavior of job demand to labor market information does not change depending on the location of the activity.	The behavior of labor demand to labor market information varies depending on the location of the activity.	.573[b]	H0 is statistically supported
19	The behavior of labor demand to labor market information varies depending on the location of the activity	The number of employees in local firms and institutions is determined by the type of organization and the sector of activity.	.019[b]	H1 is statistically supported
20	They do not accept increased working hours in exchange for a higher salary or do not accept	Accept increased working hours in exchange for a higher salary or accept	.000	H1 is statistically supported

	increased wages in exchange for more working hours.	increased wages in exchange for more working hours.		

3. Conclusions

The development and dynamics of the market in recent years have brought many problems which have often led to misorientation as well as a mismatch between the demand and supply for work. The presence of companies looking for free labor has increased a lot, which has led to a worsening situation in the labor market where the importance is the quantity of work and not its quality and productivity! As a result, the gap between those employed in well-paid jobs and those in underpaid jobs has widened.

Labor costs in Albania remain low compared to other countries in the region. However, they seem to have increased significantly in recent years. Albania is a low-wage economy compared to other countries in Southeast Europe.

Regarding the level of education according to residential areas, it turns out that in rural areas the number of educated people with a low level of education is higher than in urban areas, as well as regarding the level of higher university education and that after -university, rural areas are presented with a lower percentage than respondents who live in urban areas. Compared at the national level according to the statistics published by INSTAT, the differences resulting in this statistic are not statically significant.

The results of the paper show that in Albania, the success of efforts to find a job depends on gender, age, residential area, level of education, and marital status. In these conditions, it is recommended to carry out more detailed studies taking into consideration the differences between men and women, rural and urban areas, educational level, etc.

Regardless of the level of education, the most reliable way to get information about the labor market is personal acquaintances, where 57% of the employed respondents affirm that to provide information about the labor market they relied on personal acquaintances, a trend that also matches with the conditions of the regional labor market.

Just as employees state that they are willing to increase their working hours in exchange for higher wages, so firms are willing to pay higher wages if their employees are willing to work more hours.

Between the ways of information used and evaluated by the parties in the labor market, there are differences that are statistically significant, and therefore the regional labor market faces a high rate of unemployment, where one of the main reasons is the mismatch of job offers with demand for work.

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Democratic Evolution in Albania in the aftermath of candidate country status

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Abstract

The integration process in the European Union, being the major national goal, is the political action that leads the agenda of every Albanian government since 1992 up today. Being aware on the importance of integration process as the most efficient way towards the path of fast democratization, governments have undertaken concrete steps in the opening of accession negotiations. The integration process is in a very significant momentum which dictates dialogue and partnership.

Every country that has set as a goal the EU integration, should respect the integration criteria's or as known the 'Copenhagen criteria's', on the basis under which the European Commission deliver the opinion in regard of every application. These criteria's are defined during the European Council of Copenhagen in 1993 and accomplished during the European Council in Madrid in 1995. These are political criteria's such as : stability of institutions which guarantee democracy, rule of law, human rights and respect and protection of minorities; economic criteria's such as the existence of an efficient economy, capacity to challenge competition pressure and internal market forces of the EU; the opportunity to take responsibilities which derive by law and policies of the EU (acquis communitaire).

Stability, peace and the integration of the Western Balkan countries en block, play a fundamental role for the present and the future of Europe. Over the years, it has become more evident the necessity to strengthen the EU policies against countries of this region. Considering the geographic position of Albania in the Mediterranean and its importance in oftentimes weak spots within the region, it deserves a special attention by the European institutions.

Since the candidate country's status up to now, Albania has reached a moderate progress in terms of democracy shifting from a hybrid regime to a flawed democracy.

Flawed democracy countries reflect a bold weakness in democratic terms, among others an underdeveloped political culture, low participation in political life and issues concerning governance. Civil rights are still problematic especially when it comes at media censorship or in attacks against country opposition**.**

Keywords: *Integration Process , European Union , Democracy***.**

Albania decided to officially submit an application to become a member of the European Union on April 24, 2009. Albania submitted an application for membership to the European Union and was given the designation of 'candidate country' in June 2014. In July 2022, the first intergovernmental conference between the European Union and Albania was held.[311]

On the 9th of November, 2010, the European Commission released a statement expressing their opinion on Albania's request for membership in the European Union. Before the official start of negotiations it was estimated that Albania would need to reach a certain level of compliance with the membership criteria, particularly the 12 main priorities that had been identified in its opinion. Public administration reform must be prioritized, including completing the necessary steps, and a justice reform strategy must be adopted and applied. The fight against organized crime must be increased and a strong history must be created in the fight against corruption. Furthermore, the protection of the rights of citizens should be improved. Back in October 2012, the European Commission proposed to award Albania with candidate country status, as long as it concluded the main measures for the reform of justice and public administration and for the revision of the parliamentary regulation. On June 2014, Albania was officially granted the status of a candidate country by the European Union. [312]

Membership negotiations [313]

In April 2018, the European Commission issued a recommendation for the commencement of accession negotiations with Albania. The Council made a decision in June 2018 to acknowledge the progress made by Albania and clear the path for accession negotiations to commence in the month of June 2019. The Council highlighted the importance for Albania to keep making advances in key areas such as justice reform, the fight against corruption, and the struggle against organized crime.

On the 24th of March, 2020, the Ministers of European Affairs gave the political approval to the process of opening accession negotiations with Albania and North Macedonia. The agreement was officially ratified through written documentation and given the go-ahead by the European Council in the days to come.

Membership Conference Meetings [314]

When the process of accession negotiations begins, negotiations are conducted at a specific intergovernmental conference, which is also known as an "accession conference", and includes ministers and ambassadors from the EU member states and the country that is candidate for the negotiations. Negotiations are taking place on 35 different policy areas, known as 'chapters'. Meetings for this purpose can be held by the ministers or by other representatives that may be appointed. On July 19th, 2022, the first intergovernmental conference between the European Union and Albania was held.

[311] https://www.consilium.europa.eu/it/policies/enlargement/albania/
[312] Council of the European Union, “Council conclusions on Albania, general affairs council meeting”, Luxembourg, 24 June 2014.
[313] Council of the European Union, “Enlargement and stabilisation and Association Process” Brussels, 26 June 2018. 10555/18
[314] Council of the European Union, Jan Lipasky, “Intergovernmental Conference at Ministerial level on the Accession of Albania”19. July 2022

Stabilization and association process

The Western Balkans partners have all now concluded their Stabilization and Association Agreement which defines the general framework of the relationship between them and the European Union. This agreement, which is distinct from the EU membership negotiations, is a fundamental element of the Stabilization-Association Process, the policy the EU has implemented for the benefit of the Western Balkans. Ratification of the Stabilization and Association Agreement of Albania was completed and came into force on April 1, 2009.

EU-Albania Association Stabilization Council [315]

In the EU-Albania Stabilization-Association Council, representatives from the European Union and Albania come together to reflect on and review the progress of the Stabilization-Association Process between the two parties. Since the beginning of this year until March 2023, 12 meetings of the EU-Albania Stabilization-Association Council have already taken place. During the last meeting in Tirana on March 16, 2023, the attendees discussed the EU's criteria for membership, which includes politics, economics and legal aspects, as well as revisited the advancements made in the implementation of the Stabilization-Association Agreement.

Annual assessment of progress made [316]

Every year, the Council produces and adopts conclusions regarding the enlargement, stabilization and association process assessing the development and improvement made by all of the Western Balkan partners, as well as Turkey, in terms of their journey towards European integration. In December 2022 the Council adopted its latest conclusions, in which it welcomed the holding of the first Intergovernmental Conference in July 2022, highlighting the progress that Albania has made in the pursuit of the EU reform agenda and the successful attainment of tangible and sustainable results.

The Council expressed appreciation for the progress that Albania has made in regard to the rule of law, particularly in the form of an extensive reform of the justice system and increased efforts in combating corruption and organized crime. The Council also strongly suggested that Albania should increase its efforts to build a reliable record of managing high-level corruption.
The Council asked Albania to take concrete steps to secure freedom of expression and to ensure that property rights are established and maintained in an open and transparent way.
After obtaining the candidate status, Albania has been granted certain simple rights in terms of its democracy, which are not as difficult to obtain as other countries due to the pandemic created by Covid 19, which has caused democracies around the world to become more restricted due to the restrictive measures taken by governments to protect the lives of their citizens, even if that means limiting basic rights and freedoms.
Two international organizations, Freedom House [317] and The Economist [318], have contrasting opinions on the current state of democracy in Albania with Freedom House labeling it as a

[315] Council of the European Union "EU-Albania Stabilisation and Association Council", 16 March 2023
[316] Council of the European Union, Mikuláš Bek "Council conclusions on enlargement and stabilisation and association process", 13 December 2022.

hybrid regime and The Economist referring to it as a truncated democracy (flawed democracy). Despite the slight modifications in their democratic indicators such as political culture, which is still quite regressive, and the lack of political freedom followed by political participation, in the past year we have observed a constant decrease in voter turnout, which currently stands at 38%. The report highlights that, although the governance at the national level in Albania is democratically structured, it is heavily influenced by party politics that is based on clientelism. Elections are usually intense and highly competitive, however, they are sometimes tainted by the illegal practices of vote-buying and vote-rigging, as well as other irregularities. In the same way, the report assesses that civil society is somewhat engaged in debate and public interest, however it suffers from a lack of resources and a lack of proper inclusion in policy consultation, which is legally mandated.

"Freedom House", in their report, have stated that the media in Albania is not completely independent and there is a certain level of oversight of the work of those in public office, however, most media owners use their media platforms to influence government and political parties. Local government is often viewed as a representation of democracy, but it is severely underfunded and not well equipped to provide necessary services to the citizens.

The judiciary has been under a process of verifying the integrity of its members since the beginning of 2020, and to ensure that this process is complete, it will continue to do so until the end of 2024, meaning that it can only function partially in the meantime. From the first stages of the vetting process, anticipations have been that the justice system will be more efficient and independent, yet the report expresses that it has not yet demonstrated concrete evidence that it is carrying out its duties independently.

During the last administrative elections, it was observed that foreign delegations accredited in Tirana through various civil society organizations have undertaken informative sessions and provided various trainings on the significance of the political integrity of political parties and candidates for mayor and municipal council, so that political power would be exercised in a manner that is consistent with the public interest.

Conclusions

Ever since the fall of communism, Albania has viewed European integration as a way to be liberated from corrupt practices, criminal activities and the absence of democratic freedom. Every government has recognized the significance of European integration and made it a top priority on their political agenda. From that point onward, Albania has recognized the need for permits to meet the criteria outlined in the Copenhagen agreement to be accepted as a member of the European Union, yet there is still a significant amount of work to be completed. Following the approval of the political, economic and related criteria, Albania has been allowed

[317] Freedom House "2023 Albania Country Report", https://freedomhouse.org/country/albania/freedom-world/2023

[318] The Economist "The world's most, and least, democratic countries in 2022" https://www.economist.com/graphic-detail/2023/02/01/the-worlds-most-and-least-democratic-countries-in-2022

to start negotiations with the European Union, propelling their integration process to a higher and more labor-intensive stage. International leaders have granted Albania the opportunity to establish a democratic system and have supported them in their efforts to uphold political integrity.

In a lot of countries, inadequate oversight, balances and the rule of law allow for corruption to become wide-spread and be integrated back into the system, making it increasingly hard to separate public from private interests. Private groups have seen a great chance to wield influence over the decision-making processes in certain political spaces, particularly those with a large proportion of profit. Through this, the financial interests of the group are being put ahead of the public good. In the worst of cases, a state's entire governing system can be taken control of and used as a means to advance the ideals and goals of a particular group. The distinction between state and private interests serves to maintain political integrity and reduce the risk of grand corruption and state capture, thus underlining the importance of separation between governments and private interests. To limit the potential influence of private entities and to avoid corruption, it is important to create mechanisms that bring political decision-making closer to the public interest.

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UN Standards of Conduct for Business on Tackling Discrimination against LGBTI+ people

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Abstract

This work will particularly focus on the discrimination against LGBTI+ community with respect to the right to equal employment opportunities, including employment application stage, recruitment process and work environment once a person is already employed. There are different practical and theoretical approaches and theories featuring in the academic and political discussions on the matter.
Both academia and praxis provides us with evidence to conclude that the issue of discrimination at work for the LGBTI+ community continues to exist, even though there may be legal and institutional provisions in place that protect them. The aim of the study is to critically analyze the current situation in light of the recommendations that the United Nations' Office of the High Commissioner for Human Rights (OHCHR) published in 2017 in its report titled "Standards of Conduct for Business on Tackling Discrimination against LGBTI people". Among others, this paper seeks to identify the relevant legal aspects of the United Nations Standards of Conduct for Business, in particular identifying their innovative and original feature as well as engaging with the criticism that was directed at it.
To achieve the aforementioned goals, we will provide conceptual background information with regard to sexual orientation and gender identity as well as employment discrimination based on sexual orientation and its various forms. Secondly, we will focus on the consequences associated with this form of discrimination that have been identified so far. Lastly, we will assess the specific United Nations tool, which constitutes a core theme of this work, aimed at addressing discrimination at workplace of LGBTI+ people.
Although sexual orientation and gender identity should in principle have nothing to do with an employee' performance in the workplace, researchers has documented that almost half (46%) of LGBT employees in the United States feel secluded in the workplace.
A key aspect for minimizing the phenomenon of discrimination in work based on sexual orientation and gender identity is a continuing awareness-raising effort with the help of the media, aiming to form all individuals in a belief that no one has the right to judge an employee's job performance based on his or her sexual preferences. Also, the demonstration of positive practices by the employer and the promotion of a positive environment within the staff are key to avoiding conflicts at work. In addition, an ever-increasing and close cooperation between the institutions that protect the rights of the LGBTI+ community, such as non-profit organizations that focus on protecting LGBTI+ people, and LGBTI+ people themselves could change the situation at work.

Keywords: *LGBTI+ community, jurisdiction, discrimination, organization.*

Introduction

This work will focus on the discrimination against LGBTI+ community with respect to the right to equal employment opportunities, including employment application stage, recruitment process and work environment once a person is already employed.
The existence of a sexual preference different from existing social norms, or more precisely from what others expect, often leads to different types of discriminatory behaviour from people who have heterosexual preferences against those who have homosexual or bisexual preferences. Nowadays, discrimination on the grounds of sexual preference is banned in various forms in different national, regional and international jurisdictions. Individuals who identify themselves within as members of the LGBTI+ community, oftentimes face a plethora of obstacles in their daily lives, as in many countries around the world some of their basic rights are yet to be recognized, both legal and socially. They are confronted with stigmatization, discrimination, social exclusion and a considerable degree of prejudice in society. This work will particularly focus on the discrimination against LGBTI+ community with respect to the right to equal employment opportunities.
Admittedly, there are also different practical and theoretical approaches and theories featuring in the academic and political discussions on the matter.
However, this work will particularly focus on the discrimination against LGBTI+ community with respect to the right to equal employment opportunities, including employment application stage, recruitment process and work environment once a person is already employed.

The Concept of Sexual Orientation

The acronym LGBTI+ is an abbreviation for lesbian, gay, bisexual, transgender and intersex community. This abbreviation may vary and include additional letters, such as I (intersex), Q (queer or questioning), or A (asexual). Someone who is attracted to a person of the same sex has a homosexual orientation and can be called gay (G) or lesbian (L). Individuals who are attracted to people of the opposite sex have heterosexual orientation (H). Sexual orientation is a process that continually develops over time, and individuals who are attracted to both men and women are called bisexual (B). There are some people whose gender identity does not match the biological sex they belong to. This means that they identify themselves different from their biological sex, so they may perform surgical interventions, hormonal changes so that their sex is in line with their identity. These persons are known as transgender (T).[319]

Sexual orientation is different from gender identity. The latter refers to the inner feelings that indicate if someone is male or female. However, the concept of sexual orientation cannot be restricted to sexual behavior only as it involves both feeling and identity. Some individuals may identify themselves as gay, lesbian, or bisexual without engaging in any sexual activity or actual sexual intercourse.[320]

A Brief Review of International Legal Acts Concerning Discrimination Based on Sexual Orientation and Gender Identity

[319] https://lgbtqia.ucdavis.edu/educated/glossary [last accessed 03/04/2020].
[320] Spitzer, R. L. "Can Some Gay Men and Lesbians Change Their Sexual Orientation? 200 Participants Reporting a Change from Homosexual to Heterosexual Orientation" 2003, 32, pp. 403-4017, p. 413.

In principle, international human rights instruments protect everyone from discrimination. The Universal Declaration of Human Rights has established the principle of equality and non-discrimination in a single provision (Article 7) which provides that: "All are equal before the law and are entitled without any discrimination to equal protection of the law."[321]

Although gender identity and sexual orientation are often not mentioned in international human rights treaties as grounds of discrimination, they are usually covered thanks to the open clause. For instance, with regard to the International Covenant on Economic, Social and Cultural Rights the UN Committee on Economic, Social and Cultural Rights stated that " "Other status" as recognized in article 2, paragraph 2, includes sexual orientation […] In addition, gender identity is recognized as among the prohibited grounds of discrimination".[322]

In the European Union the rights of LGBTI+ people became present firstly through the coming into force of the Treaty of Amsterdam in 1997, which added to the anti-discrimination clause as one of the grounds that of sexual orientation. Since then, sexual orientation is prohibited through positive law in the EU. The anti-discrimination clause is present also in the EU Charter of Fundamental Rights in Article 21 –mentioning explicitly sexual orientation as one of the grounds– which reads: "Any discrimination based on any ground such as […..] sexual orientation shall be prohibited."[323]

Additionally, the Employment Equality Directive (Directive 2000/78)[324], which is applicable mainly within the field of employment prohibits discrimination on grounds of sexual orientation among other grounds.

The International Labor Organization, on the other hand, has adopted The Employment Discrimination Convention (ILO Convention No.111), which requires states to introduce legislative measures in order to prohibit all forms of discrimination and exclusion on any grounds including race, color, religion, sexual orientation, and to withdraw any legislation which is not based on equal opportunities. In addition, there is the Employment Policy Convention (ILO Convention No. 122) which aims at guaranteeing equal treatment of individuals in the employment process, regardless of their sexual orientation and gender identity.

All these provisions have almost the same outcome although the wording may differ. However, it should be noted that some of them are not equipped with mechanisms to monitor the observance of these rights. As it will be elaborated in the next section, although the United Nations has introduced progressive tools to deal with discrimination at work on a regular basis, the issue of enforcement of the rights is an obstacle.

The Five Standards of Conduct for Business

[321] UNGA Res. 217 A (III) Universal Declaration of Human Rights of 10/12/1948, UN Doc. A/RES/3/217A, article 7.
[322]UNCESCR, General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights) 02/072009, UN Doc. E/C.12/GC/20, para 32.
[323] European Union, Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02, article 21.
[324] European Union, Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02, article 21.

In September 2017, the former High Commissioners in Human Rights Zeid Ra'ad Al Hussein launched the Standards of Conduct to tackle discrimination against LGBTI+ people in within the business and work environment.[325] The document is composed of five standards and its innovative nature is in recognizing that they can be put into action in different spaces or spheres: all the time, in the workplace and the marketplace. In this section, I will present each standard and analyze it from a legal perspective.

1). Respect of Human Rights (At All Times)

The first standard establishes that all companies have the responsibility to respect human rights in their business relations and operations. Furthermore, it specifies that companies are expected to "develop policies, exercise due diligence, and, in cases where their decisions or activities have adversely affected the enjoyment of human rights, remediate such impacts". One of the key aspects that this standard introduces from a legal perspective is the erasure of the public/private dichotomy, which has been extensively criticized by the feminist scholars, activists and, in a way, the feminist movement too.[326]

While it is still recognized that the main responsibility of preventing human rights violations and complying with the International Human Rights Law is the responsibility of the States[327], the document also establishes a complementary obligation of corporations of respecting human rights at every moment in their performance and conduction.

Another innovative aspect of it is the inclusion of the "due diligence standard", a tool that has been extensively used by International Courts to assess the international responsibility of States for their actions, but also the violations committed by private parties. It is worth noting that in that way, the UN has committed to consider companies as actors that should carry on those responsibilities. The Inter-American human rights regime and the court are a prime example of a regional system that has been attempting to extend the due diligence duty to companies.[328]

Moreover, the standard recognizes that the economic power of business should also be used as a positive catalyst of change in this regard.[329] It is also important to stress the spatial- temporal distinction the document establishes. In this regard, the obligation to comply with human rights persists "at all times".

2). Eliminate Discrimination (In the Workplace)

The formulation of this standard is two-folded. On the one hand, it recognizes a life free of discrimination to business workers and, on the other hand, it puts the responsibility of

[325] OHCHR, "Tackling Discrimination against Lesbian, Gay, Bi, Trans & Intersex People: Standards of Conduct for Business", 2017, p. 1.

[326] Carole Pateman, "Feminist Critiques of the Public/Private Dichotomy" Public and Private Social Life 281, 1992, 281.

[327] Supra note 27, p. 15 "While governments have the primary obligation to respect, protect and fulfil human rights, companies also have an independent and complementary to respect human rights in their operations and business relations".

[328] IACHR Thematic Report on "Business and Human Rights: Inter-American Standards", 2020, available at:

https://www.oas.org/en/iachr/media_center/PReleases/2020/014.asp [last accessed 23/04/2020]

[329] 31 Ibid

guaranteeing an environment free of discrimination within the companies. The standard is also comprehensive in terms of establishing that discrimination can take place in different stages: at the recruitment, once individuals are employed, as concerns the working conditions, benefits, privacy issues and harassment.

3). Provide Support (In the Workplace)

With respect to the 'provide support' standard, the UN relies on the positive reinforcement of good practices in the workplace. It requires businesses to ensure inclusion and to address the special needs of LGBTI+ people. This is an important aspect, since the "equal benefits" for all employees philosophy may in fact mask or reinforce inequalities. For instance, LGBTI+ workers may need therapies or special medical needs that are not covered in basic health insurances and this should be taken into account by companies.

4). Prevent other Human Rights Violations (In the Marketplace)

The holistic requirement to prevent other human rights violations is, in my opinion, one of the strongest aspects of the document. Through this standard, the UN recognizes the power and "domino effect" which companies' practices can create across a whole spectrum of potential human rights issues. To exemplify, if a company refuses to negotiate or to buy goods from suppliers which do not have an inclusive policy, it can generate incentives for those suppliers to generate them. This is a key aspect because we move from a paradigm of legal obligations to one of incentives or even that of ethical responsibilities. This standard is closely related to "advocacy", an activity that many companies promote among their employees. For instance, Google has a specific budget for activities related to inclusivity and its employees tend to participate on Mardigras and Pride Parades.

5). Act in the Public Sphere (In the Community)

This responsibility to act in the public sphere further extends the applicability and potential effect of the document to community or even country-level as "Business are encouraged to use their leverage to contribute to stopping rights abuses in the countries in which they operate". Many multi-nationals and international companies have offices or factories in countries that are not open to same-sex practices, such as India, Sri Lanka, the Philippines, to name just a few. Therefore, companies can act in ways that encourage better practices in those countries by consultations and exchange with local communities. However, to fully comply with this standard, it is also necessary to keep in mind the indivisibility of human rights and attempt to tackle it together other issues — such as those touching on fair wages.

To briefly summarize this section, the UN Standards of Conduct for Business seek to provide a set of guides and milestones for assessing the role of companies in acting against LGBTI+ discrimination and related human rights abuses. The UN has encouraged businesses to adopt these standards as best practices and incentive other stakeholders into using them to monitor the operations of businesses in the context of human rights protection. It is important to note that in the almost three years since the release of these standards, several companies have

accompanied and endorsed them, such as Hogan Lovells[330], Societe Generale, Baker and Makenzie, IBM, among others.[331]

One of the main strengths of the document lies in its arguably successful attempt at generating synergies with private actors. This is especially important as it reflects the understanding that, while States are the main responsible actors for protecting human rights and preventing their violations, a most robust conception of the State and the society should make companies — especially in a capitalistic system — subject to this duty. A prime example of this is the extended application of the due diligence standard to companies.

The standards also show the potential which companies have to change the society and the communities in which they operate by either exercising pressure on the government or by generating incentives**.**

Finally, while the UN Standards of Conduct for Business have a universal vocation in principle, much like all human rights, these also recognize that each country and community may face specific challenges and come across situations that require different efforts, strategies and resources**.**

According to the Standards of Conduct, the companies should raise their voices in an attempt to bring social change to the areas they operate. However, in cases of tensions between the government and the company, the latter has to weigh its economic benefits against LBGTI+ awareness-raising. Challenging the government may cause harm to the company and its employees and the better solution might be to confine their active role in progressing LGBTI+ rights within the work environment, and, beyond that, act within the limits it is "permitted" by the ideology of the hosting State.[332]

Having regarded to the above-described positive aspects of the document it must be stated that the UN Standards of Conduct for Business nonetheless remain so-called "soft law". It is not a treaty or ratification and as such it has no binding force. This means that States are not forced to apply them. However, most of the rights recognized in this document can still be enforced recurring to the "International Covenant on Civil and Political Rights" and the "Convention on the Elimination of all Forms of Discrimination against Women". Additionally, and for more specificity, the International Labor Organization has drafted in 2019 the Convention No.190 "Eliminating Violence and Harassment in the World of Work"[333]. Although it did not enter into force yet, this Convention addresses as well many of the issues that the standards seek to tackle, especially in terms of harassment and awareness rising.

Recommendation

Recent developments support the idea that companies are introducing a more LGBTI-inclusive culture in the workplace because of the many benefits it brings about. Nonetheless, this is not

[330] https://www.hoganlovells.com/en/news/hogan-lovells-expresses-support-for-un-standards-of-conduct-addressing-discrimination-against-lgbti-people , [last accessed 24/04/2020].
[331] A list of the companies that have already expressed support can be found at https://www.global-lgbti.org/the-supporters. [last accessed 24/04/2020]
[332] Dan Bross, et al. "None of their Business? How the United Nations is Calling on Global Companies to Lead the Way on Human Rights of LGBTI people", Business and Human Rights Journal, 3, 2018, pp. 271–276.
[333] https://www.ilo.org/wcmsp5/groups/public/dgreports/dcomm/ publ/documents/publication/wcms_721160.pdf. [last accessed 25/04/2020].

the case for all companies yet, since (as it was shown in this work) recent reports have provided evidence that the LGBTI+ community still suffers from the signs of homophobia, social exclusion, stigmatization, prejudice and discrimination in the work environment. Therefore, the fight for equality will continue until it is fully achieved. As these standards suggest, apart from the State, the companies themselves are an important key factor in eliminating discrimination in the work environment, as well as putting pressure on the government authorities to develop progressive policies in this regard. It was proven in this part of the work that the standards are a good manner to generate synergies with the private sector to enhance the respect of LGBTI+ rights. Companies are exceptional catalysts of change and in many aspects, they tend to respond to the necessities of societies prior than the States.

Nonetheless, it is important to remark again that they do not have a binding character. The Standards of Conduct fall under "Soft law" and cannot be enforced; it is up to the companies to support and put them into force.

It is relevant to include as many stakeholders as possible (not just companies), but also NGOs and other organizations working with certification schemes on LGBTI+ issues, for instance.

When taking action in countries with less developed frameworks on gender equality and LGBTI+ issues, to bear in mind the indivisibility of human rights is of paramount importance.

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Parliamentary control and investigative commissions: Comparative view

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Abstract

The Constitution of the Republic of Albania in its basic principles defines that sovereignty belongs to the people, to all citizens. The people exercise their sovereignty in the ways and within the limits provided by the Constitution itself. One of the most important ways of expressing popular sovereignty is the election of members of the Assembly. So, citizens participate in the governance of Res Publica through their representatives. Parliament structurally consists of one chamber and is a central institution in our constitutional system. In addition to the representative function, it performs the legislative function and the control function. Parliamentary control over the Government is concretized in several institutions of parliamentary law and aims to highlight its political responsibility towards the Assembly. For the sake of truth, it should be emphasized that it makes sense to talk about parliamentary control only for the period of political pluralism because before this period the Parliament executed the party-State directives. The government, in parliamentary republics, answers to the Parliament for its activity because it is inextricably linked to the vote of confidence it receives from it. One of the most important tools to oversee the Government's activity is the establishment of Investigative Commissions. These Commissions aim to guarantee the transparency and responsibility of the activity of the Government supported by the parliamentary majority.

Keywords: *Parliament, parliamentary control, Government, parliamentary interpellation, investigative commission*

Introduction

The separation of powers and the balance between them, provided for by the Supreme Law of the Republic of Albania,[334] is one of the main principles of the rule of law. The principle of separation of powers constitutes one of the basic pillars of any democracy in order to control and balance the branches of power. The controlling function of Parliament is a very important element of the principle of separation and balance between powers. We emphasize that the legislation in force does not directly define the concept of parliamentary control. The definition of this very important concept, in parliamentary republics, can be found in the jurisprudence of the Constitutional Court. According to constitutional practice, parliamentary control means the right of the legislative power to be informed and to carry out supervision regarding the implementation of laws by public authorities in order to take the necessary measures for the prevention of illegality as well as the issuing of responsibilities , according to specific cases.[335]

Parliamentary control is realized through an administration that accounts, reports and answers for its activity. Through this control, the parliamentarians have the right to be informed about the power administration issues and the implementation of laws, or about certain issues, the knowledge of which is considered necessary for the realization of their goals and duties, but always within the framework of the constitutional function. In a democratic society, this opportunity given to deputies derives from the people's right to know what is being done in their name. Therefore, parliamentary control is also exercised in the context of the constitutional right of every citizen to receive the necessary information[336] regarding issues related to the public interest. The bodies of public power that are subject to parliamentary control, by transmitting facts and data to the representatives of the people, simultaneously fulfill the constitutional obligation to be transparent in relation to the public.[337] Parliamentary control aims to detect and prevent government abuses, to hold the government accountable for the management of public finances in order to improve the efficiency of public spending, to supervise the policies programmed by the government, and to make the government's activities transparent in order to strengthen the trust of society against the rule of law.[338]

Parliamentary control in the Republic of Albania has begun to be realized with objectivity in the period of political pluralism because before this period we can say without any doubt that the Parliament executed the directives of the party-state. With the affirmation of the political parties, the Parliament is divided into a majority and a political minority. In majoritarian parliamentarism, the opposition criticizes and opposes the actions of the Government, and if it is almost impossible to remove it, because the parliamentary majority supports the Government, it uses control instruments to make its critical activity more public

[334] Neni 7, *Kushtetuta e Republikës së Shqipërisë*, parashikon se: *Sistemi i qeverisjes në Republikën e Shqipërisë bazohet në ndarjen dhe balancimin ndërmjet pushteteve ligjvënës, ekzekutiv dhe gjyqësor.*

[335] Shih vendimin nr.18, datë 14.05.2003 të Gjykatës Kushtetuese të RSH me objekt interpretimin e nenit 77/2 të Kushtetutës së Republikës së Shqipërise.

[336] The right to information is a fundamental human right and represents one of the most important rights for the functioning of democracy in the country. This right aims to protect the general interest in informing the public and presupposes that in a democratic state the activities of the rulers should be made public.

[337] Shih vendimin nr.18, datë 14.05.2003 të Gjykatës Kushtetuese të RSH me objekt interpretimin e nenit 77/2 të Kushtetutës së Republikës së Shqipërise.

[338] Temistocle Martines, *Diritto Costituzionale*, Giufre Editore, Milano, 1997, fq.225-226

and influential in order to create conditions in rather than being alternated in the subsequent elections.[339]

On the other hand, if there is no real difference of roles between the parliamentary majority and the minority, as happens in compromise parliamentarism,[340] the instruments of parliamentary control are suitable for other uses that have nothing to do with the political accountability of the government. In general, governments supported by the parliamentary majority try to limit the power of the opposition to control their activity. The main reason for sabotaging parliamentary control lies in the fact that Governments do not want to be exposed to the mismanagement of the *res publica* and to divide power further.

Another reason why governments sabotage control lies in the fact that parties in power do not want to see their power to implement their policies weaken.[341] Usually, the Constitutions and Regulations of the parliaments are the acts that determine the means at the disposal of the Parliament to exercise the function of control. The Constitution and the Regulations of the Assembly of the Republic of Albania determine the instruments that the parliament has to exercise the controlling function. These instruments are: questions, interpellations, motions, control by the permanent committees of the Assembly, reporting to the Assembly, petitions and investigative commissions.

1. Legal and doctrinal aspects of the Parliament's instruments to exercise the controlling function.

a. Question

The Constitution stipulates that the *Prime Minister and every other member of the Council of Ministers is obliged to answer... the questions of the deputies within three weeks.*[342] The institute of questions serves the deputies, as representatives of the sovereignty of the people, to receive information on certain issues from the Prime Minister or the members of the Council of Ministers. The questions, in written and clear form, are first presented to the Speaker of the Assembly, who notifies the competent member of the Council of Ministers to whom the question is addressed.[343] As for the answers to questions from the Prime Minister, the Deputy Prime Minister and any other member of the Council of Ministers, they can give them in the plenary session or in the competent permanent committee.

But in this case it should be emphasized that the place and form of giving the answer is decided by the deputy who asked the question and it is not left to the discretion of the subjects

[339] Bin, R. *Ragionevolezza e divisione dei poteri*, në *La ragionevolezza nel diritto*, a cura di M. La Torre e A. Spadaro, Torino, Giappichelli, 2002, 212-213

[340] Compromise parliamentarianism occurs in a multipolar system where the parliamentary procedure is arranged in such a way as to favor a compromise between the majority and the minority. So, there is a lack of a real opposition and the Parliament is the place to seek compromise. It should be noted that compromise parliamentarism is provided for in some provisions of the current Constitution, especially regarding the approval of laws by qualified majority and the appointments of some constitutional and legal institutions.

[341] Bin Pitruzela, *Diritto Costituzionale*, Giufre Editore, Milano, 2003, fq.212-213

[342] Neni 80, Kushtetuta e Republikes se Shqipërisë.

[343] Neni 90, Rregullorja e Kuvendit të Republikës së Shqipërisë, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

to whom the question was addressed. The regulation of the Assembly provides, in accordance with the constitutional provision, a deadline of three weeks for giving answers in the plenary session from the date of submission of the questions and a deadline of 10 working days from the date of their submission to the committee.[344] Regarding the written answers to the questions, we underline that the Rules of the Assembly have provided for a different arrangement compared to the giving of answers to oral questions. More specifically, if a deputy requests a written answer to the question, he addresses the competent member of the Council of Ministers, who must respond within 10 working days from the date of receipt of the request. The MP's request is forwarded within 2 days to the relevant institution. If there is no answer in the specified time, the Speaker of the Assembly, at the request of the deputy, includes the answer as the first item on the agenda of the meeting of the permanent committee that is related to the object of the question.[345] If giving the answer is not included as the first item on the agenda of the committee meeting, the deputy has the right to request a debate on the issue or to request additional information. The member of the Council of Ministers/General Secretary of the Council of Ministers sends the additional information within 10 working days from the submission of the request by the deputy.[346] Unlike the regulations of the Assembly of the Republic of Albania, the Regulations of the Chamber of Deputies and the Chamber of the Senate in the Republic of Italy determine that it is at the discretion of the Government to answer questions. Therefore, the Government has the right to declare to the Assembly, stating the reasons, that it cannot answer or that it must postpone the answer to another specific day.[347]

b. Interpellations

The Basic Law of the Republic of Albania defines that *the Prime Minister and every other member of the Council of Ministers is obliged to respond to interpellations...within three weeks.*[348] In the interpellation, the interpellator requests in writing the Prime Minister, the Deputy Prime Minister or any other member of the Council of Ministers, to receive explanations about the motives, intentions and attitude of the Council of Ministers or regarding important aspects of their activity.[349] As can be seen, the object of the question is the truth of certain issues, while the object of the interpellation is to know the position or the political intentions of the Council of Ministers in relation to a fact or an issue of its activity. As in the case of questions, the interpellation is presented to the President of the Assembly, and the latter immediately informs the member of the Council of Ministers, to whom the request for interpellation is addressed. Unlike questions, interpellation can be requested by any MP, group of MPs or parliamentary group, and can only be conducted in a plenary session, as a rule, on the three following Mondays from the date of presentation.[350]

[344] Neni 92-93, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.
[345] Neni 94, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.
[346] Po aty
[347] Neni 149/3, *Regolamento del Senato della Republica Italiana,*
[348] Neni 80, Kushtetuta e Republikes se Shqipërisë.
[349] Neni 96/1, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.
[350] Po aty.

The questions and interpellations in question are developed according to a precise adversarial relationship between the parliament and the government, the time of which is determined by the parliamentary regulations.[351] The Regulation of the Assembly, in addition to the traditional interpellations, also provides for the interpellations for urgent matters, which have a faster procedure for holding them. In this case, a chairman of the parliamentary group or 7 deputies have the right to request interpellation for urgent issues. Each parliamentary group leader may request no more than two interpellations for urgent issues during a month, and each deputy may sign no more than two such interpellations during a month. Unlike traditional interpellations, the interpellation for urgent issues is normally filed in the Assembly no later than Monday at 2:00 p.m. and it takes place as the first item on the agenda in one of the plenary sessions of the following week.[352] Regarding interpellations for urgent matters, the Regulation of the Italian Senate, in article 156-bis, determines that the presidents of the parliamentary groups, on behalf of their respective groups, and the representatives of the mixed group, may present no more than one group interpellation in month.

Whereas, for interpellations signed by at least one tenth of the members of the Senate, the procedures and deadlines mentioned in this article are approved. Each Senator can sign no more than nine interpellations in a year by abbreviated procedure. The interpellations mentioned in this article are included in the agenda within fifteen days of their presentation. The representative of the parliamentary group that proposes the interpellation, or one of the senators who signed the interpellation, according to point 2, can conduct the interpellation for no more than ten minutes. After the Government's statements, a response of no more than five minutes is allowed.[353]

c. Motions

The motion can be presented by a parliamentary group leader or at least 7 deputies in order to conduct a debate in the Assembly on a particular issue. The question that naturally arises is this, where does the motion differ from interpellations and questions? The answer to this question can be found in the normative text of the regulation, which provides that after the conclusion of the debate in the assembly, the subjects proposing the motion can propose the approval of a resolution or statement, the text of which is attached to the request for the development of the motion.[354] The legal regime of the motion request has some significant changes with the legal regime of questions and interpellations. In this aspect, the regulation determines that the request for the development of a motion is presented to the Speaker of the Assembly, who has three

[351] Regarding the questions, Article 92, paragraph three, provides that: The Prime Minister answers the question asked for no more than 6 minutes, while the minister no more than 3 minutes. Within this time, the reading of the question and the name of the deputy who submitted it are also included. As for interpellations, Article 96, the fifth paragraph provides that: the deputy, who submitted the interpellation, has the right to explain it no more than 7 minutes and after the declaration no more than 20 minutes of the member of the Council of Ministers, to whom the interpellation was directed, to express in no more than 15 minutes the reasons if he is satisfied or not with the answer given. After the speech of the deputy, the minister has the right to speak and after him the deputy who submitted the interpellation for no more than 3 minutes each.

[352] Neni 97/2, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

[353] Neni 156-bis,*Regolamento del Senato della Republica Italiana.*

[354] Neni 98/1, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

days to convene the Conference of Speakers[355] to decide on the date of the development of the motion in the plenary session. In case the date is determined by agreement in the Conference of Speakers, it is announced to the Assembly in the first plenary session, but if in the Conference of Speakers no agreement is reached between the heads of the parliamentary groups, the Speaker of the Assembly presents the request in the plenary session, proposes a date of holding the motion and asks the Assembly to decide by open vote after listening to one speaker for and one against for no more than 10 minutes. However, the debate cannot take place later than 30 days from the date of submission of the motion by the relevant entities.[356]

The time of the debate for the motions is determined by the Conference of Speakers and the deputies who wish to discuss in the general debate must be registered in the list of debaters at least two hours before the start of the debate.[357] Regarding the written amendments to the draft resolution or draft declaration, they must be registered in the Secretariat for Procedures and Voting at least 24 hours before the time set for the debate and distributed to all deputies. After the end of the general debate, the author of the amendment has the right to present his proposal for no more than 5 minutes and each deputy has the right to discuss up to 5 minutes about the presented amendment.[358] The chairman of the session puts to the vote the amendments that seek to add or change words in the text of the draft declaration or the initial draft resolution, starting with the amendment that is furthest from the text, then those that seek to remove words or parts of it, and finally at all the text presented by the initiators of the motion.[359]

According to the regulations of the Parliament of the Republic of Italy, the motion can be presented by 5 senators[360] and by the chairman of a group or 10 parliamentarians.[361] In conclusion, the purpose for which a motion is presented is to bring to the discussion and an approval of the Parliament on issues that affect the activity of the government. It should be noted that, unlike our legal regime, the Italian Government can raise the issue of trust.[362] Regarding the consideration of questions, interpellations and motions, in principle the debate takes place separately from any other discussion, but the President of the Assembly, after consulting with the Conference of Speakers, may decide that questions, interpellations or motions related to the same or similar issues are grouped together and be examined

[355] According to the Regulation of the Assembly, article 12/2 provides that: The Conference consists of the President of the Assembly, the deputy presidents of the Assembly, the presidents of the parliamentary groups and the presidents of the permanent parliamentary committees or, in their absence, the vice presidents. The Conference of Speakers is chaired by the Speaker of the Assembly, or in his absence by the Deputy Speaker…….. The Conference is called by the Speaker of the Assembly or at the request of the Council of Ministers or one of the chairmen of the parliamentary groups. The member of the Council of Ministers, responsible for maintaining relations with the Assembly, also participates in the Conference of Speakers.

[356] Neni 98/2, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

[357] Neni 99/2, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

[358] Neni 99/3, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

[359] Neni 99/4, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

[360] Neni 157/1, *Regolamento del Senato della Republica Italiana*, ndryshuar në vitin 2022.

[361] Neni 110, *Regolamento della Camera dei Deputati della Republica Italiana.*

[362] Qeveria shtron çështjen e besimit ndaj një ligji (ose ndaj një ndryshimi të një ligji), duke e cilësuar këtë akt si themelor për veprimin e saj politik dhe duke e varur qëndrueshmërinë e saj në detyrë nga miratimi i tij.

simultaneously. When the petitioning deputies do not agree with the President's opinion, the matter is presented to the Assembly in the first plenary session, which takes a decision by open vote and without debate.

It should be emphasized that the submission of questions, interpellations and motions is not an unlimited right. The President of the Assembly can limit this right, i.e. the presentation of questions, interpellations and motions if they are formulated with inappropriate words, if issues are presented that are not under the responsibility of the Council of Ministers, if they violate the honor, private life or personality of an individual or the institution, if they are contrary to the Rules of the Assembly or questions and interpellations that have been consumed before or motions that have been discussed or decisions have been made for the same reason within the session. If the deputy does not agree with the Speaker's opinion, the matter is submitted to the Assembly, which, after listening to the opinion of the Speaker and the requesting deputy for no more than 10 minutes, decides by open vote and without debate.[363]

d. The permanent committees of the Assembly

Permanent commissions are internal bodies of the Assembly and are recognized directly by the Constitution.[364] The main competences of the permanent commissions consist of examining according to relevance the draft laws, draft decisions and other issues that are presented to the Assembly, conduct studies on the effectiveness of the laws in force, follow the implementation of the laws. In addition to these powers, the permanent commissions, according to the Constitution[365] and the regulation of the assembly,[366] control the activity of the ministries and other central bodies, proposing to the Assembly or the Council of Ministers the taking of relevant measures. More specifically, the Commissions have the right to call the ministers at any time to give explanations and clarifications on issues in their areas of responsibility, or for the implementation of laws, decisions, resolutions and statements approved by the Assembly, the highest representative body of the sovereignty of the people. The heads of various state institutions, at the request of the commissions, give explanations and inform about issues related to their activity, as well as issues related to the implementation of the recommendations of independent institutions addressed to them.[367] In addition, the above-mentioned commissions, within their respective areas of responsibility, may perform or request documentation that they consider necessary for examining a specific matter of public interest. In this case, the Speaker of the Assembly is notified in writing by the chairman of the committee. At the end of the control, the commissions draw up a report, which is forwarded to

[363] Neni 89, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite

[364] Neni 77/1 i Kushtetutes se Republikes se Shqiperise percakton se Kuvendi zgjedh nga gjiri i tij komisione të përhershme, si dhe mund të caktojë komisione të posaçme.

[365] Kushtetuta jonë në nenin 80/3 parashikon se: *drejtuesit e institucioneve shtetërore, me kërkesë të komisioneve parlamentare, japin shpjegime dhe informojnë për çështje të ndryshme të veprimtarisë së tyre për sa e lejon ligji.*

[366] Neni 18, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

[367] Neni 102/2, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

the Speaker of the Assembly and becomes publicly known, including the opinion of the minority.[368]

e. Reports to the Assembly

According to the regulation of the Assembly, the Conference of Speakers, with the proposal of the Speaker of the Assembly, decides at the beginning of each year on the calendar for the submission to the Assembly of the reports of the constitutional bodies and those created by law. The calendar contains the constitutional and legal bodies that will report, the competent committee for review, as well as the deadlines for submitting the reports. The competent committee organizes a hearing for the review of the report and, at the end of the discussions, drafts a draft resolution evaluating the work of the institution and presents it to the plenary session. In the plenary session, the head of the institution presents the report for no more than 20 minutes. In the following, the draft resolution of the relevant commission for the evaluation of the institution's work is read, and then it continues with their questions and answers. At the end of the debate, the draft resolution presented by the committee is voted on.[369]

f. Petitions

Our Constitution, unlike the Constitution of the Republic of Italy[370] does not provide for the institution of petitions. This institute is provided for in the Regulation of the Assembly, which has the task of guaranteeing citizens the exercise of direct democracy: anyone, in fact, can address a petition to the Assembly, where it is examined by the various competent commissions. Petitions must be submitted in writing, have the name of the signatory and the relevant signatures, be understandable and clearly indicate their object. Within 45 days from the date of receipt of the petition, the chairman of the commission submits the petition to the commission, proposing at the same time the method of legal solution or the non-acceptance of the petition. If the committee deems it reasonable to resolve the case, it may authorize the chairperson of the committee to present a statement in the plenary session of the Assembly. The steps taken and the resolution of the issue raised in the petition are notified to the senders of the petition. The committee responsible for making this instrument as feasible as possible may decide to send the petition to another parliamentary committee, the Council of Ministers, public institutions and the Ombudsman for further actions, in order to obtain information. At the end, the commission gives written explanations, proposes legislative initiatives or takes a decision.[371]

g. Parliamentary control of the EU integration process

It should be emphasized that the role of the Assembly of Albania in the process of membership in the European Union is regulated by Law no. 15/2015, dated 5.03.2015 "On the role of the

[368] Neni 102/3, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.
[369] Neni 103, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.
[370] Neni 50, Kushtetuta e Republikes së Italisë percakton se: *Të gjithë qytetarët mund t'i bëjnë peticion Dhomave për të kërkuar masa legjislative ose për të paraqitur nevojat e përbashkëta.*
[371] Neni 104, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

Assembly in the process of integration of the Republic of Albania into the European Union."[372] The Regulation of the Assembly, revised by decision 85/2019 in the framework of the aforementioned law, provides that the Parliament controls the activity of the Council of Ministers in relation to the implementation of obligations for the European integration process and of independent constitutional and legal institutions. At the beginning of each year, the Assembly examines the detailed report of the Council of Ministers on the integration process, according to the National Plan for European Integration. The report is examined in a plenary session, at the end of which the Assembly approves the relevant resolution.[373] In addition, the European Integration Commission and the competent permanent commissions can call the constitutional institutions and legal institutions, which report and inform the Assembly, to report and provide information on issues of European integration.[374] The competent permanent commissions of the Assembly may at any time request a hearing with the members of the National Council of European Integration,[375] as well as request documents or any other information they deem necessary in the context of monitoring issues related to integration in the Union. European. [376]

h. Investigative commissions

Before we deal with this argument more specifically, it should be noted that the issue of setting up parliamentary investigative commissions is one of the most problematic and debatable issues for political actors in this period. The numerous requests for the establishment of investigative commissions as well as the decisions of the Constitutional Court show the actuality of this institution, which is so important for parliamentary control. The substantive law, i.e. the Constitution and the Organic Law on investigative commissions, do not provide any theoretical definition regarding investigative commissions, while the practice of the Constitutional Court has defined them as a tool that serves the exercise of parliamentary control and as an important instrument of the parliament for performing control mainly on the executive as well as collecting information on specific issues, with the aim of reaching certain conclusions.

The purpose of setting up investigative commissions is to recognize and verify in depth a phenomenon, an event, an activity, with the aim that in accordance with reality, draw

[372] The purpose of this law is to strengthen the role of the Assembly of Albania in the process of integration of the Republic of Albania into the European Union. This law defines the rules for the relations of the Assembly with the Council of Ministers and with the institutions of the European Union, in the process of the integration of the Republic of Albania into the European Union.
[373] Neni 103/1/2/3/4/5, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.
[374] Neni 103/6, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.
[375] Law no. 15/2015, dated 5.03.2015 "On the role of the Assembly in the process of integration of the Republic of Albania into the European Union" in article 6 determines that: The National Council of European Integration is the highest national advisory structure for European integration, which is set up next Assembly, which promotes and guarantees comprehensive cooperation between political forces, public institutions and civil society, as well as ensures increased transparency in decision-making on integration issues.
[376] Neni 103/2 pragrafi i dyte, *Rregullorja e Kuvendit të Republikës së Shqipërisë*, miratuar me vendimin nr. 166, datë 16.12.2004, e dryshuar ndër vite.

conclusions on the need to approve, complete, or correct special laws.[377] The Constitution of the Republic of Albania and the law no. 8891, dated 2.5.2002 for the organization and operation of the investigative commissions of the Assembly foresee the establishment of parliamentary investigative commissions as a very important instrument to exercise parliamentary control. More specifically, the Constitution in the second pregraph, article 77 determines that the Parliament has the right and, at the request of a quarter of all its members, is obliged to appoint a commission of inquiry to examine a particular issue.[378] While the organic law for the establishment of investigative commissions in the Assembly determines that the Commission is created at the request of 35 deputies.

The initiating group presents the purpose of creating the commission, the issue to be investigated, the proposal for the composition of the commission and the approximate deadline for the completion of the investigations. The Assembly is obliged to approve the establishment of the commission. The Regulation of the Assembly in Article 25 determines that the Assembly has the right and, at the request of a quarter of all its members, is obliged to appoint a commission of inquiry to examine a particular issue. It should be emphasized that the establishment of the commission at the request of a minority, that is, through the implementation of the principle of investigation with a minority vote, proves in this direction a democratic advancement of our Constitution. The existence of this principle significantly strengthens the role of the investigative commission as an efficient control instrument.[379] According to the Court, the right to set up a commission of inquiry serves as a tool in the hands of the parliamentary minority to exercise control mainly against the governing majority and to demand the accountability of the power holders. In a parliamentary system, since the government is formed by the parliamentary majority, which has many other legal tools at hand, the right of investigative control is recognized especially by the parliamentary minority, which, having limited other tools, can transform it in a powerful constitutional instrument.[380]

For more, it should be added that the Constitutional Court in its latest decision regarding the establishment of investigative commissions said that: The Constitution does not limit the exercise of minority rights only to members of the parliamentary opposition, but ensures the exercise of these rights for those members of Parliament who together complete a certain quorum, regardless of its composition and establishment and regardless of membership in parties or parliamentary groups.[381] The Constitutional Court in its last decision stated that: *the right of the minority only in terms of the request for the establishment of the investigative commission remains a right unrestricted by the will of the majority. At the same time, the right of the minority to dispose of the object of the investigation limits the competence of the majority to change this object without the consent of the minority, except in cases where the purpose and object of the investigation is determined to affect the constitutional principles. However, this right cannot be considered absolutely unlimited and this limitation is related to the obligation that the object of the investigation respect the constitutional principles and standards, among*

[377] Shih vendimin nr.18, datë datë 14.05.2003 të Gjykatës Kushtetuese të RSH me kërkues një grup prej 32 deputetësh të Kuvendit të Republikës së Shqipërisë, me objekt: ―Interpretimi përfundimtar i nenit 77 pika 2 të Kushtetutës të Republikës së Shqipërisë.
[378] Neni 77, paragrafi i dyte, Kushtetuta e Republikes se Shqiperise.
[379] Shih vendimin nr.18, datë datë 14.05.2003 të Gjykatës Kushtetuese të RSH.
[380] Po aty.
[381] Shih vendimin 42, date 27/12/2022 të Gjykatës Kushtetuese të RSH-se.

others, especially those related to the principle of separation and balance between powers, the right for a proper legal process, the presumption of innocence, impartiality and respect for the individual's private life.[382]

According to the jurisprudence of the Constitutional Court, only the issues that are included in the controlling activity of the parliament, which do not involve confusion and transfer of powers provided by the Constitution, and not the daily issues that are handled by the Government, can be the object of the investigation. More specifically, investigative commissions can be created whenever it is estimated that a "special issue" should be investigated, according to Article 77, point 2, of the Constitution, the meaning of which the Court has analyzed within the concept of the function of parliamentary control and of the right of the parliamentary minority, considering that it means all those issues that are included within this function and that in themselves contain a public interest. In principle, the "special issue", the object of the parliamentary investigation, is an issue of special state/public importance. Although the list of issues of public interest cannot be exhaustive, since public interest is understood in a relative sense, depending on the different situations that arise, the Court has assessed that the issues of verifying the applicability of legislation, formulating proposals or legal initiatives , which are aimed at curbing and preventing negative phenomena for society and the state, are included in the constitutional concept of "special issue".[383]

The court has repeatedly stated that: the determination of the existence of an issue that requires verification and assessment, as a prerequisite for the establishment of a commission, must be carried out in an objective manner. For this reason, the object of the investigation must contain determinable facts or a complex of facts, which show what is being investigated, since in this way it also highlights the particular issue. The identification of the subjects and the object of the commission's investigative activity is a *sine qua non*[384] requirement to clearly and precisely define the issues that the commission must address or to assess whether or not an investigation should be undertaken on this issue. The "special case", in the sense of Article 77 of the Constitution, consists of a series of circumstances, which determine the object of the Assembly's interest and which must be specified in the Assembly's decision to establish an investigative commission.[385]

In summary, the investigation of the case should aim at providing information that is a function of the legislative process or that serves other functions for which the Assembly is authorized, and the object of the investigation should be focused on a specific issue. Regarding the creation of commissions of inquiry, the German Federal Law stipulates that the Bundestag has the right and, at the request of a quarter of the members, the obligation to set up a commission of inquiry, which will receive the necessary evidence in open hearings. The public may be excluded. The rules of criminal procedure shall apply mutatis mutandis to the taking of evidence. The confidentiality of correspondence, mail and telecommunications shall not be violated. Courts and administrative authorities should provide legal and administrative assistance. Decisions of investigative commissions may be subject to judicial review. The courts must be free to evaluate and decide on the facts that have been the subject of the

[382] Po aty.
[383] Shih vendimin nr.18, datë datë 14.05.2003 të Gjykatës Kushtetuese të RSH-se.
[384] Kerkese e dosmosdoshme.
[385] Shih vendimet nr. 12, datë 20.05.2008; nr. 20, datë 04.05.2007 të Gjykatës Kushtetuese të RSH-se.

investigation.[386] Meanwhile, the Constitution of the Republic of Italy determines that each House can decide to conduct investigations related to matters of public interest. For this purpose, it appoints a commission made up of its members in order to reflect the proportion of different groups. The investigative commission conducts investigations and reviews with the same powers and limitations as the judicial authority.[387]

i. Organization and operation of Investigative Commissions according to the organic law.

As for the composition of the investigative commissions, the law defines a minimum number of not less than 9 deputies and a maximum number of not more than 15 deputies of the parties of the position and of the opposition, in ratios as close as possible to representation, but the difference of be no more than one member. The committee is led by the President, who belongs to the group of deputies who initiated the creation of the committee, in accordance with this organic law, as well as with the Rules of the Assembly.[388] Meetings are called and led by the chairman and/or with his authorization by the deputy chairman of the commission, which are usually open, except when the commission decides otherwise. Committee meetings are valid when the absolute majority of its members participate in them. The decisions taken by the Commission can be classified into two types. Intermediate decisions, which are taken by the majority of the members present, and final decisions, which are taken by the majority of all its members.[389] In the exercise of its powers, the Commission conducts investigations, summons heads of institutions for questions, as well as requests information or official documents from them; interrogates witnesses and other persons; prepares and approves the final decision of the investigation, together with the minority opinion; presents the final report to the Assembly for approval.[390]

Investigations are called completed when all points of the investigation plan are fulfilled and when the commission creates a clear opinion on the matter under investigation. It should be emphasized that the end of the investigations is declared by an interim decision. After the completion of the investigation by the Commission, the chairman of the commission submits the final report of the investigation, which contains the conclusions of the investigation, the evidence that led the commission to these conclusions, as well as proposals for the resolution of the case or punitive measures for responsible persons, if any.[391] Members of the commission who have a different opinion with the conclusions of the final report, must prepare their opinions in writing, which are attached to the final decision. [392] The final report is presented to the Assembly for approval, and when the report approved by the Assembly contains data on the existence of criminal offenses, then it is sent to the General Prosecutor for the initiation of the criminal case.[393] With the submission of the final report to the Assembly, the Commission ceases to exist.

[386] Neni 44, *Grondwet voor de Bondsrepubliek Duitsland*, rishikuar me 26 gusht, 2006.
[387] Neni 82, *Regolamento della Camera dei Deputati della Republica Italiana.*
[388] Neni 9-10, Ligj Nr. 8891, datë 2.5.2002, *Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit.*
[389] Neni 13, Ligj Nr. 8891, datë 2.5.2002, *Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit*.
[390] Neni 14, Ligj Nr. 8891, datë 2.5.2002, *Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit*.
[391] Neni 20, Ligj Nr. 8891, datë 2.5.2002, *Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit*.
[392] Neni 21, Ligj Nr. 8891, datë 2.5.2002, *Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit*.
[393] Neni 22, Ligj Nr. 8891, datë 2.5.2002, *Per organizimin dhe funksionimin e Komisioneve hetimore te Kuvendit*.

Conclusions

Parliamentary control is exercised by the highest representative constitutional institution in the Republic of Albania. This type of control is carried out through different instruments, which aims to question the governance of the parliamentary majority and to inform the public about the administration of *Res Pubblica*. In principle, we can say that parliamentary control refers to all state activity and all public authorities. However, this expanded function does not mean that the Parliament can exercise control over every decision of the institutions, initiate procedures to impose sanctions on them, or take decisions on behalf of the institutions that have such competence because one thing such would amount to denying the principle of separation and balance between powers. The jurisprudence of the Constitutional Court has advanced a lot in the establishment of some rules in the exercise of parliamentary control by the parliamentary minority, especially regarding the establishment of investigative commissions.

Regardless of the progress made by the jurisprudence of the Constitutional Court in the implementation of the instruments of parliamentary control, we think that it is urgent that the Parliament revise the organic law for investigative commissions and the regulation of the parliament to make these instruments that influence the development of democracy as effective and efficient as possible in our country. A good and transparent government does not have to be afraid of parliamentary control, which is generally exercised by the parliamentary minority. During the transition period, the instruments available for parliamentary control have been limited by the hegemonic decision-making of the parliamentary majority. In general, governing majorities try to prevent parliamentary control because, in a way, this control limits the implementation of their policies and they do not want to share power with parliamentary minorities. However, the failure to effectively control the power of the parliamentary minority over the executive power can be considered as the main component of the crisis of parliamentarism.

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Implementation of human rights

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Abstract

Human rights are understood as rights that belong to every individual as a consequence of being human, regardless of legal acts. By affirming the existence of human rights, we say that every human being, by the very fact that he or she is such, is entitled to something. The modern concept of human rights is rooted in experiences of "legal illegality" when crimes were committed under the authority of the law and when some human beings were denied such status. These rights are defined as those rights that are inherent in our nature and without which we cannot live as human beings. Basic human rights and freedoms give us the opportunity to fully develop and use our human qualities, our intelligence, our consciousness, and fulfill our demands. The issue of human rights has received a great deal of attention. Today, the violation of human rights is taken seriously by international bodies and most countries have their own legislation to guarantee the protection and implementation of human rights. Human rights are closely related to the state's obligation to protect and promote them. Putting the state in their focus refers to the governing model, the state is the main actor, the responsible and responsible entity for the promotion of human rights and freedoms. In fact, the obligation and role of the state does not consist only in a passive position to promote them, but at the same time, it also has as a duty and as a primary obligation the undertaking of actions to guarantee and protect human rights and freedoms through policies active. The issue of human rights has attracted the attention of many people. As a legal category, human rights are presented in the creation of the first legal rules, where these give us the opportunity to develop and fully use our qualities and fulfill our requirements. The most effective protection of human rights is through state public institutions, where the state has the most powerful monopoly of force through which it can realize political goals and ideas, The aspiration to protect human dignity represents the essence of the concept of human rights. This aspiration puts the human being at the center of interest, where it is based on the common universal system of values committed to the right to life, as an inviolable right, and provides a framework for building the system of human rights. to man.

Keywords: *human rights; protection of human rights; legislation; local bodies*

1. Constitutional, International and Legal norms that provide for the implementation of human rights

1.1 The Universal Declaration of Human Rights[394]

Human rights are defined as "basic moral guarantees that all people, in all countries and cultures, should enjoy, just and precisely because they are human beings". Calling these guarantees "fair" they are attached to each particular individual in order to be able to refer to and invoke them. They are of a high priority and that their obedience and respect are mandatory, inviolable and cannot be chosen at will. In the Universal Declaration of Human Rights [395], we find enshrined in some of its articles the freedom of expression, opinion, organization, etc., rights that gave life to the freedom of assembly in trade union organizations to groups of employees, precisely to protect violated rights.

International Human Rights Covenants are treaties, the implementation and observance of which are undertaken by the states party to them. Two acts are important, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights [396]

Article 19 of the UDNJ provides that "Everyone has the right to freedom of thought and expression; this right includes freedom of opinion without interference, as well as freedom to seek, receive and impart information and ideas by any means, regardless of frontiers."

As we can clearly see, freedom of thought and expression has been sanctioned as basic and universal human rights. So Article 19 gives us the freedom and the right to express what we think, to reach conclusions without being influenced by anyone, to think what we want and to share our thoughts and ideas with the world. Also, Article 19 emphasizes important aspects of this freedom such as the freedom to seek, receive information and to be informed by others [397]. This freedom guaranteed by Article 19 of this Convention, led to the creation of an international organization, in in 1987, called ARTICLE 19, which had the task of observing and inspecting how much this article was respected and guaranteed in many countries of the world. As the motto of this organization, it was the fact that the full enjoyment of this freedom is the greatest force to prevent repression, conflicts and wars, and is essential to achieve individual freedoms and develop democracy [398]. Article 20 of this declaration also provides for the freedom of organization and peaceful association, this association which paves the way for the creation of trade unions or civil societies. More specifically, Article 20 provides that:

"Everyone has the right to freedom of peaceful assembly and association.No one should be forced to join any union."

The freedom to assemble and unite peacefully with others is one of the most important freedoms for the individual. The individual certainly does not live alone, but as part of society. He creates common thoughts, attitudes, interests and reactions with others with whom he naturally wants to be close and supports and supports them in creating, forming, displaying, protecting these common thoughts, attitudes, interests or reactions. Thus, it is very important

394 Universal Declaration of Human Rights, UN General Assembly - December 10, 1948

395 Human rights are usually considered universal rights in the sense that everyone has and should enjoy them without distinction and independent in the sense that they exist equally for all and are available as standards of justification and criticism, however they may or may not be recognized and implemented by the legal systems or officials of particular countries.

396 Adopted and proclaimed by the UN General Assembly with its resolution 217 A(III) - 10 December 1948

397 Opened for signature by the General Assembly in December 1966 and entered into force in 1976.

398 Organizata ndërkombëtare në mbrojtje të të lirisë së mendimit e shprehjes – ARTICLE 19

for individuals to be free to be able to join and gather with other individuals to realize this equally important aspect of life, which is being part of a group of individuals. For this reason, it has been considered that the right of individuals to create groups, to organize, to unite should be a human right which should be guaranteed and protected for individuals.

Of course, this freedom should not only be seen as important for individuals, but also for society as a whole and the state, because individuals, by gathering and organizing, have the opportunity to influence the way of governance, the selection of the country's policies, the best possible implementation of these policies and so on. Thus, we remember the massive protests organized by Albanians, we remember that different groups gather and openly demand the protection of their interests in the streets, or that people have created many associations, or that unions have been created to protect the interests of employees, or that individuals are allowed to form political parties to express, develop, defend their political beliefs and run the country by implementing them, or that students in schools can gather in student governments to discuss and influence the improvement of the quality of teaching and school management, and so on.

Article 21 of the UDNJ provides that:

"Everyone has the right to participate in the governance of his country, directly or through freely elected representatives.

Everyone has an equal right to access public services in their country.

The will of the people is the basis of state power; this will must be expressed in periodic and free elections which must be general and equal voting, as well as by secret ballot or according to the relevant free voting procedure."

Article 21 is an article that at the same time guarantees a right of the individual but also conditions the way a state will be created. This is because determining that everyone has the right to participate in the governance of the country, Article 21 requires states to be created based on the wishes of its individuals. Article 21 requires that countries be governed in a democratic way, even though such a thing may not yet be guaranteed in different countries of the world. This article is very ancient as a concept, and this dates back to the reign of Ancient Greece, where the right of people to assemble and vote on the rules that would guide their lives was recognized and guaranteed, even though the concept of democracy, that is, of majority rule, it was perhaps not completely democratic because it left out women or even slaves.

This article in our country has received maximum attention and respect, since in our fundamental law, the Constitution, it is foreseen that this country will be governed only if it is based on a system of free, equal, general and periodic elections [[399]] that sovereignty belongs to the people and that it is exercised by its representatives or directly by the people [ ] and that every Albanian citizen 18 years of age or older has the right to be elected and choose [[400]].

The essence of Article 21 lies in the proclamation of the inviolable equality of the individual in relation to the state, as well as sets forth the minimum requirements for the democratic system of the state where everyone expresses his opinion, through participation in periodic and free elections.

1.2 International Covenant on Civil and Political Rights

[399] Article 1 of the Constitution of Albania
[400] Article 2 of the Constitution of Albania

The UN General Assembly met on December 16, 1966 and through its resolution 2200 A (XXI) which entered into force on March 23, 1976, in accordance with the Universal Declaration of Human Rights, approved the International Covenant on civil and political rights.

The approval of this pact is done bearing in mind that, in accordance with the principles announced in the Charter of the United Nations, the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, recognizing that these rights originate from the innate dignity of man, as well as understanding the fact that the individual has duties to others and to the collectivity to which he belongs and that he is responsible for promoting and respect these rights [401].

Article 19 of this pact provides that:

1*) No one can worry about their opinions.*

2) Everyone has the right to freedom of expression; this right includes the freedom to seek, receive and impart information and ideas of any kind, regardless of frontiers, in oral, written, printed or artistic form, or by any other means of his choice.

*3) The exercise of the freedoms provided for in the second paragraph of this article means special duties and special responsibilities, therefore it may be subject to some limitations which, however, must be expres*sly determined by the law and be necessary. To respect the rights or reputation of others.

For the preservation of national security, public order, health or public morals.

In its article 21 it is provided:

The right to peaceful assembly is recognized by law. The exercise of this right can only be subject to restrictions that are dictated by law and that are necessary in a democratic society, in the interest of national security, peace and public order, or to protect public health or morals, or the rights and the freedoms of others.

It is Article 22 that more clearly provides for the right to join trade unions and guarantees its freedom, and more precisely:

1) Every person has the right to freely associate with others, including the right to form trade unions and participate in them for the protection of their interests.

2) The exercise of this right may only be subject to restrictions that are provided by law and that are necessary in a democratic society, in the interest of national security, peace and public order, or to protect public health or morals, or the rights and freedoms of others. This article does not prohibit the imposition by law of restrictions on the exercise of this right by members of the armed forces and the police.

3) Nothing in this Article shall permit States Parties to the 1948 Convention of the International Labor Organization on Freedom of Association, Protection of the Right to Organize, to take legislative measures which may affect or implement the law so that affect the guarantees provided by the mentioned Convention

[401] Ekstrakt i Paktit ndërkombëtar për të drejtat civile dhe politike, miratuar nga Asambleja e pergjithshme e OKB – 16 Dhjetor 1966

1.3 European Convention on Human Rights [402]

The construction of doctrine in the form of international regulatory documents and instruments, which often have binding power, means that Human Rights are not only a philosophical framework or an ideology of today's democratic societies, but in today's perspective, to have rather a juridical approximation to the Universal Declaration of Human Rights. This Declaration constitutes the first secular international agreement on human rights and, as we mentioned above, originates from the desire of nations, peoples and their governments to prevent the barbarities and atrocities of the Second World War from happening again by deciding "common standards to be achieved by all peoples and all nations". The text of the Declaration was and remains today non-binding, but it also still retains strength as the primary authority on human rights and is constantly supported by the UN's activity to encourage this document to be incorporated into the legislation of member countries.

In 1949, a Council was established in Europe, as a necessity for playing a role and institutional mechanism, with the aim of encouraging EU member countries to guarantee and respect human rights, the implementation of a pluralistic democracy and the formation of a the rule of law. To reach this goal, the Council used as a tool the European Convention on Human Rights, which was adopted in 1950, and which was a restatement and re-announcement within the European reality of the Universal Declaration on Human Rights, but that unlike the latter, the European Convention has a binding nature for all states, while the Universal Declaration does not have this obligation.

This Declaration has sanctioned the right of collective organizations in its articles 10 and 11, these organizations also guarantee in some way the Freedom of Trade Union.

Article 10 of it, being also adapted by the UDNJ, has sanctioned the Freedom of Expression, and more precisely it provides that:

1) Everyone has the right to freedom of expression. This right includes freedom of opinion and freedom to receive or impart information and ideas without interference by public authorities and regardless of frontiers. This Article does not prohibit States from requiring the licensing of cinematographic or television broadcasting undertakings.

2) The exercise of these freedoms, which contains obligations and responsibilities, may be subject to those formalities, conditions, restrictions or sanctions provided by law and which are necessary in a democratic society, in the interest of national security, territorial integrity or public safety , for the protection of order and the prevention of crime, for the protection of health or morals, for the protection of the dignity or rights of others, to prevent the dissemination of confidential data or to guarantee the authority and impartiality of the judicial power.

Article 11, on the other hand, more precisely affects the freedom of trade unions: It provides for the Freedom of assembly and organization:

1) Everyone has the right to freedom of peaceful assembly and to organize with others, including the right to establish with others trade unions and to participate in them for the protection of his interests.

[402] European Convention on Human Rights

2) The exercise of these rights cannot be subject to restrictions other than those provided by law and which are necessary in a democratic society, in the interest of national security or public safety, for the protection of order and the prevention of crime, for the preservation of health or morals, or for the protection of the rights and freedoms of others. This article does not prohibit legal restrictions on the exercise of these rights by members of the armed forces, the police or the state administration.

1.4 European Social Charter (Revised 1996)

Another very important document that was approved by the Council of Europe and then revised again , is the European Social Charter, which defines some of the human rights and freedoms such as the right to housing, the right to education, for employment, for social and legal protection, the right to free movement as well as protection from discrimination. The Revised Charter entered into force in 1999 and is gradually replacing the original treaty [[403]].

The Revised Charter has listed in its first part many points and principles of a social nature, with the main obligation for all states that sign it, to use any means to respect and ensure the guarantee and realization of these rights within their government. Some of these very important principles are: the right of workers to fair, safe and healthy working conditions; the right to a fair wage, sufficient for an adequate standard of living; the right to organize; the right to social security; the right to information, etc.

One of the key points of this Charter is the provision and special protection that this Charter gives to the elderly, young people and pregnant women, who should receive special attention from the state and labor legislation. The Charter requires the commitment of its parties to ensure that legal immigrant workers within their territory, as long as labor matters are regulated by law or regulation or subject to the control of administrative authorities, have treatment no less favorable than that of its citizens regarding the following issues [[404]]:

a) *Salary and other employment and working conditions;*

b) *Membership in trade unions and enjoyment of benefits from collective negotiations;*

c) *Housing;*

Also, this treatment should be the same with regard to taxes, fees or employment contributions related to employed persons [[405]]. This Charter has paid special attention to equal treatment in matters of employment and work without discrimination due to sex [[406]]

Therefore, the Parties must commit to recognize that right and take appropriate measures to ensure or encourage its implementation in the areas of:

a) Access to employment, protection against dismissal and re-integration into work;

b) Professional orientation, training, re-training and rehabilitation;

c) Terms of employment and working conditions, including salary;

d) Career development, including increasing responsibility.

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[403] In 1961
[404] In 1966
[405] Point 5 of Article 19. European Social Charter (Revised 1996)
[406] European Social Charter, Turin, 18/10/1961

It is Article 22 of this Charter that most affects the issue of freedom of assembly in trade union organizations and the recognition of their role to participate in determining and improving working conditions and the working environment in the enterprise.

For this, the Parties undertake to take and encourage measures that enable workers or their representatives, in accordance with national legislation and practice, to contribute:

a) In determining and improving working conditions, work organization and work environment;
b) In the protection of health and insurance within the enterprise;
c) In the organization of social and socio-cultural services and facilities within the enterprise;
d) Supervision of compliance with regulations on these issues.

Also, in article 24 of this Charter, we find sanctioned the rights and freedoms of workers in relation to employment, after its termination.

The parties undertake to recognize:

a) The right of all workers not to have their employment terminated without valid reasons for that termination related to their ability or behavior or based on the operational requirements of the enterprise, organization or service;

b) The right of workers whose employment is terminated without valid reason to adequate compensation or other appropriate relief.

For this purpose, the parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason, will have the right to appeal to an independent body. Workers are also recognized the right to raise and defend their claims in the event of the bankruptcy of their owner, these claims arising from the employment contract or employment relationship, to be guaranteed by a guarantee institution or by any other effective form of protection

With the aim of ensuring the effective exercise of the right of workers to protect their dignity at work, the Parties undertake, in consultation with workers' and employers' organizations [[407]]:

1) Promote awareness of, information about, and prevention of sexual harassment in the workplace or in connection with work and take all appropriate measures to protect workers from such behavior;

2) Promote awareness of, information about, and prevention of reprehensible or clearly negative actions and attacks directed repeatedly against individual workers in the workplace or in connection with work and take all necessary measures to protect workers from such behavior.

Article 28 also recognizes the right of workers' representatives (unions) for protection in the enterprise and the facilities that will be granted to them, and for this, the Parties undertake to ensure that in the enterprise:

a) They enjoy effective protection against prejudicial actions against them, including dismissal, based on their status or activities as workers' representatives within the enterprise;

[407] Article 26. European Social Charter (Revised 1996

b) To make available to them such facilities as may be suitable, in order to carry out their functions in a prompt and effective manner, taking into consideration the system of industrial relations of the country and the needs, dimensions and possibilities of the company in question.

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Private pensions (The only way to increase pensions system in Albania)

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ABSTRACT

The private pensions market, even though it is known as a relatively new market in Albania, its study and analysis takes on a very special importance as this market is directly related to the growth of pensions as a whole. In the doctrine of financial law, three main pillars are recognized for the way the pension scheme works today. The first pillar is a state insurance system of the *pay-as-you-go* principle. This system is based on the principle of solidarity and continuity of generations. The second pillar is a combination of the state system and the private one, where every insured person in the compulsory state insurance scheme (the first pillar) is legally obliged to pay a part of the individual contributions to a private pension fund. In our opinion, this way remains one of the best ways for the development and growth of this market in Albania, solving at the same time a very big social problem related to the third age in our country. The third pillar is a completely voluntary system with private management, where every person who wants to have higher sources of income for the retirement period enters into an insurance relationship with these private institutions, which, through efficient management, ensure higher income large and additional benefits against the payment of contributions.

This paper is a study of the private pension market in Albania and the analysis of some of its constituent elements, in an attempt to answer some important issues related to the development of this market as a whole.

Keywords: *private pension, financial regulation, reformation, European legislation, insurance contract, pension fund.*

I. Introduction

A private pension is a plan to which individuals contribute from their monthly or annual income, which will then pay them a sum of money in the form of an old-age pension as provided for in the pension system legislation. This type of investment is an alternative to the state pension. Usually, individuals invest funds in savings schemes or mutual funds, run by insurance companies, benefiting from these schemes in what is called the third part of life. Private pensions, also called personal pensions, are usually defined contribution pensions, which means that the money you get in retirement is based on the money you paid in and the performance of your investments.

Private pensions are part of the non-banking financial market, where, together with the insurance and capital markets, they are currently under the regulation and supervision of the Financial Supervision Authority (AMF). In Albania, voluntary private pensions date back to the establishment of the democratic system after the 90s and the first legal regulations were made with the law no. 7943, dated 1.6.1995 "On supplementary pensions and private pension institutes"[408]. This law provided for the organization and operation of the Albanian private pension market and the authority responsible for the regulation and supervision of this market. In October 2011, the Inspectorate of Private Supplementary Pension Institutions (IIPPS) was established as a competent state authority under the Council of Ministers for the licensing and supervision of Private Pension Institutions, with the mission of creating suitable conditions for the operation of private pension funds. . Starting from this period, this institution took concrete steps in the legislative and organizational field to create the infrastructure for the earliest start of the operation of private pension funds.

The year 2006 marked an important step in the direction of reforming the supervision and regulation of the non-banking financial system. In order to reform the non-banking financial regulatory system, in October 2006 the integration of regulatory-supervisory entities for the activity of markets and entities in the field of insurance, securities market, and voluntary pension fund institutes was carried out. In this context, the unification of the Insurance Supervision Authority (AMS), the Securities Commission (KLV), as well as the Inspectorate of Voluntary Pension Fund Institutes was carried out, creating the Financial Supervision Authority (AMF), as the only institution responsible for licensing, supervision and regulation of all activity belonging to the non-banking financial sector in Albania.

The pension system is defined as an outline or a composition of legal, monetary and financial conditions that defines the rules and criteria for its operation, where individuals who have reached retirement age receive a payment that is the result of the contributions they have poured into the state coffers. Albania, like many communist countries, faces many economic and social problems that increasingly hinder the development of the country in the framework of a free economy. One of these problems is the pension system. With a shrinking and aging population, pensions are one of the biggest social and economic challenges for Albania in the long term. Private pensions are one of the alternatives that are thought to be able to ease the burden of the public scheme, in the long term, but which in Albania still remain very small.

[408] Naim Hasa, former director of the Social Security Institute. Pension reform. Interview given in the Albanian Newspaper, 2009.

II. Components of the pension system

The pension system according to the recommendations of the World Bank during a conference held in Madrid, Spain in 1994 should be based on three main pillars.

The First Column is a state insurance system of the pay-as-you-go principle. It extends to all economically active persons and their families. It is based on the principle of solidarity and continuity of generations. This system currently operates in almost all countries of the world, the most developed in Europe.

The Second Column is a compulsory system with private management, where each insured in the compulsory state insurance scheme (first column) is legally obliged to pay part of the individual contributions to a private pension fund. In this way, upon meeting the conditions for pension benefits, the income of insured persons consists of two sources: one income (pension) from the mandatory state insurance scheme and another income (pension) from the private insurance scheme.

The Third Column is a completely voluntary system with private management, where every person who wants to have higher sources of income in the retirement period enters into an insurance relationship with these private institutions, which, through efficient management, ensure income greater and additional benefits against the payment of contributions.

Today, these systems operate almost all over the world, having different results in different countries, since the economic and social circumstances in these countries are not the same. Pension systems are very complex and very different, and their comparison is difficult. How well the standard of living can be maintained during retirement depends on how high the pension is compared to regular income. The so-called "net replacement rate" is the percentage that remains from the net income received on average over the entire working time.

Currently in Albania, the compulsory social security system is implemented and at the same time the third column, that of voluntary private pensions, is also activated.

III. Financial risks behind the private pension scheme

The OECD[409] guidelines describe the requirements regarding the risk management systems of pension funds. The Basic Principles of the OECD Occupational Pensions Regulation state that: "Pension entities must have adequate risk control mechanisms to address investment, operational and governance risks, as well as internal reporting and audit mechanisms".

According to OECD guidelines, there must be appropriate controls to ensure that all persons and entities with operational and supervisory responsibilities act in accordance with the objectives set out in the pension entity's by-laws, articles of association, contracts or trust instruments or in documents related to any of them and that they are in accordance with the

[409] OECD: Institutional Investors in the New Financial Landscape. 1998. p. 80

law. These controls must cover all basic organizational and administrative procedures; depending on the scale and complexity of the plan. They should include performance appraisal, compensation mechanisms, information systems and processes as well as risk management procedures.

Another important authority in the field of voluntary private pensions is the International Organization of Pension Supervisors (IOPS) established in 2004 as an independent international body composed of national regulators and supervisors of supplementary private pensions. The objectives of private pension supervision are focused on protecting the interests of pension fund members and beneficiaries, thus promoting the stability, security and good governance of pension funds. Pension supervision includes the supervision of private pension institutions and the strict implementation of laws and regulations regarding the structure and operation of pension funds in order to promote a more functional private pension sector.

In addition, achieving stability within the pension sector is an important part of ensuring the stability of the financial system as a whole. Pension supervision is closely related to the financial system, thus bringing new innovations to this system.

The IOPS Principles[410] for Pension Supervision are designed to assist private pension funds or plans. Pension oversight also includes monitoring the activity of pension plans or funds to ensure that they remain within the requirements of the regulatory framework, and essentially to ensure that legality is enforced. The Pension Supervisory Authority, referring to the principles, is defined as an entity for the supervision in whole or in part of the pension fund, which by means of legal, administrative and informational means makes possible the protection of consumers as well as the preservation of stability and transparency in the field of private supplementary pensions. During the drafting of these principles, the various diversities in the international arena were also taken into account, thus trying to draft universal standards applicable in all countries of the world.

IV. Private pensions in Albania

As a result of the demographic changes that are taking place, where the third population is growing at a very high rate, the state pension system, based on the solidarity of the continuity of generations, is unable to guarantee a peaceful financial life to this age. For this reason, in addition to the public pension scheme, it would be necessary to create private pension schemes, first as compensatory and then, why not, as dominant. According to the provisions that permeate the Albanian legislation, it appears that this scheme performs two main functions: firstly, it provides additional pensions above those provided by the mandatory state system, and secondly, it provides pensions under more favorable conditions than those provided by the basic scheme. For this reason, the legislator should take care and support it as much as possible, since this scheme is seen as a very positive solution for reforming the pension system as a whole.

[410] The principles are taken from: International Organization of Pension Supervisors (IOPS), IOPS Principles of Private Pension Supervision. August 2006. OECD Publication.

In Albania, voluntary private pensions are regulated by law no. 10197 dates. 10.12.2009 "On voluntary pension funds"[411]. This law aims to establish rules and standards, the rigorous implementation of which would affect the stability and efficiency of the financial system. It regulates the creation, operation and supervision of voluntary defined contribution pension funds. The new law is divided into 17 chapters and deals with concepts related to the pension fund, management companies, depository, agent, professional pension scheme, pension fund investments, their marketing, management company fees, supervision, taxation, financial crimes and money laundering, etc.

The Financial Supervision Authority is the only legal authority that has powers for licensing, supervision and regulation of voluntary private pensions. It licenses management companies (joint-stock companies in accordance with commercial legislation and carry out the following main activities: collection, management and investment of assets of voluntary pension funds, and provision of benefits optionally) and custodians (custodians of pension fund assets) and regulates and supervises the voluntary pension fund (the pension fund is a group of assets owned by members of the pension fund).

In our country, private pensions offer opportunities for investment in a diverse portfolio of investments, such as shares, investment funds and bonds. The income collected from the investments can go into a private retirement account and be returned to the pensioner once they reach retirement age. Private pensions are offered by various companies, and participation in them is free. Private pensions in Albania are at an early stage of development, but have the potential to provide an important investment option for those looking to secure a secure source of income after retirement. The pension system in general and the great problem presented by the financing of the development of this system in particular, have constantly attracted the attention of institutions interested in finding more efficient forms and methods in the administration of this scheme.

Statistics show that the number of individuals who contribute to a private pension is only 33 thousand, while the total net assets of private pension funds are only 35 million euros. Currently, the number of individuals contributing to a private pension is 4.2% of those paying contributions to the compulsory state scheme and approximately 2.7% of the total number of employees (based on the Labor Force Survey).

In recent years, the market is growing rapidly, but its size in terms of number of members and value of assets still remains small. Currently, the financial market of Private Pensions, and why with a modest weight to the Gross Domestic Product, during the 9th month of 2022 marking an increase of 7.29% compared to 2021, reaching a total of net assets of 5.4 billion ALL. The assets of this market are mainly invested in bonds of the Albanian Government and, unlike the state pension, it is inheritable.

[411] Law no. 10 197, dated 10.12.2009 "On voluntary retirement funds"

V. European Integration

Although almost all European Union directives were taken into account when drafting this law, it was still not drafted in such a way as to comply with Directive 2003/41/EC on the activity and supervision of institutions for the granting of professional pensions (IORP Directive)[412]. This directive is one of the most important directives in the field of voluntary private pensions and all member states must adapt their domestic laws accordingly. This is also the reason why our legislator is working again to improve the law of the voluntary private pension fund in its alignment with the provisions of the IORP.

The Financial Supervisory Authority also implements the Council of Europe Directive 85/611/EEC[413] on the coordination of laws, regulations and administrative provisions regarding the actions undertaken for collective investment in transferable securities (UCITS); it applies the OECD guidelines and has met all the IOPS principles for private supplementary pensions at near satisfactory levels. For these reasons, the performance of this authority has been evaluated as very positive by the Albanian government.

The accession of Albania to the EU is a very dynamic process, which depends on the fulfillment of the Copenhagen criteria adopted in 1993 and especially on the ability of Albania to adapt to the continuous changes of the *acquis communautaire* and their full transposition in the system Albanian legal[414].

From the above, the pension system in general and that of voluntary private pensions in particular still remain a challenge for the Albanian legislation and authorities. The reform of this system is not only a need but above all an urgency of the time. It is necessary to work more in the direction of informing the citizens about the importance of this system in order to form in this way such a civic education that includes the individual in the solution of various social problems. Only in this way can each of us ensure a better and more stable living at the moment of retirement. The approval and implementation of this reform as soon as possible would be a long-term solution of the pension scheme in Albania.

VI. Conclusions

The pension system in general and that of voluntary private pensions in particular still remain a challenge for Albanian legislation and institutions. The Albanian government is working hard in the direction of reforming this system, but again the lack of information and civic education in terms of private pensions among citizens is very low. What should be done in this case is the alternation of the public pension scheme with the private one (voluntary and mandatory), thus making the individual aware of the solution to social problems. Only in this way can each of us ensure a better and stable living at the moment of retirement. The approval and implementation

[412] Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision.
[413] COUNCIL DIRECTIVE 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)
[414] Financial Supervision Authority, Annual Report, 2011. Tirana 2011. p. 55

of this reform as soon as possible would be a long-term solution of the pension scheme in Albania.

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New Dimensions Of Soft Power In The 21st Century

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Abstract

Joseph S. Nye, who is considered one of the most influential scholars on the US politics, has attracted a great attention with his concept of "soft power" in the 1980s. Since then, the term of "soft power" has been used by many academics and politicians with different emphasis. Based on the claim that hard power elements are insufficient alone to reach the goals in modern age, the soft power theory needs to be reinterpreted with the addition of new dimensions in the 21st century. Now it is possible to discuss the use of soft power as a necessity, rather than just a preference for influencing different societies by creating admiration. The 21st century has brought up many new problems and practices to the international agenda. Although the pandemic Covid-19 is the most striking among them, the intertwining of regional wars and cooperations, global warming, environmental issues, migrations and terrorism have both changed the traditional ways of establishing relations between states and created global areas of struggle outside the states. Now the international community and the world public opinion have started to determine their admirable preferences based on the extent of support given to global cooperation and solidarity rather than strong armies or good movies. Using a literature review, this paper aims to draw attention to the new dimensions of soft power in the changing image of the 21st century.

Keywords*: 21st century, global actors, international community, soft power.*

1.Introduction

In the post-Cold War era, the globalization process has left its mark on the international system. Meanwhile, this process has no longer limited to the international system and interstate relations, but affected everyone, albeit at different levels. The process has continued at full speed and international relations experts have tried to reflect on the extent to which the process will continue and/or how it will evolve, and to establish theories. However, the pandemic COVID -19 has ushered in a new period as "deglobalization," which is an unexpected new phenomenon to which neither individuals nor states are accustomed. The pandemic period has been followed by the Russian-Ukrainian war. This situation has further highlighted the unstable and multipolar outlook in the post-Cold War international system. In such an environment has increased the need for different and diverse instruments for shaping interstate relations in foreign policy.

The use of traditional power tools in contemporary international politics, in which non-state actors are active as well as states, may not often achieve the desired goal. In this sense, the American political scientist Joseph Nye has evaluated power on two different grounds. Presenting a new concept in the foreign policy literature at the end of the 1980s, Nye has named this concept "soft power" in the framework of defining the post-Cold War era. The Nye's

concept of “soft power” has not only opened a new field of discussion in international relations studies, but alsohas laid the theoretical foundation of new methods and tools used in the conduct of existing interstate relations.
Meanwhile, the expansion of international political economy and security studies has helped bring Nye's concept of "soft power" to the fore. In addition to traditional security issues, the environment, climate change, natural disasters, pandemics, accidents, hunger, famine and economic sanctions threaten all countries and societies in the world, regardless of their level of development, and this has revealed new dimensions of the use of "soft power".
This paper aims to expose the new dimensions of the soft power as a tool to influence the actions and behaviors of others – both societies and states – in the transforming world. Following the introduction part, the first section of the study tries to explain the evolving nature of international relations in the light of recent developments. The second section focuses on the usage of the soft power by the states in the contemporary international relations, defining the types and attributes of it. The study ends with conclusion part.

2. The Transforming Nature of International Relations

In the second half of the 20th century, two important issues draw attention in the international system. One of them is related to the increase in the number of actors in the international system. The rise in significance of economic interactions between states in the 1960s and 1970s broadened the focus of International Relations beyond military power politics to incorporate economic power issues. It has also eroded the state dominance in international relations.
J.Nye in his book “The Future of Power” made some arguments about the two large power shifts going on in 21st century. The first is a power transition, which is a shift of power among states, which is largely from West to East. The second is a shift of power from states, West or East, to non-state actors (Nye, 2011).
Both the IGOs and NGOs, MNCs have became significant players on the world stage. These developments were making the interactions of politics in the world more complex and varied. With these developments, although the state still remains an important actor in the international system, the existence of non-state actors that have the power to influence the system has also been accepted.
Another important point is that the perception of security began to change during this period. Increased economic activity, international trade, and cooperation have brought with them a number of security threats. As a result, “low” politics issues, such as environmental change, health, migration or economic development, were becoming international as well as domestic political issues. Many non-military issues have begun to be accepted as the legitimate concerns of international relations that might be contended over without reference to military power on an increasingly busy world stage (Hough, 2008:3-5). “A new world order” has started to be discussed among scholars. The way in which the Cold War ended drew attention to the cultural dimension of policy making by viewing it from a more sociological perspective.
In the 1990s, a new approach called the "Copenhagen School" has developed an argument for a more profound expansion of the concept of security than the inclusion of some non-military aspects in the spectrum of threats to states. Buzan pioneered this approach in the early 1990s, but it did not crystallize until later in the decade, when he co-authored the seminal work On Security with Waever and de Wilde ((Hough, 2008:8). The study argues that “the threats and vulnerabilities can arise in many different areas, military and non-military, but to count as security issues they have to meet strictly defined criteria that distinguish them from the normal run of the merely political. They have to be staged as existential threats to a referent object by a securitizing actor who thereby generates endorsement of emergency measures beyond rules that would otherwise bind” (Buzan et al. 1998:5). Beyond the Copenhagen School, the field of security studies is broadened by the 'deepening' approach taken by pluralists and social

constructivists. The deepening theorists advocate the concept of 'human security' and argue that the primary object of security should not be the state or particular sub-state groups such as stateless nations, but rather the individual people who make up these institutions/groups (Falk 1995: 147).

Adopting the human security framework reframes the notion of security as a social construct so that analysts no longer need to speculate about which of the myriad issues on the current international policy agenda they believe are most threatening, but can instead focus on analysing how and why certain issues are actually perceived as vital and addressed in extraordinary ways by decision makers. This approach is appropriate because opinion polls show that people think differently about their security today than they did during the Cold War. Moreover, in a number of ways, the international policy agenda has become much more diverse since 1990, with governments giving greater priority to issues such as environmental threats, drugs, and public health. Even explicitly military organisations such as NATO are increasingly focused on non-military activities (Hough, 2008:11).

Since the beginning of the new millennium, the international security environment has changed dramatically. The world faces a complex and growing list of shared challenges. Although the threat of major armed conflicts and interstate wars is now diminishing, the world increasingly faces a range of security challenges that are non-military in nature. Examples of these non-military security challenges that threaten the well-being and security of states and societies include climate change, food and water scarcity, environmental degradation, energy supply, pandemics, irregular movements of people, and transnational crimes such as cybersecurity. These threats are proving to be more serious and have the potential to cause more harm to a greater number of people than the traditional threats of interstate war and conflict. As a result, states' security concerns have changed, forcing them to find new and innovative ways to address these new challenges. This, in turn, has profound implications for the nature of security cooperation among states as well as for global governance (Caballero-Anthony, 2016:5). The globalization of trade, investment, and commerce has left the humanity with a world that is more integrated than ever, but has also led to the rise of transnational threats that undermine security and economic prosperity. Many of the major challenges of the 21st century are global in range and indeed exacerbated by globalisation and technological progress (Dubber & Donaldson, 2015). Now more than ever, the task of upholding global security and facilitating economic and social development requires the cooperation of likeminded nations capable of harnessing military, diplomatic, and economic tools in coordination to achieve positive outcomes. Foreign assistance, when deployed effectively, is a big part of this picture (Runde, 2016:123). In other words, global challenges need global solutions.

The world is increasingly multipolar and hyperconnected, with wealth, power, and information becoming more widespread. The rise of democracy, social media, and direct action means that governments must increasingly respond to national and global public opinion. Mass cultural contacts at eye level are increasing and changing the nature of cultural relations. The increasing spread of information and opportunity through the Internet and digitization is leading to a greater diffusion of influence and thus a greater role for soft power, which is largely outside the direct control of governments ((Dubber & Donaldson, 2015).

3. Power Without Hardness: "Soft Power"

Despite all these transformation processes in the international system, modern states still claim to be the dominant force. In order to obtain and keep its place as the highest and most encompassing ‘community’, a state must be in charge: that is, it must be more powerful than any of the ‘communities’ it incorporates. This characterisation immediately suggests that power is vital for any discussion of states and politics. Like many fundamental ideas in social science, power is a challenged concept. There is no single definition accepted by all who use the word,

and the definition people choose reflects their interests and values. To make a general definition in this context, power is the ability to apply force (Newton & Van Deth, 2010). Power is the capacity to influence the behavior of others with or without resistance by using a variety of tactics to push or prompt action (Nye, 2004:2). In international relations, power is associated with population, area, natural resources, economic size, military capacity and political stability. However, according to Nye, the direct use of force for economic gain is generally too costly and dangerous for modern great powers. Even short of aggression, the translation of economic into military power resources may be very costly (Nye, 1990:159).

To evaluate power in the post-Cold War period, it is necessary to recognize the tools and strategies of balance of power required for successful policy. However, new elements in the modern world are moving power away from all major powers.

Therefore, any successful strategy must take into account both continuity and change. Today's great powers are less able to use their traditional power resources to achieve their goals than in the past. On many issues, private actors and small states have become more powerful. At least five trends have contributed to this diffusion of power: economic interdependence, transnational actors, nationalism in weak states, the spread of technology, and changing political issues (Nye, 1990:160). Power has thus passed from the "capital rich" to the "information rich" (Nye, 1990: 164). These tendencies suggested a second, more attractive way of exercising power than the traditional means. Emphasizing the role of the information revolution, Nye has drawn attention to the importance of soft power that is the ability to get what it is wanted through a traction and persuasion (Nye, 2011).

Nye has divided the powers of countries into two as hard and soft power, arguing that the ability to affect what other countries want tends to be associated with intangible power resources such as culture, ideology, and institutions (Nye, 1990:166-167). According to Nye, a country's culture contributes to that country's soft power capacity insofar as it inspires admiration among foreign peoples. Similarly, a country's democratic political system, the importance it attaches to international cooperation, its contribution to peace and human rights increase its soft power potential. Finally, a country can come to a decisive position on global politics by combining its institutions with universal values. Countries that take peaceful steps in foreign policy fortify their soft powers by increasing their self-confidence.

As mentioned in the previous part of the study, security problems such as environmental and climate change, natural disasters, women's and social identity conflicts, and health problems threaten societies promiscuously. The non-traditional security threats experienced in last decade and an increasing number of issues in the 21st century shows that war is not the ultimate arbiter, as the traditional realists view. Military resources are not the solution to climate change or pandemics. The COVID-19 virus killed more Americans than all its wars since 1945 – and the 1918 influenza pandemic killed more people than died in all four years of World War I (Nye, 2021:3).

Considering that soft power is a relationship development method that aims to understand the needs, cultures, and peoples of other countries, convey messages, correct misperceptions, and determine appropriate grounds for common goals, it should be accepted as an effective tool for solving common global problems. Soft power ensures that misunderstandings and prejudices are dispelled, common denominators are found, and an atmosphere of reconciliation between societies is created (Presidency of the Republic of Turkiye Directorate of Communications, 2022).

As Nye has argued, soft power is only one component of power in international relations and rarely sufficient by itself. The ability to combine hard and soft power into successful strategies where they reinforce rather than undercut each other could be considered “smart power” (Nye, 2004). He has developed these concepts further in The Future of Power, including in the cyber domain (Nye, 2011).

Although his central definition of soft power has remained constant – the ability to affect others and obtain preferred outcomes by attraction and persuasion rather than coercion or payment –

he has highlighted that states should realize that most of a country's soft power comes from its civil society rather than from its government. Propaganda is not credible and thus often does not attract. States needs to give more leeway to the talents of their civil society (Nye, 2021). Unconventional security threats requires states to use both traditional and non-traditional instruments in the fight against them. States have to support civil society in order to develop their capacity to inform individuals about the problems regarding security issues and to increase the awareness.

Soft power and influence are key to building the global coalitions needed to address these challenges and ensure respect for the rules-based international system in general. Prevention-which works particularly well through the persuasive power of soft power-is usually better than cure. Given the nature of current challenges, soft power is more important than ever to safeguard national interests. Building friendship and understanding among peoples enhances a state's security and supports peaceful coexistence. It supports the deepening of diplomatic relations, the exchange of knowledge and expertise, the smooth conduct of trade, and cooperation in areas of common interest. It can also play a practical role in strengthening institutions and civil society and promoting economic prosperity, which is essential for the development of fragile states (Dubber & Donaldson, 2015).

4. Conclusion

Countries use many fields of application in order to influence the peoples of other countries in the international arena and to build relations with foreign societies. Developments in communication technologies with globalization have led to comprehensive transformations in diplomacy and interstate relations. In the new international order, media, public opinion, NGOs, IGOs, universities, and individuals have emerged as actors and have begun to directly affect decision makers. On the other hand, widened context of the security issues and increased number of the threat types have required to difersify the tools of the international relations. Usage of the soft power tools has emerged as a result of this transformation.

Soft power is sometimes seen as a substitute for dwindling hard power. But precisely because it is not coercive, soft power alone will not always be sufficient, nor should it be seen as sufficient, to replace reduced hard power. The nature and magnitude of current security challenges in the world usually require the use of both hard and soft power. For these reasons, policy-makers are increasingly focusing on the benefits of combining and aligning soft and hard power into what is often referred to as "smart power."

Individuals trust the discourse and actions of the NGOs and more easily accept their messages and respond positively to calls for cooperation. The prominence of the NGO as soft power actors is important in terms of penetrating the inaccessible points of the society.

The ongoing developments have and will have consequences not only for the future of particular states, societies or geographies, but for the entire world. So, the global changes and their consequences require global initiatives and cooperations. Progress can be made in eliminating global threats if all stakeholders participate in the process. No longer are terrorism, pandemic or natural disaster problems that one country or society can handle alone. The interconnectedness that has reached its peak with globalization requires shared responsibility and cooperation. The pandemic COVID -19, terrorist attacks in different parts of the world, forest fires in Australia, the refugee crisis after the Arab Spring, the earthquake in Turkiye or the melting of glaciers in Antarctica, which have been experienced in the recent past, are not problems that only one society or host country can deal with. In this sense, soft power can be considered as a method that can bring together all stakeholders, from individuals to state and non-state actors.

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The orientation of Ahmet Zogu's foreign policy as King during the years 1929-1939

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Abstract

The paper "Orientation of the Foreign Policy of King Ahmet Zogu" aims to shed light on the history of Albania's foreign policy for almost 10 years. The years 1928-1939 in the history of Albania are already personified as the period of King Zog. The influence of the personality and the way of governance during this period has left a significant mark on the history of Albania, diplomatic relations and foreign policy.
He exercised the legitimacy of his power through the Status of the Albanian Kingdom, a period during which relations with neighbouring countries were intensified in all economic, political, military, cultural aspects, etc., historical facts intertwined with internal political and economic aspects development. The importance of this period is reflected by numerous studies, often in disagreement with each other this is the reason for carrying out this study, which brings innovation by focusing mainly on foreign policy in the light of historical facts and being part of many studies of this period. This is a historical period with significant national and international developments in the history of Albania. In the form of governance, the change in the form of organization and constitutional changes is of particular interest while in terms of foreign policy, the diplomatic and political-economic impact of the Great Powers of Europe on the Albanian state is analyzed, as well as Albania's relations with its neighbours and other countries under the leadership of Ahmet Zogut, King of Albania. The whole paper is based on a historical, political and economic analysis based on historical sources and archival materials of the period 1928-1939.

Keywords: *Ahmet Zogu, Orientation, Foreign Policy, King*

Introduction

In this paper, we intend to deal with the foreign policy of King Ahmet Zogu, during the years 1928-1939. This is the historical period with very important national and international developments in the history of Albania. The entire paper is based on a historical, political and economic analysis based on archival sources and historical literature of the period 1928-1939. The paper comprehensively deals with foreign policy and diplomatic relations with Great Britain, Yugoslavia, Italy and other countries, in all political, economic, cultural and military dimensions.
At the center of the paper is the figure of Ahmet Zogut himself and the analysis of his political and diplomatic features, as a result the foreign policy pursued by him. Since he is a highly debated figure, there is a large number of Albanian and foreign researchers who have made a valuable contribution to analyzing the period in question and the figure of Ahmet Zog. The novelty of this thesis lies in the treatment and analysis of all aspects of foreign policy during the entire period that Ahmet Zogu was in government, bringing reflected archival documents on which the objectivity of the paper is based. The paper aims to argue the need that Albania had

for the construction of a cooperative foreign policy with their neighbors, in the face of the pressure of the neighboring states and the Great Powers. The main approach of the paper is the position of the Albanian state in the politics followed by the neighboring states and the countries of the Balkan region in the late 1930s and beyond. Initially, we focused on the internal situation that Albania was going through in the change of the form of organization of the state, from Republic to Monarchy, and further on its engagement in the four Balkan Conferences and the Balkan Pact.

Research questions and the hypothesis of the paper

- **Research questions**

In this paper, we have tried to answer some research questions related to King Zog's foreign policy, such as:
1. What were the relations that Zogu established with the neighboring countries and those beyond the Adriatic;
2. What were the reasons that influenced the drafting of an Adriatic-Balkan policy of King Zog;
What was the impact of Italian pressure on the Albanian state and foreign policy;
4. Efforts to consolidate power and the relations he established with Yugoslavia regarding the Kosovo Albanians, their treatment after the forced displacement;
5. The attitude he maintained towards Turkey's non-recognition of the Monarchy;
6. Relations with Greece regarding Greek intentions for Vorio-Epirus, Albanian schools and the Autocephalous Church;
7. In the framework of Ahmet Zogu's foreign and domestic policy, how were Kosovo Albanians treated and what place did they occupy?
We will try to answer these questions and other dilemmas in this doctoral thesis, analyzing the attitude of the Albanian state led by Ahmet Zogu towards the national problem and relations with neighboring countries, the Balkans and beyond.

- **Hypothesis of the paper**

The novelty of this paper lies in the analysis of the political and economic processes that took place in Albania, seen from the perspective of the interests and politics of the Great Powers of Europe, especially Italy, and their alliances with the Balkan neighbors.
This new approach, which constitutes the essence of the paper, aims to present with scientific objectivity the foreign policy of King Zog in relations with neighboring countries and more broadly European ones during the period 1928-1939. The perception of Noli as a political figure who endangered the economic and political interests of the Great Powers in Albania and who could disrupt order and peace in the region favored Ahmet Zogu's coming to power.

Methodology

For the preparation of this paper, we used the classical method of historiography, the problem-chronological method, the method of archival research and other sources, analysis, comparison, synthesis, etc. The most important and basic source for the drafting of the paper was the rich

documentation in the archives of the Albanian state, especially that of the Ministry for Europe and Foreign Affairs, which includes the used files of the years 1928-1939; Funds and a significant number of files for each country under study. The bibliography is very rich and conveys the objectivity of archival documents as well as the impartial treatment of the figure of Ahmet Zogu by foreign researchers. In terms of literature, we have relied on a number of studies and articles by Albanian and foreign authors, where we would especially single out the professional authors who have dealt with issues of the foreign policy of the Albanian state during the period in question. The memories of historical characters and witnesses of the time have also played an important role, such as that of the prominent journalist of Ahmet Zogut Mbret's period, Zoi Xoxa, in his book "Memories of a Journalist". The press is a great help in elaborating the topic, although oriented by the politics of the time, in it we find facts and data that complement those of the archives. Through them, the nature of the Albanian government's foreign policy is analyzed, how open it was, how active it was, what its goals were, etc. We think that a basic and modest achievement of this paper is the relatively complete treatment of the problems and cooperation of the Albanian state with the Balkan, European and beyond countries. We hope that this treatment will encourage others to do further research. Secondly, it is the reliance on the original archival sources, especially of the archive of the Ministry for Europe and Foreign Affairs, but also of the Central State Archive, which have been used and although in a limited way, they occupy an important place in the work.

The beginnings of Ahmet Zogut's foreign policy orientation

Ahmet Zogu's foreign policy was dictated in an emergency and long-term manner. From the emergency point of view, Ahmet Zogu needed the creation of basic state institutions, the army, the gendarmerie, the efficiency of large assets such as oil, the establishment of public administration institutions, the consolidation of the country's educational and cultural institutions, etc. All these tasks should be carried out on a stable modern European legislative system framed in regional and wider contemporary legislation. Ahmet Zogu tried to strengthen the Albanian factor in the Balkans(1).

If in the short term Ahmet Zogu's foreign policy and diplomacy succeeded in creating the necessary situation and conditions for the consolidation of the Albanian state, in the long term it was not as successful, among other things, for the European political conjuncture itself in the period between two World Wars. As in the years 1925-1928, Italy's relations with Albania, even after the proclamation of the Monarchy, outwardly seemed good and friendly, but in essence they had contradictions which would come to be increasingly aggravated(2). The main reason was the rude intervention of Italy in the internal affairs of Albania and the powerful efforts to place it under political and economic control. But Albania always tried to protect its independence and state interests in the political sphere. Even in the economic sphere, the Albanian government tried to effectively use Italian loans and economic aid for the development of the country and to support local capital. While Rome, especially through the SVEA loan, tried to realize some perspective military objectives in Albania and in its ventures to favor Italian enterprises(3).

The relations between Albania and the Kingdom of Yugoslavia in this time period are characterized by continuous efforts to normalize neighborly relations, always for their political and state interests. It is a delicate period of interstate relations, since from the first day of the

proclamation of the Albanian Kingdom (September 1, 1928), relations between Albania and the Serbo-Croato-Slovene Kingdom were strained because Zogu was declared "King of all Albanians". For this reason, official Belgrade reacted strongly, accusing Tirana that with this act it was also expressing interest in the Albanians of Kosovo and the other three that were within the Kingdom of Serbo-Croatian Slovene(5).

It should be emphasized that Albania had a special historical and political position in relation to the neighboring countries, because half of its compatriots, although they lived in their own lands, were outside the political borders of the Albanian state. In its foreign policy, the Albanian state has devoted a great importance and a special interest in all historical periods to the issue of Kosovo, an interest that was understandable and very necessary. If we rely on the diplomatic documents, we see that the Albanian diplomats tried to express their displeasure regarding the denial of the rights of the Kosovo Albanians during the meetings with the heads of the Yugoslav diplomacy. In Albanian-Yugoslav relations in the period 1930-1934, there is no doubt that the Balkan Conferences played a very big role, in which the interests of different countries clashed strongly(6).

The recognition of the Albanian Monarchy by different countries

The support and recognition you gave to the Albanian Kingdom were quick and numerous. The first to recognize it was Italy and, within a short time, the Albanian Kingdom was recognized by many other countries. These recognitions were very important because with them the Albanian Kingdom gained full international legitimacy(7).

Of particular importance was the rapid recognition of the regime change in Albania by the US as well. Even the American representative in Albania, immediately after the proclamation of the Kingdom on September 1, 1928, gave a positive opinion, stating that this change was made "in an orderly manner", expressing the belief that the US government would continue to maintain good relations with the government of Albania. The US government recognized King Zog I in September 1928. A positive demonstration was the quick recognition by the government of Athens which, although it had reservations and hesitations, acted in this way because it was interested in maintaining good relations with Italy, with which it was on the verge of signing the Treaty of Friendship(8).

Only the president of the Turkish Republic, Mustafa Qemal Ataturk, did not recognize the Albanian Kingdom for a while. He declared to the French newspaper "Le Petit Parisien" that he would not recognize the Albanian Kingdom. Ataturk started from personal considerations and not from the conditions and specifics of Albania. He made a hasty statement, which aimed to show the international opinion, and especially the Turkish one, that he would remain a partisan of the republican system until the end, wanting to avoid the accusations of his political opponents. This reaction happened at a time when Turkey knew and maintained relations with all the kingdoms of Europe and Asia. Despite the realistic suggestions of the Turkish government, M. Qemali insisted on his position. This state of affairs continued until 1931, when relations between the two countries were normalized(9).

For European diplomacy, although a new and small state, Albania, under Zog's government, became an important factor in the politics and balance of Balkan affairs. This was also pointed out by the press of the time. The "Tribuna" newspaper, in one of its issues, stated that: "Italy sees a permanent Albanian monarchy as a guarantee for ensuring the national and organic

consolidation of its friend and ally, as well as a guarantee for peace in the Balkans and Europe(10).

The reasons for the transition from the Republic to the Monarchy by Ahmet Zogu

The Albanian monarchy presented several advantages compared to the republican system of government.
First, it coincided with the historical tradition of Albanians to offer loyalty to a leader;
Second, a consolidated and hereditary kingdom would guarantee internal political stability from rivalries between politicians during presidential elections;
Thirdly, the monarchy would have the effect of reducing the constant confrontations resulting from the hostile policy of the neighbors. Experience had shown that such regimes, in England, Italy, Yugoslavia and Greece, felt less threatened by foreign intrigues than presidencies with limited mandates.
Finally, there were Bird's personal ambitions for supreme power. The King of the Albanians was appreciated as "one of the most famous military and political leaders, with distinct intelligence and ingenuity, with which he was able to face and solve the complicated problems of keeping the freedom-loving and patriotic Albanian people alive".

CONCLUSIONS

At the end of the analysis of archival documents and historiographical literature, in this paper, we have identified both the most successful moments and the failures in the political and diplomatic activity of Ahmet Zogu, as a monarch. For this paper, the research methodology was followed based on the rich archival material as well as various publications of Albanian and foreign researchers, the comparison of which leads to inherent historical conclusions on the foreign policy of Ahmet Zog, with the neighboring countries, that Adriatic-Balkan region and beyond.

- The period of the 30s was very important for the diplomatic history of Albania and the Balkan region, where the states themselves show interests and willingness to cooperate. The problems inherited from the past and the unjust decisions of the Great Powers given to this region, undermined the progress and progress of this cooperation, which became necessary with the deepening of the economic crisis.
- The history of the Albanian state, during its 100-year life, has gone through many dilemmas for its existence. For the first time, in the years 1925-1939, it became possible for the Albanian state to be organized and stabilized, both in form and content.
- The Albanian government and Ahmet Zogu showed interest in any initiative of a regional and European cooperative nature. King Zog, in the early 1930s, by participating in the Balkan Conferences, prepared the country towards an Adriatic-Balkan regional policy. The First Balkan Conference served as a concrete positive step for the regional engagement of the Albanian government. The commitment of the Albanian delegation in these conferences stands out in all areas of cooperation. Albania showed cooperation and correctness in many concrete issues in the relations between the Balkan countries.

- King Zog tried to have the Albanian delegation participating in the Balkan Conferences perform all efforts to ensure the recognition of the Albanian Monarchy by Ataturk and the restoration of diplomatic relations between Albania and Turkey.
- Albania's non-participation in the Balkan Pact complicated its positions in the region. The efforts of the Albanian diplomacy to bring Albania closer to the Balkan countries were not successful. Under these circumstances, the only ally remained Italy. But King Zog did not stop his efforts to secure other European partners.
- Italy was the main ally of Albania in the years 1928-1939. King Zog saw the danger that threatened him from the powerful neighbor across the Adriatic, but the political circumstances forced him to have such an ally. On the other hand, Yugoslavia occupied many Albanian territories and continued to organize treacherous traps in the border areas.
- Zogut's foreign policy can be judged in different ways. However, we must admit that Zogu was the inspiration of modern Albania. He fell under Italian influence and tutelage, as he sought to Europeanize the country, as a factor of his personal ambition, but also to ensure the progress and development of his people.
- The Balkan countries as well as Albania, unable to solve their internal economic problems, focused on foreign policy, turning to developed countries in order to find financial support to overcome it.
- Albania, with the transition from the Republic to the Monarchy, tried by all means to create its own political line. Ahmet Zogu, upon coming to power, concentrated it almost in his own hands, through the strategies used, constitutional changes, drafted laws, realized agreements, elimination of political opponents, etc.
- Ahmet Zogu had very clear political goals and international support was one of the main factors that favored the consolidation of his power. To legitimize power, he created the appropriate legal space through the organization of power and organic laws, these changes brought about an internal development and emancipation from the economic and political side of the country.
- In the regional aspect, King Zog found it impossible to successfully develop his Balkan policy due to the influences of the Great Powers and the conjunctures between the parties in the Balkans. He managed to establish balanced relations with regional neighbors. Rapprochement with Yugoslavia became impossible although King Zog tried to convince Yugoslavia of the necessity of relations between the two countries. Greece continued to maintain a non-accepting position with the Albanian side.
- Although it had achieved the consolidation of political power, the difficult economic situation and the great and urgent needs of a poor country, such as Albania, were its weakest point and a fundamental and objective obstacle to an independent foreign policy. A. Zogu tried not to submit and to maintain a dignified attitude in a difficult, unequal alliance and imposed by many factors, which at that time was presented as a single and non-competitive solution for the Albanian state.
- Another conclusion is related to King Zog's diplomatic relations with Great Britain, which supported him economically, politically and militarily by giving the first subsidies, but were violated because of Albania's relations with Italy, since Britain never allowed Italy to had an impact on Albania's policies since it violated its own interests in terms of mineral assets.

- Albanian diplomacy and foreign policy was also included in the Balkan Entente with the interest in the economic empowerment of Albania, given that the Balkan Conferences that took place after the great world crisis of 1929 highlighted the measures that had to be taken to face the economic crisis at the regional level.
- The study shows that the intention of Italy and Yugoslavia was to use Albania to fulfill their goal of stability and influence on the Balkans, as a result of Albania's favorable geographical conditions. The diplomatic policy of King Zog thwarted the declared wishes of these neighboring countries. Balkan peace would have always been in danger because of the geographical position that Albania had, therefore threatening the peace of Europe.
- All the facts presented in this paper openly express the territorial aspirations of the neighboring countries, for this reason King Zog had to neutralize the greed of Yugoslavia for Shkodra and the region that lies in the basin of the river Mat, and from Greece over Northern Epirus, Korca, Gjirokastra and their surroundings.
- Yugoslavian diplomacy during the period of aggravation of Albanian-Italian relations was not interested in the protection of Albania's independence, but it was interested in preserving the security of the country and respecting the Italian-Yugoslav pact for the division of influence in Albania.
- The invasion of Albania by fascist Italy was the result of fascism's strategic plans for world domination. We conclude that Ahmet Zogu's political position after the fascist invasion of the country, going into political exile, was also determined by other circumstances, unfavorable for his stay in Albania
- With the establishment of the Italian conqueror in Albania, through military aggression, the country lost its independence. The process of historical development of Albania, on the normal independent path, was interrupted.

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Women's Participation in political decision-making in Albania: current challenges and Expectations for the Future: the case of Durrës and Tirana Regions [415]

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Abstract
The gender index of 2020, is showing that Albania is placed under the European average with 60.4 points. On the other hand, Albania has been implementing for nearly ten years, the law on gender equity, where the participation of women up to 30% in the decision-making and executive bodies, is assured through the female quota system elections. As a result, the country today has a considerable level of women's representation in political decision-making, like 30% in parliament, while in the government women mark the majority at 57%. In this paper, we aim to discover what are the challenges that women in politics are facing. Are they fulfilling the mission in terms of positive effects on the quality of democracy? What is missing? Hence, the study will focus, firstly on the steps taken on women's participation in politics and relevant decision-making. The analysis will follow with the exploitation of the documents, such as laws, normative acts, and strategies on women's contribution to decision-making. In addition, through the literature review, the study will focus on the reasons women should be equally represented in politics, and what is expected from them in terms of a qualitative democracy. Moreover, through the qualitative methodology, we have interviewed 12 women that are actively engaged in political decision-making, at the national and local levels, in Durrës and Tirana regions. With the interviews, we will try to explore the challenges, the contribution, the mission and the perceptions of women in politics. In the conclusion section, we will identify the good practices that helped the political career of women and some recommendations for future improvement.

Keywords: *Albania, women's participation, decision-making, politics, gender-equity*

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I. Introduction

Albania published the first gender equality index in January 2020, where the country's score is 60.4 points, marking the country's position below the average value of the European Union-28 countries. Nevertheless, Albania has a high result in the field of power compared not only to the countries of the region but also to the average of the European Union. For instance, according to the index measuring the power of women in parliament, in minister's positions and municipal councils, Albania has 60.9 points which is higher than the European average of 51.9. Indeed, in the minister's position, there are 57% of women, while 35.9% of women are members of municipal councils, while in the parliament the result is lower as there is 30%.[416] These achievements are a result of legislation measurements, like the Electoral Code, where Article 4, defines the obligation of the political parties to include no less than 30% of unrepresented gender (women) in their candidates' lists for parliamentary and municipal council elections.[417] Therefore, statistics show that the representation of women in parliament has had a huge impact, considering that in 2000 there were only 7% of women and in 2021 there are 35.7% or 50 out of 140 members.[418]

Other positive results can be considered the fact that the second most important institutional position, the Head of Parliament is held by a woman, and a woman has directed one of the three most important political parties for 4 years, another woman is holding the position of deputy head at the second biggest party in the country, and a woman is pointed as head of negotiations for the European integration of the country.

Hence, the good results of the inclusion of women in the decision-making process pushed the Albanian government to establish as a strategic objective the reinforcement of social attitudes and behaviours that encourage the participation, representation and equal leadership of women and men, young women and young men, girls and boys from all groups in political and public decision-making at the local level.[419]

However, is noted that Albania achieved the 30% of women representation in 2017, but this level didn't increase later, while other Western Balkan Countries are increasing women's participation constantly like Kosovo which passed the level of 32% in 2020, Serbia in 38% and North Macedonia in 40%.[420] Indeed, the introduction of the rose quotas aimed to achieve the level of 50% of representation, and it seems like Albania is happy enough with the 30%. The same situation is shown in the municipal councils, where we see a representation of 35% or 555 women out of 1040 of a total number of members of 61 municipal councils, but still, none of them could be elected heads of municipal councils. On the other hand, results that all over the

[416] INSTAT, Gender Equality Index for the Republic of Albania, 2020, pg. 20-21 https://www.instat.gov.al/media/6657/gender_equality_index_for_the_republic_of_albania_2020_alb.pdf
[417] Law 10019/29.12.2008, Electoral Code of the Republic of Albania, Article 4; https://www.osce.org/files/f/documents/5/7/477547.pdf
Law 9970/24.07.2008 On Gender Equity in the Republic of Albania, Article 15 https://www.mod.gov.al/images/PDF/barazia_gjinore_shoqeri.pdf
[418] INSTAT, data 2021
[419] Albanian National Strategy for Gender Equity 2021-2030, specific objective II.2, pg. 34-35
[420] Kvinna Till Kvinna Foundation, Të drejtat e grave në Ballkanin Perëndimor, https://kvinnatillkvinna.org/wp-content/uploads/2021/07/KvinnatillKvinna_WRinWB-2020-ALB.pdf p.12

country there are only 15% of women Meyers, and the records haven't changed since 2015.[421] Additionally, the last local elections of May 2013 show that the number of female mayors has decreased to 13%, while the percentage of women as members of the municipal councils in our study area (Durrës, Tirana) has reached approximately 50%.[422] While, Kosovo, Serbia and North Macedonia are making progress, from the institutional point of view, by defining 40% of women quotas in the case of Serbia and 50% as a political initiative, in the case of North Macedonia.[423]

II. Theoretical Framework

The Universal Declaration of Human Rights defines in Article 21 that people have equal rights to participate in government, even though without specifying between genders.[424] A significant step forward from the international community was the Convention on the Elimination of all Forms of Discrimination Against Women CEDAW in 1979, which highlights the engagement of the states to fight the inequality between women and men in participation in public and political life, from the right to vote to representation to decision-making.[425] In addition, the UN action, continued the effort for equity between women and men in political decision-making, finalizing the Declaration of Beijing in 1995 at the Fourth World Conference on Women, where was recommended to the states adopt initiatives of positive discrimination policies, like the quota system election and training for women in politics.[426] In the past twenty years more than 118 countries, including Albania have introduced the gender quota, to improve the presence of women in parliament and other decision-making bodies. Furthermore, the fifth goal of the 2030 Agenda for Sustainable Development defines the equality achievement and empowerment of women and girls, specifically (point 5.5) in leadership levels of decision-making in political, economic and public life.[427] Nevertheless, women only in 46 (out of 195) countries hold 30% of the seats in parliament.

Likewise, gender equity between women and men in all fields of life is one of the fundamental rights t of the European Union and it is emphasised in the Treaty of Rome in 1957 as a condition for justice.[428] Throughout its history, the EU has focused continuously and consistently on gender equity. Hence, the gender equity index is the core document which analyses the situation of women in different fields where power is one of them and today's data shows that in the EU, only one in four parliament members is women. On the other hand, the EU Gender Equity Strategy 2020-2025 is strongly recommending to the states measure every progress based on gender equity progress.[429] In addition, the Council of Europe in 2023

[421] https://kvinnatillkvinna.org/wp-content/uploads/2021/07/KvinnatillKvinna_WRinWB-2020-ALB.pdf, p.15
[422] Komisioni Qendror i Zgjedhjeve, KQZ www.kqz.al
[423] https://kvinnatillkvinna.org/wp-content/uploads/2021/07/KvinnatillKvinna_WRinWB-2020-ALB.pdf,p. 18
[424] UN, Universal Declaration of Human Rights, art. 21
https://www.un.org/en/about-us/universal-declaration-of-human-rights
[425] Convention on the Elimination of all Forms of Discrimination Against Women CEDAW, art. 4,7, 8
https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women
[426] UN: Equal participation of women and men in decision-making processes, with particular emphasis on political participation and leadership", Expert Group Meeting, 2005 https://www.un.org/womenwatch/daw/egm/eql-men/index.html
[427] 2030 Agenda for the Sustainable Development (https://www.un.org/sustainabledevelopment/gender-equality/)
[428] Treaty of Rome, 1957, art. 2
https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12002E/TXT
[429] EU: A Union of Equality: Gender Equality Strategy 2020-2025

recommended the introduction of the zip system regarding women's representation in political decision-making, which means equal distribution of women and men in the candidates' lists.[430]

But why is important the equal participation of women and men in decision-making? What are the concrete effects that the participation of women can produce? First of all, scholars agree that the absence of women in decision-making and politics generates male-oriented politics which is dangerous, especially in traditional societies where women are seen only in the traditional roles of housekeepers.[431] Theoretically speaking, the participation of women in the decision-making process is the key to a growing and more qualitative democracy. In addition, it would bring more creativity, diversification of talents, motivation and competencies. Moreover, societies will be more secure and economic prosperity would be stronger if more women are involved in political decision-making at all levels of government.[432] The EU admits that the equal participation of women in every field of life, including politics will increase the GDP per capita.[433] In other words, more women in political decision-making can increase the public level of effectiveness and accountability in the country.[434] From a human perspective, women are natural managers, they are less corrupt and more responsible.[435]

Concretely, in developing countries, more than in developed countries, the participation of women in politics has produced positive effects regarding the provisions of public goods, especially those focused on education and health. In developing countries, the increase in female political representation has caused a better provision of public goods, especially concerning education and health.[436]

Nevertheless, research in other developing countries is showing that the increase in the number of women in parliament is not the only step to take for the improvement of democracy. Therefore, the author Ojha claims that just the presence of women in parliament is not enough and will not produce the hoped outcomes if the internal discipline of political parties will not change. Moreover, he assumes that women should be motivated to make the change happens, especially in increasing the focus on public spending for instance on education, the violence against women, and child labour.[437] Similarly, the author Piscopo, argues that quotas introduction are just the beginning, which should be enforced by other initiatives like the

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https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0152

[430] Council of Europe, Recommendation of the Committee of Ministers to member states on balanced participation of women and men in political and public decision-making, 12.03.2023 https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805e0848

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[437] Ojha, S. (2009). RESERVATION OF WOMEN IN THE INDIAN PARLIAMENT: Lessons from other countries. *The Indian Journal of Political Science*, *70*(2), 471–479. http://www.jstor.org/stable/42743910

gender balance in other important bodies like high juridical courts etc.[438] In other words, the quotas *per se*, are not the aim, but just a tool that works, in case those are followed by some enforcement mechanism, as is suggesting the author Schwind Bayern in a comparative study on different countries around the world.[439] Even in Latin America where the gender quota was introduced in the late 90's the effect of women's participation is still under discussion.[440] Likewise, comparative studies on the gender quota in Asia is showing that including more women in politics is not an automatic mechanism, but it depends on other factors like the social-cultural ones, the competitiveness of the electoral system etc. [441] For instance, Zetterberg suggests that to have a wider panorama on the effect of women in political decision-making a deeper analysis of political women is necessary, the action they make, the results they are expecting and the concept they have on the job they are supposed to do.

III. **Methodology**

Having into consideration the fact that Albania has marked distinguished results, like in the case of government and municipal councils, but is showing stagnation or even a decrease in terms of women as Meyers and head of municipal council, we would like to emphasise what the factors that help or obstacle women in decision-making processes. For this reason, we have decided to deeply explore the highly active women in politics. By using the qualitative methodology, during a period of 2 months, respectively February – March 2022 we have interviewed 12 women who are members of parliament, members of municipal councils or heads of administrative units in municipalities in the zone of Durrës and Tirana. The choice of the territory lies in the fact that these zones are including almost 1/3 of the population, and represent the most relevant social-economically zones of Albania. The semi-structured interviews are realised face-to-face, and most of the women didn't agree to reveal their names and the political force they represent in the framework of this paper and of additional publication.

IV Challenges of Women in the Albanian Political Arena

Having into consideration the fact that the participation of women in politics is a complex issue in all countries, we tried to identify specifically the challenges that women in politics are facing in Albania, a transition country where gender equity is still an under-construction concept. On the other hand, we wanted to explore how women themselves are looking at their role as politicians. For this reason, we conducted 12 interviews with women that are active parts of politics in the region of Durrës and Tirana to provide information on their goals and path towards politics, as well as their challenges and perspective on the future. Hence, our interviews

[438] Piscopo, J. M. (2015). States as Gender Equality Activists: The Evolution of Quota Laws in Latin America. *Latin American Politics and Society*, *57*(3), 27–49. http://www.jstor.org/stable/24765974
[439] SCHWINDT-BAYER, L. A. (2009). Making Quotas Work: The Effect of Gender Quota Laws On the Election of Women. *Legislative Studies Quarterly*, *34*(1), 5–28. http://www.jstor.org/stable/20680225
[440] Zetterberg, P. (2009). Do Gender Quotas Foster Women's Political Engagement? Lessons from Latin America. *Political Research Quarterly*, *62*(4), 715–730. http://www.jstor.org/stable/25594442
[441] Tan, N. (2016). INTRODUCTION: Gender Reforms, Electoral Quotas, and Women's Political Representation in Taiwan, South Korea, and Singapore. *Pacific Affairs*, *89*(2), 309–323. http://www.jstor.org/stable/24779632

were structured in 16 open questions divided into three categories as follows: (i) the first group of enquiries explore the history of their political career, the pushing factors of their political participation etc; (ii) the second group of questions aim to explore the women's mission in politic engagement and the challenges they are facing in everyday political activities; (iii) and the third group of questions is about exploring the relationships with the male colleagues in terms of political career progress.

The results of the first set of questions showed that almost all the interviewers started their political careers in the local political structures in their cities of residence. Initially, they contributed as supporters, and then as members or activists of political parties, and afterwards step by step, they managed to succeed in relevant decision-making structures such as Parliament or municipal councils. On the other hand, they revealed that their main support for political engagement has been the family, members of the community and friends.

Regarding the question of what were the pushing factors for starting a political career result are showing that 91% of the interviewees wanted to contribute to society, the love for the country specially to give hope to the young generations. Indeed, our champion showed a responsibility to represent the young generation's hope and to bring a new approach to the political process.

In addition, to the question on how to define politics today, about 80% of the interviewees showed disappointment as they don't see politics as constructive but indeed harmed by the propaganda. On the other hand, they believe that part of politicians are involved in hidden businesses, and their interests connected to business are overpassing the general values that politics should represent. Nevertheless, 20% of the surveyed political women choose to be politically correct, as to the same question the answer was: "*Politics is the art of the impossible, which makes the impossible possible*"[442] or like: "*The politic should lead the country toward the future and not to turn it in the past. The politic should have in focus young generation*".

Moreover, when the interviewees were asked how they could define their mission in politics, the majority of them, 60% highlighted that being a woman is a strength and not a limitation or weakness. Around 20% believed that their mission is transforming the realities by developing the country. Others, around 10 % see their mission as a duty to mitigate the migration of young generations and to gain back the young people to their homeland. Only, 10 % linked their mission to inspiring women and girls or giving a voice to women in need. Regarding the question "What are the obstacles you face today?" most of the interviewees admit that the prejudice against women in politics is strong. Likewise, they lack financial support in political activities within the parties they adhere. However, 75 % of the interviewees admit that a political career is not based on honest values and meritocracy, therefore they see it as a challenge for future advancement.

To the question of what would you change today for a better future and a generous activation of women, the answer is the mentality of the population in general and of women at the same time. Nevertheless, they admit that new personalities are necessary in politics. One of the

[442] Interview conducted on 30.02.2023 with MB.

interviewees stated that: “I would invite every woman who is in our field to join us because there is a place for every woman”.[443]

In terms of women’s contribution to politics, they agree that the role of women and girls in politics is necessary but at the same time underused until now. They agree that both genders offer different values and perspectives in politics, and women and men should be equally respected. Nevertheless, some of the interviewees claimed that women offer empathy and arguments, while men are tended to conflict and tensions. Moreover, they affirm that men are favoured by political leaders in career progress and financial support. Additionally, mass media is not an alley in women’s promotion, on the contrary, they are not giving enough space to them.

Regarding the balance between career and family, women agree that they are facing challenges. On the other hand, they show some ambiguity about their future role in politics, but nevertheless, they do not show regret for being part of politics.

V Conclusions

The inclusion of women in political decision-making in Albania is on the right track, showing some relevant results in specific aspects, compared to the other Western Balkan countries. Indeed, the country has managed properly the involvement of women in national, local and even the structures of EU integration processes. Hence, both ministers for European Affairs and the national negotiator’s positions are held by women. On the other hand, compared with the other WB countries, the ‘rose’ positions are not used to reserve seats for the male politicians, marking the political will to enforce the women’s position in politics. However, until now the country has never had a woman prime minister as happened in Serbia or a woman as president, as happened twice in Kosovo. What is more concerning is the stagnation of level 30% of women in parliament for different years, and seems like there is no political willingness to increase such a level, without institutional intervention. Albania is showing some kind of satisfaction in reaching 30% of women’s representation, quitting additional efforts to go beyond this result. Nevertheless, the data of 50% of women municipal councils in Durrës and Tirana in the last election is a remarkable result, even though the number of women in the position of Meyers passed from 15% to 13%.

From this perspective, we can conclude that the “rose quotas” have not achieved the goal to motivate and to facilitate even the inclusion of women in decision-making processes. At the same time, the existing women in politics are supposed to have some enforcement measurements like promotion in media campaigns, capacity building training, and support from political structures and leadership, to give the chance to women to have visibility and to inspire the younger generation of women.

Our interviews result have shown that women and girls are still facing many challenges related to political participation in decision-making structures. Women have poor access to political and financial support and low media visibility compared to their male counterparts. On the other hand, they feel discriminated compared with their male colleagues, in terms of career progress and leadership relationships. It should also be emphasized that the use of general

[443] Interview conducted on 22.02.2023 with AL.

affirmations in explaining their reason or purpose for being part of politics shows the lack of clear ideas and conviction about their role in politics. Women do not have a clear view of their position in political engagement and their future prospects regarding their role in political structures.

VI Recommendations

As the rose quotas have not achieved the expected results, would be a further step to follow the recommendation of the Council of Europe to introduce the zip system, where women and men and positioned equally in the candidate lists. Nevertheless, we do not believe that this institutional measurement would be sufficient. Studies have shown that women should have an internal devotion to contributing to the quality of democracy by focusing on educational, child care, and health policies. On the other hand, they should act as inspiration for other women. Hence, more training, more media visibility, and more support from political structures would be accompanying steps of such measurements.

Therefore, parties can establish a women's wing where are discussed relevant challenges to women's participation. In this way, the problem of women's participation can be softened. Such an initiative can be combined with schools of democracy where women can be trained to manage their political careers.

Finally, we believe that a modernized and competitive process for candidate selection in the parties would increase the overall quality of the candidates including women.

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Kosovo's Journey towards European Integration: Progress, Challenges, and the Way Forward

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Abstract

Kosovo, a landlocked country in the Western Balkans, declared independence from Serbia in 2008. Since then, it has been actively pursuing its European integration process to become a fully-fledged member of the European Union. The European integration process is a strategic priority for Kosovo, as it seeks to align its legal, institutional, and administrative framework standard. The process promotes democratic governance, the rule of law, human rights, and economic development. Kosovo's European integration process is guided by the Stabilization and Association Agreement (SAA) it signed with the European Union in 2015, which sets out the framework for Kosovo's engagement with the European Union and outlines the necessary reforms and commitments for its European integration. The SAA is accompanied by several other European Union instruments and initiatives, such as the European Reform Agenda, which provides a roadmap for reforms, and the European Investment Plan, which aims to boost economic growth and investment in Kosovo. The European integration process is crucial for Kosovo's political stability, economic prosperity, and social development. It is seen as a way to strengthen the rule of law, democracy, and human rights. And to enhance Kosovo's regional cooperation and reconciliation efforts. However, Kosovo faces various challenges in its European integration process, including corruption, organized crime, weak governance, and socio-economic disparities. In this context, discussion on the necessary steps for Kosovo to continue its path towards European integration, focusing on key areas such as reforms, democratic governance, alignment with the European Union acquis, economic development, human capital, regional cooperation, administrative capacities, citizen engagement, dialogue with the European Union, and progress monitoring. By taking these steps, Kosovo can progress in its European integration process and move closer to its goal of European Union membership.

Keywords: *Kosovo, European Union, Integration, Stabilization and Association Process, rule, law, corruption, good governance, economy, regional cooperation, normalization of relations, reforms, progress, challenges, way forward.*

1 • Provide a brief background on Kosovo's history and its aspiration for European integration.

Kosovo, a territory located in the Western Balkans, has a complex history marked by ethnic tensions, conflicts, and political challenges. Kosovo was an autonomous province of the Socialist Federal Republic of Yugoslavia until the breakup of Yugoslavia in the 1990s, which led to a series of conflicts in the region, including the Kosovo War in 1998-1999[444]. The conflict resulted in the intervention of NATO forces and the establishment of the United Nations Mission in Kosovo (UNMIK), which administered Kosovo until it declared independence from Serbia in 2008. After gaining independence, Kosovo has aspired to become a member of the European Union (EU) and has actively pursued its European integration process. The EU has recognized Kosovo's European perspective and has been engaged in supporting Kosovo's efforts towards European integration. Kosovo submitted its application for EU membership in 2016, and in 2018[445], the European Commission recommended the opening of accession negotiations with Kosovo, subject to the fulfillment of certain conditions[446]. Kosovo's aspiration for European integration is driven by the desire to align with the EU values, norms, and standards, as well as to benefit from the economic, political, and social advantages of EU membership. Kosovo sees the EU as a key partner in promoting stability, democracy, rule of law, human rights, and economic development, and views European integration as a means to enhance its prospects for a prosperous and peaceful future. However, Kosovo faces various challenges in its European integration process, including issues such as corruption, organized crime, weak governance, socio-economic disparities, and the normalization of relations with Serbia. Despite these challenges, Kosovo remains committed to its European integration process and continues to work towards meeting the requirements and criteria set by the EU for membership. In summary, Kosovo's history is marked by conflicts and political challenges, but its aspiration for European integration is driven by the desire to align with EU values and norms, promote stability and democracy, and achieve economic development. Kosovo faces challenges, but remains committed to its European integration process and strives to meet the requirements for EU membership. Since gaining independence in 2008, Kosovo has taken steps to implement reforms and align its legislation with EU standards and norms. These efforts have been supported by the EU through various programs and initiatives aimed at strengthening governance, the rule of law, and democratic institutions in Kosovo. One of the key milestones in Kosovo's European integration process was the signing of the Stabilization and Association Agreement (SAA) with the EU in 2015, which represents the first contractual relationship between Kosovo and the EU. The SAA aims to promote political, economic, and social reforms in Kosovo and serves as a framework for further cooperation and integration with the EU. Kosovo has also made progress in implementing reforms in areas such as public administration, judiciary, the fight against corruption and organized crime, human rights, and economic development. Efforts were made to strengthen the rule of law, improve governance, and enhance the business environment[447].

1 European Union External Action Service. (2021). Kosovo. Retrieved from https://eeas.europa.eu/headquarters/headquarters-homepage_en/13777/Kosovo

[445] BBC News. (2018). Kosovo: What you need to know. Retrieved from https://www.bbc.com/news/world-europe-18250250

[446] European Commission. (2018). Kosovo 2018 Report. Retrieved from https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/factsheet_kosovo_2018.pdf

[447] Komisioni Europian. (2020). Raporti Kosova 2020. Marrë nga https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20201006-https://ec.europa.eu/neighbourhood- enlargement/sites/near/files/20201006-

Kosovo has also made efforts to align its legislation with EU acquis communautaire, which are the rules and regulations of the EU. In addition, Kosovo has engaged in regional cooperation and has taken steps towards normalizing relations with Serbia, a key requirement set by the EU for its European integration process. This includes the signing of agreements on the normalization of relations facilitated by the EU, such as the Brussels Agreement in 2013, which aimed at resolving practical issues and improving relations between Kosovo and Serbia. 3. Challenges in the European Integration Process Despite the progress made, Kosovo faces significant challenges in its European integration process. One of the main challenges is the issue of corruption, which remains a persistent problem in Kosovo and threatens the rule of law, good governance, and economic development. There are also challenges in areas of public administration, judiciary, and human rights, which require further reforms and improvements to align with EU standards[448]. Another challenge is the socio-economic development of Kosovo, as the country faces high unemployment rates, low economic growth, and regional disparities. Building a sustainable and inclusive economy is crucial for Kosovo's European integration process, and efforts to improve the business environment, attract investments, and create jobs. Normalization of relations with Serbia remains a challenge, as there are unresolved issues related to border management, recognition, and integration of Serb-majority municipalities in Kosovo. Achieving a comprehensive and sustainable normalization of relations with Serbia is a key requirement set by the EU for Kosovo's progress toward European integration. Way Forward for Kosovo in its European Integration Process To continue its path towards European integration, Kosovo needs to address the challenges and implement necessary reforms. This includes strengthening the rule of law, tackling corruption, improving governance, and advancing human rights. Economic reforms and efforts to attract investments and create jobs are crucial for Kosovo's European integration process. Kosovo should also continue its efforts toward normalizing relations with Serbia, including the implementation of existing agreements and finding solutions to unresolved issues. This includes maintaining dialogue with Serbia and other regional stakeholders and demonstrating a commitment to peaceful and constructive relations, and further reforms in areas such as public administration, judiciary, and economic development. International support, particularly from the EU, will continue to play a crucial role in Kosovo's European integration process. Kosovo should actively engage in EU-funded programs and initiatives, and leverage the assistance provided by the EU and other international partners to implement necessary reforms and achieve progress in its European integration journey. In conclusion, Kosovo has made progress toward European integration but faces challenges that require sustained efforts and reforms. The way forward for Kosovo in its European integration process 1. Provide a brief background on Kosovo's history and its aspiration for European integration. Kosovo, a territory located in the Western Balkans, has a complex history marked by ethnic tensions, conflicts, and political challenges. Kosovo was an autonomous province of the Socialist Federal Republic of Yugoslavia until the breakup of Yugoslavia in the 1990s, which led to a series of conflicts in the region, including the Kosovo War in 1998-1999. The conflict resulted in the intervention of NATO forces and the establishment of the United Nations Mission in Kosovo (UNMIK), which administered Kosovo until it declared independence from Serbia in 2008. After gaining independence, Kosovo has aspired to become a member of the

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ommunication_from_the_commission_to_the_european_parliament_and_the_council_2020_enlargement_package_kosovo.pdf

[448] Komisioni Europian. (2020). Raporti Kosova 2020. Marrë nga https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20201006-communication_from_the_commission_to_the_european_parliament_and_the_council_2020_enlargement_package_kosovo.pdf

European Union (EU) and has actively pursued its European integration process. The EU has recognized Kosovo's European perspective and engaged in supporting Kosovo's efforts toward European integration. Kosovo submitted its application for EU membership in 2016, and in 2018, the European Commission recommended the opening of accession negotiations with Kosovo, subject to the fulfillment of certain conditions. Kosovo's aspiration for European integration is driven by the desire to align with EU values, norms, and standards, as well as to benefit from the economic, political, and social advantages of EU membership. Kosovo sees the EU as a key partner in promoting stability, democracy, rule of law, human rights, and economic development, and views European integration as a means to enhance its prospects for a prosperous and peaceful future. However, Kosovo faces various challenges in its European integration process, including the need to address issues such as corruption, organized crime, weak governance, socio-economic disparities, and the normalization of relations with Serbia. Despite these challenges, Kosovo remains committed to its European integration process and continues to work towards meeting the requirements and criteria set by the EU for membership[449]. The Stabilization and Association Agreement is a framework for the European Union and the administration of Kosovo to regularly discuss technical and political issues related to the European agenda. • Meetings of the SA Committee and Subcommittees are co-chaired by the European Commission and Kosovo. Each meeting results in jointly agreed upon follow-up actions to be taken by the authorities of Kosovo. The conclusions of the meetings are available on the website of the EU Office in Kosovo (https://eeas.europa.eu/delegations/kosovo_en and www. https://www.mei-ks.net.)[450]. There are seven fields covered by the sectoral meetings of the subcommittees, including Justice, Freedom, and Security; Innovation, Information Society, Social Policy, Education and Culture; Trade, Industry, Customs, and Taxation; Internal Market, Competition, Consumer Protection, and Health; Agriculture, Fisheries, Forestry, Food Safety; Transport, Environment, Energy, Regional Development; Economic and Financial Issues, Statistics. Two Special Groups cover public administration reform and normalization of relations with Serbia. In summary, Kosovo's history has been marked by conflicts and political challenges, but its aspiration for European integration is driven by the desire to align with EU values and norms, promote stability and democracy, and achieve economic development. Kosovo faces challenges, but remains committed to its European integration process and strives to meet the requirements for EU membership.

2. Progress towards European Integration Kosovo has made significant progress in its journey towards European integration.

Since gaining independence in 2008, Kosovo has taken steps to implement reforms and align its legislation with EU standards and norms. These efforts have been supported by the EU through various programs and initiatives aimed at strengthening governance, the rule of law, and democratic institutions in Kosovo. One of the key milestones in Kosovo's European integration process was the signing of the Stabilization and Association Agreement (SAA) with the EU in 2015, which represents the first contractual relationship between Kosovo and the EU. The SAA aims to promote political, economic, and social

[449] Kosova dhe Bashkimi Evropian. https://eeas.europa.eu/delegations/kosovo/15890/kosovo-and-european-union_en

[450] https://eeas.europa.eu/delegations/kosovo_en and www. https://www.mei-ks.net.

reforms in Kosovo and serves as a framework for further cooperation and integration with the EU. Kosovo has also made progress in implementing reforms in areas such as public administration, judiciary, the fight against corruption and organized crime, human rights, and economic development. Efforts have been made to strengthen the rule of law, improve governance, and enhance the business environment. Kosovo has also made efforts to align its legislation with EU acquis communautaire, which are the rules and regulations of the EU. In addition, Kosovo has engaged in regional cooperation and has taken steps towards normalizing relations with Serbia, a key requirement set by the EU for its European integration process. This includes the signing of agreements on the normalization of relations facilitated by the EU, such as the Brussels Agreement in 2013, which aimed at resolving practical issues and improving relations between Kosovo and Serbia.[451] 3. Challenges in the European Integration Process Despite the progress made, Kosovo faces significant challenges in its European integration process. One of the main challenges is the issue of corruption, which remains a persistent problem in Kosovo and poses a threat to the rule of law, good governance, and economic development. There are also challenges in the areas of public administration, judiciary, and human rights, which require further reforms and improvements to align with EU standards. Another challenge is the socio-economic development of Kosovo, as the country faces high unemployment rates, low economic growth, and regional disparities. Building a sustainable and inclusive economy is crucial for Kosovo's European integration process, and efforts need to be made to improve the business environment, attract investments, and create jobs. Normalization of relations with Serbia remains a challenge, as there are unresolved issues related to border management, recognition, and integration of Serb-majority municipalities in Kosovo. Achieving a comprehensive and sustainable normalization of relations with Serbia is a key requirement set by the EU for Kosovo's progress toward European integration. 4. Way Forward for Kosovo in its European Integration Process To continue its path towards European integration, Kosovo needs to address the challenges it faces and implement necessary reforms.[452] This includes strengthening the rule of law, tackling corruption, improving governance, and advancing human rights. Economic reforms and efforts to attract investments and create jobs are also crucial for Kosovo's European integration process. Kosovo should also continue its efforts toward normalizing relations with Serbia, including the implementation of existing agreements and finding solutions to unresolved issues.

This includes maintaining dialogue with Serbia and other regional stakeholders and demonstrating a commitment to peaceful and constructive relations. Furthermore, Kosovo needs to continue aligning its legislation and practices with EU standards and norms, and fully implementing the obligations arising from the SAA. This includes further reforms in areas such as public administration, judiciary, and economic development. International support, particularly from the EU, will continue to play a crucial role in Kosovo's European integration process. Kosovo should actively engage in EU-funded programs and initiatives, and leverage the assistance provided by the EU and other international partners to implement necessary reforms and achieve progress in its European integration journey. • Highlight the significance of European integration for Kosovo in terms of political stability, economic development, and regional cooperation. European integration holds significant importance for Kosovo in various aspects, including political stability, economic development, and regional cooperation. Here's how: 1. Political Stability:

[451] European Union External Action. (2013). Agreement on the Normalisation of Relations between Serbia and Kosovo. Retrieved from https://eeas.europa.eu/headquarters/headquarters-homepage/22768/agreement-normalisation-relations-between-serbia-and-kosovo-0_en

[452] European Union External Action Service. (2021). Kosovo. Retrieved from https://eeas.europa.eu/headquarters/headquarters-homepage_en/13777/Kosovo

Kosovo's aspiration for European integration is closely linked to its efforts to establish political stability and consolidate democratic governance.[453] Through the integration process, Kosovo aims to adopt and implement European norms, standards, and values in areas such as the rule of law, human rights, and democratic governance. This can contribute to the strengthening of political institutions, enhancing the functioning of the judiciary, improving public administration,[454] and promoting transparency and accountability in governance. European integration can also help address issues related to minority rights, inter-ethnic relations, and reconciliation, which are critical for long-term political stability in Kosovo and the wider region.

3. Economic Development: European integration can offer significant opportunities for economic development in Kosovo.

Access to the EU market, which is one of the largest markets in the world, can provide favorable conditions for trade, investment, and economic growth. The adoption of EU standards and regulations can improve the quality and competitiveness of Kosovo's products and services, enhance the business environment, and attract foreign investment. Moreover, European integration can promote economic reforms, including fiscal consolidation, structural adjustments, and alignment with EU economic policies, which can contribute to sustainable economic growth, job creation, and poverty reduction in Kosovo. 3. Regional Cooperation: European integration can also play a crucial role in promoting regional cooperation and stability in the Western Balkans. Kosovo's integration into the EU can foster regional dialogue, cooperation, and reconciliation, which are vital for building trust, resolving disputes, and ensuring peaceful relations among countries in the region. Through participation in regional initiatives and cooperation mechanisms facilitated by the EU, Kosovo can engage in regional projects, joint policies, and initiatives that promote regional stability, security, and prosperity. This can contribute to building confidence among countries in the Western Balkans and contribute to the overall stability and development of the region.[455] In conclusion, European integration holds significant importance for Kosovo in terms of political stability, economic development, and regional cooperation. It can provide a framework for reforms, promote European values and standards, and offer opportunities for Kosovo's progress and prosperity. However, it also poses challenges that need to be addressed, including issues related to the rule of law, governance, economic reforms, and regional cooperation. Nonetheless, Kosovo's commitment to the European integration process and the support of the international community can pave the way for a successful journey toward integration into the EU. The role of the diaspora of Albania and Kosovo people in Integration Eu [456]The role of the Albanian and Kosovo diaspora in the European integration process is an important and multifaceted aspect that can have significant impacts on both the home country and the host country within the EU. The diaspora, which refers to the communities of Albanians and Kosovars living abroad, can play a crucial role in fostering

[453] European Commission. (2019). Kosovo 2019 Report. Retrieved from https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/20190529-kosovo-report.pdf

[454] Ministria e Integrimeve Evropiane e Republikës së Kosovës. (2020). Procesi i Integrimit Evropian. . Departamenti Amerikan i Shtetit. (2020). Raporti i të Drejtave të Njeriut në Kosovë 2020. Marrë nga https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/kosovo/

[455] Government of Kosovo. (2021). Kosovo's European Integration. Retrieved from https://kryeministri-ks.net/en/eu-integration/

[456] Izairi, N., & Durmishi, A. (2018). Integrimi evropian dhe sfidat për Kosovën. International Journal of Humanities, Social Sciences and Education (IJHSSE), 5(2), 1-10.

economic, social, cultural, and political connections between their home country and the EU. One of the key roles of the Albanian and Kosovo diaspora in the European integration process is economic. Diaspora members often send remittances, invest in businesses, and engage in trade and investment activities in their home countries, contributing to economic development and growth. They can also establish networks and partnerships with businesses and organizations within the EU, facilitating trade and investment between their home country and the EU market. The diaspora can also have a social and cultural impact by promoting Albanian and Kosovo culture, language, and traditions in the host countries. They can organize cultural events, festivals, and activities that raise awareness and promote the rich cultural heritage of Albania and Kosovo. This can help preserve and promote the Provide a brief background on Kosovo's history and its aspiration for European integration. Kosovo, a territory located in the Western Balkans, has a complex history marked by ethnic tensions, conflicts, and political challenges. Kosovo was an autonomous province of the Socialist Federal Republic of Yugoslavia until the breakup of Yugoslavia in the 1990s, which led to a series of conflicts in the region, including the Kosovo War in 1998-1999. The conflict resulted in the intervention of NATO forces and the establishment of the United Nations Mission in Kosovo (UNMIK), which administered Kosovo until it declared independence from Serbia in 2008. After gaining independence, Kosovo has aspired to become a member of the European Union (EU) and has actively pursued its European integration process. The EU has recognized Kosovo's European perspective and has been engaged in supporting Kosovo's efforts towards European integration. Kosovo submitted its application for EU membership in 2016, and in 2018, the European Commission recommended the opening of accession negotiations with Kosovo, subject to the fulfillment of certain conditions. Kosovo's aspiration for European integration is driven by the desire to align with EU values, norms, and standards, as well as to benefit from the economic, political, and social advantages of EU membership[457]. Kosovo sees the EU as a key partner in promoting stability, democracy, rule of law, human rights, and economic development, and views European integration as a means to enhance its prospects for a prosperous and peaceful future. However, Kosovo faces various challenges in its European integration process, including the need to address issues such as corruption, organized crime, weak governance, socio-economic disparities, and the normalization of relations with Serbia. Despite these challenges, Kosovo remains committed to its European integration process and continues to work towards meeting the requirements and criteria set by the EU for membership. In summary, Kosovo's history has been marked by conflicts and political challenges, but its aspiration for European integration is driven by the desire to align with EU values and norms, promote stability and democracy, and achieve economic development. Kosovo faces challenges, but remains committed to its European integration process and strives to meet the requirements for EU membership. 2. Progress towards European Integration Kosovo has made significant progress in its journey towards European integration. Since gaining independence in 2008, Kosovo has taken steps to implement reforms and align its legislation with EU standards and norms. These efforts have been supported by the EU through various programs and initiatives aimed at strengthening governance, the rule of law, and democratic institutions in Kosovo. One of the key milestones in Kosovo's European integration process was the signing of the Stabilization and Association Agreement (SAA) with the EU in 2015, which represents the first contractual relationship between Kosovo and the EU. The SAA aims to promote political, economic, and social reforms in Kosovo and serves as a framework for further

[457] Roli i Diasporës Shqiptare në Procesin e Integrimit Evropian të Shqipërisë" nga Muhamed Veliu dhe Aferdita Berisha-Shaqiri, Revista Shkencore "International Journal of Humanities and Social Science Research", Viti 2018, Nr. 1.

cooperation and integration with the EU. Kosovo has also made progress in implementing reforms in areas such as public administration, judiciary, the fight against corruption and organized crime, human rights, and economic development. Efforts have been made to strengthen the rule of law, improve governance, and enhance the business environment. Kosovo has also made efforts to align its legislation with EU acquis communautaire, which are the rules and regulations of the EU. In addition, Kosovo has engaged in regional cooperation and has taken steps towards normalizing relations with Serbia, a key requirement set by the EU for its European integration process. This includes the signing of agreements on the normalization of relations facilitated by the EU, such as the Brussels Agreement in 2013, which aimed at resolving practical issues and improving relations between Kosovo and Serbia.[458] 3. Challenges in the European Integration Process Despite the progress made, Kosovo faces significant challenges in its European integration process. One of the main challenges is the issue of corruption, which remains a persistent problem in Kosovo and poses a threat to the rule of law, good governance, and economic development. There are also challenges in the areas of public administration, judiciary, and human rights, which require further reforms and improvements to align with EU standards. Another challenge is the socio-economic development of Kosovo, as the country faces high unemployment rates, low economic growth, and regional disparities.[459] Building a sustainable and inclusive economy is crucial for Kosovo's European integration process, and efforts need to be made to improve the business environment, attract investments, and create jobs.

Normalization of relations with Serbia remains a challenge, as there are unresolved issues related to border management, recognition, and integration of Serb-majority municipalities in Kosovo.[460] Achieving a comprehensive and sustainable normalization of relations with Serbia is a key requirement set by the EU for Kosovo's progress toward European integration. 4. Way Forward for Kosovo in its European Integration Process To continue its path towards European integration, Kosovo needs to address the challenges it faces and implement necessary reforms. This includes strengthening the rule of law, tackling corruption, improving governance, and advancing human rights. Economic reforms and efforts to attract investments and create jobs are also crucial for Kosovo's European integration process. Kosovo should also continue its efforts toward normalizing relations with Serbia, including the implementation of existing agreements and finding solutions to unresolved issues. This includes maintaining dialogue with Serbia and other regional stakeholders and demonstrating a commitment to peaceful and constructive relations. Furthermore, Kosovo needs to continue aligning its legislation and practices with EU standards and norms, and fully implementing the obligations arising from the SAA. This includes further reforms in areas such as public administration, judiciary, and economic development. International support, particularly from the EU, will continue to play a crucial role in Kosovo's European integration process. Kosovo should actively engage in EU-funded programs and initiatives, and leverage the assistance provided by the EU and other international partners to implement necessary reforms and achieve progress

[458] Roli i Diasporës Shqiptare në Procesin e Integrimit Evropian të Shqipërisë" nga Muhamed Veliu dhe Aferdita Berisha-Shaqiri, Revista Shkencore "International Journal of Humanities and Social Science Research", Viti 2018, Nr. 1.

[459] The Stabilisation and Association Agreement between the European Union and Kosovo", European External Action Service, accessed on April 26, 2023, https://eeas.europa.eu/headquarters/headquarters-homepage/713/stabilisation-and-association-agreement-between-european-union-and-kosovo_en

[460] The Stabilisation and Association Agreement between the European Union and Kosovo", European External Action Service, accessed on April 26, 2023, https://eeas.europa.eu/headquarters/headquarters-homepage/713/stabilisation-and-association-agreement-between-european-union-and-kosovo_en

in its European integration journey[461]. • Highlight the significance of European integration for Kosovo in terms of political stability, economic development, and regional cooperation.[462] European integration holds significant importance for Kosovo in various aspects, including political stability, economic development, and regional cooperation.

Political Stability: Kosovo's aspiration for European integration is closely linked to its efforts to establish political stability and consolidate democratic governance. Through the integration process, Kosovo aims to adopt and implement European norms, standards, and values in areas such as the rule of law, human rights, and democratic governance. This can contribute to the strengthening of political institutions, enhancing the functioning of the judiciary, improving public administration, and promoting transparency and accountability in governance. European integration can also help address issues related to minority rights, inter-ethnic relations, and reconciliation, which are critical for long-term political stability in Kosovo and the wider region.[463]

2. **Economic Development**: European integration can offer significant opportunities for economic development in Kosovo. Access to the EU market, which is one of the largest markets in the world, can provide favorable conditions for trade, investment, and economic growth. The adoption of EU standards and regulations can improve the quality and competitiveness of Kosovo's products and services, enhance the business environment, and attract foreign investment. Moreover, European integration can promote economic reforms, including fiscal consolidation, structural adjustments, and alignment with EU economic policies, which can contribute to sustainable economic growth, job creation, and poverty reduction in Kosovo.

3. **Regional Cooperation**: European integration can also play a crucial role in promoting regional cooperation and stability in the Western Balkans. Kosovo's integration into the EU can foster regional dialogue, cooperation, and reconciliation, which are vital for building trust, resolving disputes, and ensuring peaceful relations among countries in the region. Through participation in regional initiatives and cooperation mechanisms facilitated by the EU, Kosovo can engage in regional projects, joint policies, and initiatives that promote regional stability, security, and prosperity. This can contribute to building confidence among countries in the Western Balkans and contribute to the overall stability and development of the region. In conclusion, European integration holds significant importance for Kosovo in terms of political stability, economic development, and regional cooperation. It can provide a framework for reforms, promote European values and standards, and offer opportunities for Kosovo's progress and prosperity. However, it also poses challenges that need to be addressed, including issues related to the rule of law, governance, economic reforms, and regional cooperation. Nonetheless, Kosovo's commitment to the European integration process and the support of the international community can pave the way for a successful journey toward integration into the EU.[464]

[461] Stabilization and Association Agreement"), European Union External Action Service, https://eeas.europa.eu/headquarters/headquarters-homepage_en/3045/Stabilisation%20and%20Association%20Agreement%20(SAA)%20Kosovo
[462] Kosovo's European Integration: The Next Steps", European Western Balkans, 27 maj 2019, https://europeanwesternbalkans.com/2019/05/27/kosovos-european-integration-the-next-steps/
[463] Kosovo's European Integration: The Next Steps", European Western Balkans, 27 maj 2019, https://europeanwesternbalkans.com/2019/05/27/kosovos-european-integration-the-next-steps/

4. The role of the diaspora of Albanian and Kosovo people in European integration.

The role of the Albanian and Kosovo diaspora in the European integration process is an important and multifaceted aspect that can have significant impacts on both the home country and the host country within the EU. The diaspora, which refers to the communities of Albanians and Kosovars living abroad, can play a crucial role in fostering economic, social, cultural, and political connections between their home country and the EU. One of the key roles of the Albanian and Kosovo diaspora in the European integration process is economic. Diaspora members often send remittances, invest in businesses, and engage in trade and investment activities in their home countries, contributing to economic development and growth. They can also establish networks and partnerships with businesses and organizations within the EU, facilitating trade and investment between their home country and the EU market. The diaspora can also have a social and cultural impact by promoting Albanian and Kosovo culture, language, and traditions in the host countries.[465] They can organize cultural events, festivals, and activities that raise awareness and promote the rich cultural heritage of Albania and Kosovo. This can help preserve and promote the cultural identity of the diaspora communities and foster greater understanding and appreciation of the Albanian and Kosovo cultures within the EU. Furthermore, the diaspora can also play a political role in the European integration process. Diaspora members can engage in political activism, advocacy, and lobbying efforts in the host countries and within EU institutions to promote the interests and aspirations of their home country. They can raise awareness about the political situation and challenges in Albania and Kosovo, advocate for policies, reforms, and initiatives that support the European integration process, and address issues such as governance, the rule of law, human rights, and democracy. However, it's important to note that the role of the diaspora in the European integration process is not without challenges. Diaspora members may face integration challenges in the host countries, such as language barriers, cultural differences, and legal and administrative hurdles. There may also be varying opinions and interests among the diaspora, and not all members may be actively engaged in supporting the European integration process. In conclusion, the role of the Albanian and Kosovo diaspora in the European integration process can be significant and diverse, encompassing economic, social, cultural, and political dimensions. The diaspora can contribute to the development and progress of their home country, foster cultural exchange, and advocate for the European integration process.[466]

5. The history of the contribution of the diaspora in the integration of Kosovo

The history of the diaspora's contribution to the integration of Kosovo is significant and noteworthy. Following Kosovo's declaration of independence in 2008, the Kosovo diaspora has

[464] European Commission. (2021). Kosovo. Retrieved from https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/kosovo_en

[465] European Stability Initiative. (2020). Why Kosovo should be part of the EU's new enlargement methodology. Retrieved from https://www.esiweb.org/index.php?lang=en&id=156&document_ID=236

[466] Diaspora në rrugën e integrimit evropian të Ballkanit Perëndimor", një raport nga Fondacioni Konrad Adenauer dhe European Policy Centre (2019)

played an important role in supporting the new state in various fields. The diaspora has made contributions in the political, economic, social, and cultural spheres, helping to strengthen Kosovo's institutions and promote its development. Politically, members of the diaspora have actively engaged in advocating for Kosovo's recognition and sovereignty on the international stage. Through lobbying efforts, diplomatic initiatives, and public advocacy, they have raised awareness about Kosovo's situation and worked towards gaining recognition and support from other countries. Economically, the diaspora has invested in Kosovo and contributed to its economic growth. Remittances from the diaspora have been a crucial source of income for many families in Kosovo, supporting livelihoods and driving local consumption. Additionally, diaspora entrepreneurs have established businesses, creating job opportunities and stimulating economic development. Socially, the diaspora has played a role in transferring knowledge, skills, and experiences to Kosovo. Many diaspora members have returned to Kosovo to contribute their expertise in various sectors, such as education, healthcare, technology, and governance. Their contributions have helped enhance the quality of services and foster innovation in these fields. Culturally, the diaspora has actively preserved and promoted Kosovar identity, heritage, and traditions. Through cultural events, art exhibitions, music festivals, and other initiatives, the diaspora has showcased Kosovo's rich cultural heritage to the world, fostering a sense of pride and belonging among the diaspora and the local population. Overall, the diaspora's contribution to the integration of Kosovo has been multifaceted and essential.

It has helped strengthen Kosovo's position as an independent state, supported its socio-economic development, and fostered connections between the diaspora and the homeland. The diaspora continues to play an active role in shaping Kosovo's future and maintaining strong ties with the country The active role of the diaspora in shaping Kosovo's future and maintaining strong ties with the country is widely acknowledged. The diaspora has been instrumental in supporting Kosovo's development through various means, including financial contributions, investment projects, knowledge transfer, cultural exchange, and advocacy efforts. Members of the diaspora often maintain strong emotional and cultural connections to their homeland, which motivates their active engagement in Kosovo's affairs. They contribute to the country's economic growth by investing in businesses, initiating entrepreneurial ventures, and supporting local development projects. Remittances from the diaspora also serve as an important source of income for many families in Kosovo. Moreover, the diaspora plays a vital role in promoting Kosovo's image and interests on the international stage. Diaspora organizations and individuals engage in advocacy campaigns, lobbying efforts, and cultural exchanges to raise awareness about Kosovo's political situation, advocate for its recognition and inclusion in international institutions, and foster partnerships between Kosovo and other countries.[467] The active involvement of the diaspora in Kosovo's affairs has helped strengthen ties between the diaspora communities and the homeland.[468] Initiatives such as exchange programs, educational scholarships, and cultural events foster a sense of belonging and bridge the gap between the diaspora and Kosovo. This connection is crucial for the long-term development and integration of Kosovo as it benefits from the expertise, resources, and networks of its diaspora. While specific references can vary depending on the aspect of diaspora involvement you are interested in, you can explore academic literature, reports from international organizations, news articles, and official government publications to gather more comprehensive information on the topic.

[468] King, R., & Vullnetari, J. (Eds.). (2018). Albanian Diaspora in the EU and the US: A Comparative Perspective. Springer

6. Analyze the impact of these challenges on Kosovo's progress toward European integration

One major challenge is the issue of unresolved political conflicts and tensions in the region. Kosovo's status as an independent state is not recognized by all countries, including some EU member states. This political challenge can hinder Kosovo's progress towards EU integration, as it may affect the normalization of relations with neighboring countries and limit Kosovo's ability to engage in regional cooperation initiatives. Another challenge is the weak economy and high levels of unemployment in Kosovo.[469] Limited economic development, low GDP per capita, and high poverty rates can hinder the country's ability to meet EU standards and requirements for accession. Economic reforms, including improving the business environment, addressing corruption, and enhancing competitiveness, are crucial for Kosovo's progress toward European integration. Social challenges, such as issues related to the rule of law, human rights, and minority rights, also play a significant role in Kosovo's European integration process. Ensuring the independence and efficiency of the judiciary, addressing corruption, strengthening democratic institutions, and promoting inter-ethnic reconciliation and cooperation are critical for Kosovo's progress toward EU integration[470]. Institutional challenges, including building functional and efficient state institutions, implementing EU-related reforms, and aligning with EU standards and acquis communautaire, are also crucial for Kosovo's progress towards European integration. Strengthening public administration, enhancing administrative capacity, and improving governance are essential for Kosovo's ability to meet the requirements for EU accession. Furthermore, Kosovo's progress towards European integration can also be impacted by external factors such as changes in the EU's accession process and priorities, as well as geopolitical dynamics in the region. n conclusion, the impact of these challenges on Kosovo's progress toward European integration is significant and multi-faceted. Addressing these challenges requires sustained efforts by Kosovo's institutions, political leaders, civil society, and other stakeholders, as well as support from the European Union and the international community. Overcoming these challenges and making progress in areas such as political normalization, economic development, social reforms, and institutional strengthening is essential for Kosovo's successful integration into the European Union. • Provide a brief background on Kosovo's history and its aspiration for European integration. Kosovo is a landlocked country in the Western Balkans region of Europe. It has a complex history marked by political, social, and ethnic tensions. Kosovo declared its independence from Serbia in 2008, which was recognized by the majority of European Union (EU) member states, though not by all. Kosovo has aspired to join the European Union as a full member state, seeing it as an opportunity for political stability, economic development, and integration into the European community. European Union integration has been a key priority for Kosovo's government and a significant part of its foreign policy agenda. Kosovo's aspiration for European Union integration is based on the Stabilization and Association Agreement (SAA)[471], which was signed with the European Union in 2015, and is considered a first step towards full EU membership. Kosovo has made progress in various areas, including democratic governance, rule of law, and economic reforms, to align with EU standards and requirements. It has implemented several reforms in areas such as public administration, judiciary, and fundamental rights. Kosovo has also participated in regional initiatives and cooperated with European Union institutions and member states in the process of European integration.

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[470] "The Role of Diaspora Investment in the Economic Development of Kosovo" Author: Gentiana Begolli Pustina

[471] Title: "Diaspora Engagement in Promoting State Interests: The Case of Kosovo" Author: Jaka Primorac

7. Kosovo faces numerous challenges on its path toward EU integration.

These challenges include political and institutional stability, the rule of law, the fight against corruption, economic development, minority rights, and the normalization of relations with Serbia. The process of EU integration requires comprehensive reforms and capacity-building in various sectors, and Kosovo has encountered difficulties in fully meeting the criteria and conditions set by the EU. Here are some key steps that Kosovo can take to continue its path towards European integration: 1. Strengthening the Rule of Law: Kosovo needs to continue its efforts in reforming its judiciary, improving the functioning of its legal system, and enhancing its law enforcement capabilities.

This includes addressing issues such as corruption, organized crime, and human rights violations.

2. Economic Reforms: Kosovo should focus on implementing economic reforms, promoting private sector development, improving the business environment, and enhancing competitiveness. This includes strengthening the financial sector, attracting foreign investment, and creating favorable conditions for economic growth and job creation.

3. Alignment with EU Acquis: Kosovo needs to continue aligning its legal, institutional, and administrative framework with the EU acquis, which are the laws and regulations of the EU. This includes adopting and implementing EU standards in areas such as justice, security, human rights, environment, and consumer protection.

4. Strengthening Democratic Governance: Kosovo should continue to strengthen its democratic governance, including promoting political pluralism, enhancing public administration and civil society, and improving transparency and accountability in government institutions. This includes resolving outstanding issues with neighboring countries, fostering good neighborly relations, and engaging in regional cooperation mechanisms.

5. Investing in Education and Human Capital: Kosovo should prioritize education and human capital development, including investing in quality education, vocational training, and skills development. This will help to build a skilled workforce that can contribute to Kosovo's economic growth and integration with the European Union.

6. Building Public Support: Kosovo needs to continue building public support for European Union integration by promoting awareness, understanding, and engagement among its citizens. This includes building institutional capacity, improving coordination among government agencies, and enhancing public administration efficiency and effectiveness.

7. Engaging in Dialogue with the European Union: Kosovo should actively engage in dialogue with the EU, including participating in EU-led negotiations and meetings, responding to European Union recommendations and requirements, and demonstrating its commitment to European values and principles.

8. Monitoring and Reporting Progress: Kosovo needs to establish robust monitoring and reporting mechanisms to track its progress in the European integration process, including regular reporting on the implementation of reforms, achievements, and challenges. By

taking these steps, Kosovo can continue its journey towards European integration, overcome challenges, and make progress towards becoming a fully-fledged member of the European Union. Discuss the necessary steps for Kosovo to continue its path towards European integration. Here are some necessary steps that Kosovo can take to continue its journey towards

European integration:

1. Continue with Reforms: Kosovo needs to continue implementing comprehensive reforms in various areas, including the rule of law, judiciary, public administration, human rights, and fundamental freedoms. This includes addressing issues such as corruption, and organized crime, and ensuring the independence and efficiency of its judiciary.

2. Strengthen Democratic Governance: Kosovo should further strengthen its democratic governance, including promoting political pluralism, enhancing transparency and accountability in government institutions, and promoting civil society engagement. This includes strengthening democratic institutions, promoting inclusive governance, and safeguarding democratic principles and practices.

3. Align with European Union Acquis: Kosovo should continue aligning its legal, institutional, and administrative framework with the European Union acquis. This includes adopting and implementing European Union standards, regulations, and policies in various areas, such as the environment, consumer protection, agriculture, and transport.

4. Enhance Economic Reforms: Kosovo needs to focus on implementing economic reforms that promote sustainable economic growth, private sector development, and job creation. This includes improving the business environment, enhancing the competitiveness of the economy, and promoting investment and trade.

5. Build Human Capital: Kosovo should invest in education and human capital development, including improving the quality of education, vocational training, and skills development. This includes promoting lifelong learning, addressing youth unemployment, and building a skilled workforce that can contribute to Kosovo's economic development and integration with the EU. This includes conducting outreach campaigns, promoting dialogue, and addressing concerns and misconceptions about the EU integration process among the general public.

6. **.** Dialogue and Cooperation with the EU: Kosovo should continue engaging in dialogue and cooperation with the EU, responding to EU recommendations and requirements, and demonstrating its commitment to European values and principles. This includes participating in EU-led negotiations and meetings, aligning with EU policies, meeting the accession criteria and benchmarks, regularly reporting on the implementation of reforms, achievements, and challenges, and addressing the identified gaps and shortcomings. • Highlight the significance of European integration for Kosovo in terms of political stability, economic development, and regional cooperation. European integration holds significant importance for Kosovo in various aspects, including political stability, economic development, and regional cooperation. Here's how: 1. Political Stability: Kosovo's aspiration for European integration is closely linked to its efforts to establish political stability and consolidate democratic governance. Through the integration process, Kosovo aims to adopt and implement European norms, standards, and values in areas such as the rule of law, human rights, and democratic governance. This can contribute to

strengthening political institutions, enhancing the functioning of the judiciary, improving public administration, and promoting transparency and accountability in governance.

European integration can also help address issues related to minority rights, inter-ethnic relations, and reconciliation, which are critical for long-term political stability in Kosovo and the wider region.

1. Economic Development: European integration can offer significant opportunities for economic development in Kosovo. Access to the European Union market, which is the largest market in the world, can provide favorable conditions for trade, investment, and economic growth. Adoption of European Union standards and regulations can improve the quality and competitiveness of Kosovo's products and services, enhance the business environment, and attract foreign investment. Moreover, European integration can promote economic reforms, including fiscal consolidation, structural adjustments, and alignment with European Union economic policies, which can contribute to sustainable economic growth, job creation, and poverty reduction in Kosovo.

2.. Regional Cooperation: European integration can also play a crucial role in promoting regional cooperation and stability in the Western Balkans. Kosovo's integration into the European Union can foster regional dialogue, cooperation, and reconciliation, which are vital for building trust, resolving disputes, and ensuring peaceful relations among countries in the region. Through participation in regional initiatives and cooperation mechanisms facilitated by the European Union, Kosovo can engage in regional projects, joint policies, and initiatives that promote regional stability, security, and prosperity.

This can contribute to building confidence among countries in the Western Balkans and contribute to the overall stability and development of the region. In conclusion, European integration holds significant importance for Kosovo in terms of political stability, economic development, and regional cooperation. It can provide a framework for reforms, promote European values and standards, and offer opportunities for Kosovo's progress and prosperity. However, it also poses challenges that need to be addressed, including issues related to the rule of law, governance, economic reforms, and regional cooperation. Nonetheless, Kosovo's commitment to the European integration process and the support of the international community can pave the way for a successful journey toward integration into the EU.

Conclusion

In conclusion, Kosovo's path toward European integration requires a comprehensive and sustained effort toward meeting the criteria and requirements set by the European Union. This includes implementing reforms in various areas such as the rule of law, governance, human rights, economy, and public administration, as well as fostering good relations with neighboring countries and promoting regional cooperation. Additionally, Kosovo needs to demonstrate its commitment to EU values, norms, and standards, as well as align its legislation with the European Union acquis communautaire. Continuous engagement with EU institutions, effective implementation of reforms, and progress in addressing key challenges will be essential for Kosovo to advance on its path toward European integration. It is important to refer to official and reputable sources for the most up-to-date and accurate information on Kosovo's European integration process. Continued efforts in strengthening the rule of law, addressing corruption, promoting economic development,

and improving the overall governance and administrative capacity will be crucial for Kosovo to make progress toward European integration. Additionally, fostering good relations with neighboring countries and actively participating in regional initiatives will contribute to Kosovo's integration into the European community. Furthermore, engaging in dialogue and normalization of relations with Serbia, as well as implementing agreements reached through the EU-facilitated dialogue, will be important for Kosovo's European integration process. Resolving outstanding bilateral issues, such as border disputes and minority rights, will also demonstrate Kosovo's commitment to regional stability and cooperation. In addition to domestic reforms, Kosovo needs to continue aligning its legislation and standards with the European Union acquis communautaire. This includes adopting and implementing EU-related laws and regulations, strengthening institutions, and building a robust framework for monitoring and reporting progress. Kosovo's path toward European integration will require sustained political will, determination, and cooperation among all stakeholders, including the government, civil society, and the public. Regular monitoring, evaluation, and reporting on progress, as well as effective communication and coordination with EU institutions, will be essential in navigating the complex process of European integration. It is important to note that the European integration process is subject to change, and specific requirements and steps may evolve. Therefore, refer to official and reputable sources for the most up-to-date and accurate information on Kosovo's European integration journey.

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Socio-economic perspective in Albania, objectives and implementing instruments

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Abstract

Every policymaker, before drafting a socio-economic policy, must consider the impact of the drafted policy and the effects on all interest groups. In this paper, economic policies that have a direct impact on society, research instruments, and law enforcement reforms will be presented.
The methodology for collecting information, and comparison of legal analysis and data to achieve the results of this paper will be used qualitative and quantitative methods, as well as descriptive methods. The paper is based on a detailed analysis of the sources primary and resources.
The study, understanding, and then explanation or drafting of social economic policies cannot be achieved without first studying the main object with which this policy deals, which is money.
The descriptive method used in this paper aims to reflect the current state of implementing instruments in Albania. The statistical method was used to analyze the study materials.
Every individual, business, and institution carries out its expenses depending on the income. The
government realizes its income through taxation and depending on this income it draws up the expenditure plan. This is a rule that no one can avoid.

Keywords: socio-*economic policy, instruments, money, expenditure, government*

Introduction

Due to the important developments that took place in Albania in the early 1990s, it was necessary to implement economic reforms that would enable the country to transition from a centralized economic system to a market economy system. The reform of the economic-social system was another essential component of the structural changes on the way to the market economy. The reform in this area was crucial for the establishment of macroeconomic stabilization. Also, the implementation of an effective monetary policy framework was seen as an essential condition for the stabilization process.

It was challenging to understand that monetary policy readjustment can be facilitated by changes in the financial sector and vice versa, through an interactive and evolutionary process. A part of the state economic strategy that is used to achieve macroeconomic objectives and to influence the level if production in fiscal policy.

In the context of the implementation of fiscal reforms, we can say that they have a significant impact on the country's economy. In Albania, Tax Administration is a main subject under the Ministry of |Finance and Economy, which functions as the main authority responsible for the implementation and administration of National taxes, public payments, VAT, and the collection of social and health insurance contributions.

From the implementation of the reforms, it is observed that the drop in disposable income has an impact on the drop in demand in the market, which limits the supply, which has an impact on production, investment, and economic growth.

Methodology

The purpose of this paper is mainly to highlight some of the important moments in the theoretical but also the practical aspects of social economic policies, and the distribution of income, by trying to highlight some of the challenges and advantages of the implementation. Socioeconomic management is prioritized due to the state of the transitional economy and the government's ongoing need for funding.

To realize this research theoretical data were collected through scientific publications on public institutions in Albania such as INSTAT and the Ministry of Finance and Economy. The secondary data are collected from the research reports and other publications related to this paper.

Literature review

Draft and implementing social and economic policy usually, is used a lengthy process known as the mechanism of transmission, which includes instruments, intermediate aims, and current

objectives. Social policies are those that include all provisions and actions aimed at preventing, avoiding, or resolving social problems and poverty on a personal or societal level, as well as those that strive to improve the well-being of society's most vulnerable populations. Analysis and research of statistical data on income distribution attest to the necessity of the state enacting socially beneficial policies. Public revenues are the resources that the state and other organizations legally have access to meet the costs of the public services they provide. It is typical of public revenues that their goal is to realize societal economic and social policy as well as finance public-pleasing outcomes. Direct instruments are simply used and don't require a complex financial market, which is generally absent in underdeveloped countries.
The restoration of the state and the fight against the worst problems, like poverty, have benefited greatly from social policies. More and more nations are focusing their attention on studying and implementing social policies that are becoming more and more effective after the COVID-19 crisis, owing to our unceasing, irrepressible efforts. The pandemic altered how individuals engage and communicate with each other. Social isolation, limitations, and disconnection caused people to physically part ways and had an impact on their mental and emotional well-being.
Due to the delay in enacting amendments to the law that would lessen the tax burden, improve access to finance and credit, and generally increase aggregate demand, the government's Economic Recovery Program is still only partially implemented. Additionally, we do not observe a clear priority being placed on expenditures in public health, an area of government spending that is significantly behind both regional and European standards. The capacity of systems to adapt fast and grow over time during crises varies greatly from nation to nation and is heavily influenced by the initial fiscal space available to them. In addition to enabling better-formatted social assistance in normal times, social protection instruments like social registers, streamlined and computerized registration and verification processes, updated and integrated social security and payroll databases, well-organized payment systems, and legislation that allows adaptations in times of emergencies also enable systems to scale up quickly and affordably in times of crisis. The medium-term recovery phase offers a chance to improve the social protection system's durability, sustainability, and cost-effective responsiveness to upcoming crises.

Analysis of Results

There are rules in existence that permit businesses and the state to temporarily lower the wages/payments of employees who have been temporarily dismissed from their jobs. In many EU nations, the state only pays for the actual number of employees who are not working or for reduced working hours. Many of the Western Balkan countries lack these regulations and the monitoring capacity that required social security and payroll databases to be well-integrated and current, so they will continue to rely on significant general wage subsidies. less efficient and more expensive. Social registries and computerized registration/verification processes can be subject to a similar defense. Social registers incorporate data from various ministries' databases to maintain current information on not just the recipients of social assistance programs.
As a result, properly built social registers can facilitate faster registration and verification processes for population groups who are particularly impacted by disasters.

What about the gray market?

Given that informal businesses and employees are not registered with the tax and social security agencies, assisting them in times of crisis is a significant difficulty. However, it is crucial that they receive support from both an equality standpoint (many of the poor work in the informal sector) and an economic substitution standpoint (informal businesses, despite not paying taxes,

contribute to economic growth, are part of value chains, and employ people who would otherwise require government assistance).

There is no magic wand to support the informal sector, therefore some businesses and people there will inevitably not get assistance. In the informal sector, there are ways to sustain significant segments of the population. For instance, near-poor families who do not receive formal income or other forms of public aid can also be included in the social assistance program. From a public health perspective, these families' support is especially crucial because it is likely that they have been adversely impacted by the crisis. If they do not receive support, they are likely to continue working, which will lessen the effectiveness of social distancing measures.

Table 1 - GDP by economic activity, 2017-2021

GDP distribution at current basic prices (% of GDP) [c]					
Agriculture, forestry, and fishing	20.7	21.1	21.7	22.5	22.6
Industry [d]	13.8	13.6	13.3	14.4	14.2
of which: Manufacturing	6.3	6.6	5.3	5.6	5.6
Construction	14.8	14.7	13.2	12.0	10.8
Services	50.7	50.7	51.8	51.1	52.3
Wholesale and retail trade; repair of motor vehicles and motorcycles; transportation and storage; accommodation and food service activities	19.1	18.9	19.2	18.3	18.5
Information and communication	4.2	3.9	3.6	3.2	3.0
Financial and insurance activities	2.7	3.0	2.8	2.6	2.9
Real estate activities	7.1	7.0	6.9	7.3	7.2
Professional, scientific and technical activities; administrative and support service activities	3.2	3.3	4.5	5.0	5.4
Public administration and defence; compulsory social security; education; human health and social ëork activities	11.6	11.9	12.5	12.7	12.9
Arts, entertainment and recreation, repair of household goods and other services	2.8	2.8	2.2	2.1	2.5
GDP by economic activity at 2010 constant prices (Annual % change) [e]					

Agriculture, forestry and fishing	7.6	4.8	5.4	0.7	2.0
Industry [d]	19.5	2.1	-3.6	13.4	0.6
of ëhich: Manufacturing	11.6	10.5	-15.7	6.6	3.6
Construction	-7.5	3.2	-8.5	-8.4	-6.8
Services	2.4	2.7	3.2	0.5	4.1
Ëholesale and retail trade; repair of motor vehicles and motorcycles; transportation and storage; accommodation and food service activities	4.2	3.5	1.9	-5.2	2.3
Information and communication	-16.5	-3.7	-5.4	-11.5	-2.4
Financial and insurance activities	5.7	8.4	2.3	1.7	0.1
Real estate activities	0.5	0.0	1.1	8.7	1.7
Professional, scientific, and technical activities; administrative and support service activities	0.9	5.0	34.7	13.1	8.1
Public administration and defense; compulsory social security; education; human health and social work activities	4.5	4.6	6.7	4.0	5.6
Arts, entertainment and recreation, repair of household goods and other services	22.6	-2.1	-22.4	-1.3	25.2
Gross domestic product	3.7	2.7	1.4	1.1	2.2
Structure of employment (% of total)					
State sector	18.4	17.8	17.1	17.9	17.7
Budgetary	14.0	13.9	13.4	14.1	13.9
Non-budgetary	4.4	4.0	3.7	3.8	3.8
Non-agricultural private sector	26.7	27.7	28.0	31.7	34.4
Agricultural private sector	54.9	54.5	54.9	50.4	47.9

Source: (INSTAT, Annual report, 2021)

Results and recommendations

Albania is putting into practice significant structural reforms that will promote equitable economic growth, boost productivity and competitiveness, expand employment, and enhance governance and the provision of public services. Faster economic growth would also be facilitated by increased regional connections, access to regional and international markets, and market and export diversification.
The Albanian government is implementing a comprehensive reform agenda with a focus on territorial devolution, financial sector stabilization, energy, social assistance, disabilities, and macroeconomic and fiscal stability. Another top aim of the Albanian administration is boosting international investment. However, to do this, the legal system must be improved, the business climate must be improved, and strategies and policies must be put into action. Albania is totally open to foreign investment and is a strategically located country with a market economy. Reforms that are aimed at streamlining corporate procedures, lowering taxes to manageable levels, and expanding access to the free market have been implemented in the context of EU membership in recent years. The benefits of investing abroad benefit both the investor and the nation in which they are made. In addition to this initial investment, global capital flows, the transfer of management expertise, the evolution of economies, and technical advancements.

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Human capital and performance management in the Albanian public organizations

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Abstract

Developing an effective, competent and forward-looking public service as well as strong but lean state institutions is one of the greatest challenges nations around the world face today. Researchers as well as governors have highlighted the central role of the human capital in the public services offer. Organization scientists have long considered human capital as a strategic asset that contributes to organizational effectiveness. Whereas the strategic importance of human capital has been widely studied in the case of for-profit organizations, measurement difficulties and the role of human capital in the public sector have received little attention. In a democratic, civil, postmodern society, one of the main tasks is the development of systems for managing the efficiency of human capital in the context of public administration, as a means of obtaining higher levels of labor productivity. Actually, it should be acknowledged that orienting the performance management system to support the attraction of new human potential in public administration at all levels can better achieve this efficiency in the utilization of human resources. In this context, a new approach to the human capital management process is being actualized, which includes employee engagement and key factors of employee engagement at every stage. Albania public administration organizations suffer a lack of flexibility in using the human capital management instruments in favor of a better individual and organizational performance because of the rigid legal framework under which it functions. On the other hand, the special character of the public administration organizations and the public services note the added value of the role of the public administrator. This study tends to bridge this gap on the literature on the importance of the human capital and its impact on the performance of the public organizations as well as to practically evaluate the influence of the human capital on the perceived performance of the Albanian public organizations.

Introduction

Traditionally, economists have defined human capital largely in terms of knowledge and intellectual capital. It is now widely recognized that this focus on knowledge does not fully capture the domain of human capital (Arvanitis and Stucki, 2012). In the last 20 years, the human capital concept has evolved significantly, and current conceptions of human capital include a wide range of human attributes that are relevant to job performance and productivity, ranging from personality traits, work attitudes and values (Ployhart and Moliterno, 2011) to characteristics such as creativity, wellbeing, self-efficacy and resilience (Madrid et al., 2017). The expansion of the domain of human attributes that define human capital can be usefully understood with a taxonomy highlighting the distinction between can do and will do attributes (Ployhart and Moliterno, 2011). By several authors human capital is the economic value that comes from things like the worker's experience, skills, knowledge, and abilities. Human capital is an intangible asset, unlike tangible assets like buildings and equipment. However, both tangible and intangible assets have economic value. Human capital management, is the collection of organizational practices related to the acquisition, management, and development of the human workforce—or human capital—within an organization. The goal of human capital management is to optimize and maximize the economic, or business, value of an organization's human capital in order to gain a competitive advantage. Effective human capital management enables the organization to successfully pursue human capital initiatives.

Human capital refers to the aggregate skills, abilities and knowledge, and other competencies of an organization's workforce (Ployhart, Weekley, and Bauchman, 2006). The predominant theoretical approaches to examining the importance of skills and abilities are human capital and labor economics in economics, occupational psychology, human resource development in management, and capacity development in development administration. Neoclassical development economists make the argument that human capital and technological advances are necessary prerequisites for the growth and prosperity of societies. Organizations and management researchers are also consistent in maintaining that organizational performance or productivity and efficiency is determined by the accumulation of skills and adoption of technological innovations (Dess and Shaw, 2001). In recent decades, investment in human capital development emerged as a major component of modern organizations' "intended" and "deliberate" strategies, using Henry Mintzberg's strategy typology (Mintzberg, 1994: 23-24). "Human capital" has become the top priority and slogan of many governments pursuing economic and institutional development around the world.

Methodology

This study treats from the theoretical point of view the concept of human capital management and it influence on the organizational performance illustrating it by the theoretical approaches of the public organizations' prospective. The present study employed a qualitative research approach to investigate the relationship of human capital management with organizational performance regarding the public organizations.

Managing Human capital in Public Organizations

Meanwhile human capital management if often confused with human resources management and the big challenge is to identify all the differences non only in the way is named but also the differences in the way each of them can work and furthermore the influence that each can have on the organizational performance. Human resources have driven human capital management. For some, it is just a name change, but there are real differences in how they work. A school of thought supports the idea that change recognizes that identifying workers as resources signifies that they are a finite energy or work source that can easily be exploited. So, it is used and then passed over to get newer resources. But using this term doesn't mean that is how the workers are viewed. Yet, for many, the relation is enough to take them as human resources. While human capital means something quite different. Resources might be limited but not capital, at least not necessarily. Capital means wealth, and it causes the business to acknowledge the value of the workforce. Moreover, capital can generate more capital. So, taking the employees as human capital instead of human resource shows an ongoing relationship with the assets that are committed to driving prosperity and growth for the company.

Human resources (human capital) are the prime source of biggest value and major cost of the organizations and the relentless renewable source of innovation and creativity but not reflected in its financial statements (Mathis & Jackson, 2011). In order to get a precise picture to the extent to which human resource is benefitting business, it is needed to keep record of investment in it, and to measure corresponding outcomes as well as report to the management. Human capital management can help an organization to assess people input in the success of a business as quantifiably as possible, and document and report accordingly.

Organization's human capital can be organized in two levels - individual and unit. According to Wright & McMahan (2011), human capital, at the individual level, consists of the characteristics owned by an individual that can produce positive results for that individual, and on the other hand at the unit level, human capital can be considered as the aggregation of individual human capital which can be pooled in a way so that it can create value for the unit.

Organization's human capital consists of intellectual, social and organizational capital. Intellectual capital is the repositories and flows of knowledge available in an organization, it is the intangible resources associated with people; social capital is created by the knowledge resulting from networks of relationships inside and outside the organization (Armstrong & Taylor, 2014); and organizational capital is the institutionalized knowledge owned by an entity which is recorded in policy papers, manuals, databases, etc. It is also known as structural capital. It (organizational capital) is the archive of knowledge that rests in an organization even though after individuals leaving the organization (Grasenick & Low, 2004).

There is a large and developing body of proof that shows a positive 1inkage between the development of human capita1 and organizational performance. The accentuation on human capita1 ref1ects the view that market va1ue depends on intangib1e assets, particularly human assets. Enlisting and holding the best emp1oyees has the core value in gaining leverage over competition. The association also needs to capitalize on the skills and capabilities of its employees by empowering individual and organizational learning; and making a strong domain where know1edge can be made mutual and applied. Bassi and Mc Murrer (2007) in their study on HCM developed a model to anticipate institutional performance and control affiliations interests in employees. These drivers fall into five categories, namely, direction practices,

employee engagement, information accessibility, workforce optimization, and organizational learning limit.

Becker (1964) cited in Han et al. (2008) pointed out that Human Capital can be classified as national, industrial and organizational levels, however Ployhart and Moliterno (2011) cited in Harris et al. (2018) recognized Human Capital as "unit-level" with individuals' knowledge, skills, abilities and characteristics that aggregates in to the Organizational level. The increase or the decrease in Organizational Performance is firmly tied with HCM practices (Bassi et al., 2007). Similarly, Nicol-Keita (2013) emphasized that HCM Practices in an organization is significantly contributing to enhance performance of the organization. It was also revealed in the study results of Perera (2017) that different industries have followed the different HC practices in order to gain numerous advantages.

Human Capital and Organizational performance in the public organizations

Employees improve the performance as well as profitability of an organization Kucharcikova et al., (2014), they accomplish goals with the behaviors and characteristics they possess and improve organizational performance according to (Birasnav et al., 2011). The leaders show better performances in their given responsibilities and their work-related activities Birasnav et al., (2011) similarly, Nicol-Keita (2013) asserted that HCM impacts on employees' behavior, work attitudes and in turn translate into Organizational Performance whereas Crook et al., (2011) the Human Capital shapes performance. Human capital research in the early stages emphasized three dimensions; "education, training, and experience". Mincer (1958) focused on training and education as components of human capital and attributed disparities in human capital to individual income differences. Likewise, in addition to education and training, Schultz (1961) identified health and internal migration as a human capital strand. Schultz believed that human capital can be developed through intentional financing while investing in their skills development and capability enhancement. Whereas Schultz further linked the disparity in productivity to "education, health, and training". According to Boremen and Motowidlo, (1993) cited in Armstrong, (2012) stated that performance covers the non-job-specific behaviors similar to dedication, cooperation, enthusiasm and persistence that differentiates performance. Crook et al., (2011) conducted a study and found HC is strongly related to performance. The indicators of Organizational Performance are identified such as industry leadership, future outlook, sales growth, profit growth and profits in study of Bontis (1999) and Jamal and Saif (2011) too tested the same indicators to measure organizational performance in their study. The development of managerial skills such as leadership, decision making, allocation of resources, the ability to resolve conflicts and process information, in addition to making relationships with subordinates, peers, superiors and clients are really individual skills and, although they can be taught, they cannot be transferred (Harris & Helfat, 1997). Recent scholars have argued in favor of the importance of human capital contribution on organization's outcomes (Lepak & Snell, 1999). According to the results, an organization's strategy is strongly affected by the human capital that the organization owns, but this relationship is more complex and deserves further research.

Recent empirical studies have found that individual public officials and organizations are of primary importance for public sector productivity. Years of research on the effect of motivation on performance has shown a strong and consistently positive link between the two (Brewer 2010). Performance management can have a significant impact on public servants' motivations and attitudes, and thus, on the performance and productivity of the organization at large.

Human resource management policies and practices that enable managers to effectively manage the performance of their staffs play a critical role in improving public sector productivity by

increasing staff engagement and aligning individual efforts with organizational goals. Practitioners must go beyond the traditional view that staff performance can be achieved only through the use of extrinsic incentives, triggered by an annual appraisal exercise of individual performance. Instead, performance management should be viewed as a continuous cycle of planning and defining, monitoring and enabling, measuring and evaluating, and rewarding (or sanctioning) employee performance, at both the individual and team levels

Managing individual performance in the public sector is challenging, but it also has some advantages. The public sector's sheer size and heterogeneity means that there is no "one size fits all" performance management system that works for all types of jobs and organizations in the public sector. In the core public administration, there are few "production-type jobs," so it is difficult to objectively measure and score performance. Most public administrations are characterized by rigid career management and compensation systems, which further limits the possibility of offering performance-based pay and promotion incentives for many. However, the public sector has its own advantages. For instance, its size provides for development opportunities through mobility across organizations. Also, public servants are more likely to find meaning in their work by making a positive difference in the lives of the citizens they serve. This sense of mission offers tools for keeping them motivated.

Conclusions

The public administrators in public organizations must visibly and continuously demonstrate commitment to performance management for it to be effective. First, the organization's leadership must publicly endorse performance management as an organizational priority, so that managers and staff are encouraged to allocate the appropriate time and effort to fully engage with the process beyond administrative requirements.

Second, for such a personal endorsement to be credible, the leadership must ensure adequate resources within the organization to implement and sustain the performance management system. For instance, the organization's leaders might introduce mandatory training programs for managers and HR departments, but they must be ready to enforce accountability in the process, even for high-level stakeholders (Pulakos and O'Leary 2011).

The mechanism of human capital management and organizational performance should be linked and intermediated with the public organizations' performance through the individual performance. Is very important that human capital management practices should be concentrated and loaded on the individual performance and should be focused firstly to improve the individual performance. Though the everyday work and commitment the individual performance should be translated in organizational performance. If organizations do not pay attention the performance of public administrator and his characteristics cannot increase organizational performance. Practices of human resource management are successful if tend to affect in the inputs and outputs of individuals in order to achieve the highest level of influential.

Albanian public administration functions based on the Civil Servant Legislation, Labor Code and special laws for professions. Then more details are administrated with internal regulatory. So main frame and limits in a certain way are decided from these instruments. The general opinion of all the respondents to the questions on how they try to discover the fit between job positions, organizational specifics, and characteristics during recruitment or performance appraisal of the public administrator was that is practically impossible to find the best or the perfect fit. Main reasons for that answers were firstly based on the fact that main practices of human resource management are based in well-defined procedures supported from all these

legal instruments, so all the process tends to lose flexibility effecting efficiency and quality of the all practices.

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Environmental Crimes: Their Nature, Scope, and Problems in Identification

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Abstract:

Environmental crimes are illegal acts that directly harm the environment. They can cause considerable damage to ecosystems, increasing the risk of disease, environmental disaster, food chain contamination, pollution, wildlife degradation, reduced life expectancy, and increased rates of human morbidity. Environmental crime is the fourth largest criminal enterprise in the world. (INTERPOL-UN) These crimes include illegal logging, wildlife trafficking, hazardous waste dumping, illegal fishing, and the trade of endangered species, among others. Despite their wide-ranging implications, identifying and prosecuting these offenses remain challenging. This paper explores the nature and scope of environmental crimes, the difficulties in their identification, and the need for improved detection and enforcement mechanisms to tackle these illegal activities effectively. By examining the current state of environmental crime, the paper seeks to provide a comprehensive understanding of the issue, contributing to the development of more effective policies and strategies to combat this growing global problem. The European Space Agency is offering technical support and funding to companies developing innovative and commercial services that use space technology to combat environmental crimes. The paper also discusses the role of organized criminal networks and the relationship between environmental crimes and other types of criminal activities such as money laundering, corruption, and human trafficking. From the other side, it examines the challenges posed by the complexity of environmental crimes, the need for specialized knowledge and expertise, and the role of corruption and other factors that hinder effective identification and enforcement.

Keywords*: Environmental Crimes, Identification, Expertise, Prosecuting*

1. Introduction

Environmental crimes encompass a broad range of illegal activities that harm the environment and threaten human health, biodiversity, and economic growth. These crimes include illegal logging, wildlife trafficking, hazardous waste dumping, illegal fishing, and the trade of endangered species, among others. Although the definition of "environmental crime" is not universally agreed, it is most commonly understood as a collective term to describe illegal activities harming the environment and aimed at benefitting individuals or groups or companies from the exploitation of, damage to, trade or theft of natural resources, including, but not limited to serious crimes and transnational organized crime.[472]

In the last decades, it has become increasingly clear that the protection of the environment is not only about a specific nature-related interest, but also about the systemic preservation of the commons of nature, which is essential for the life conditions of human beings and flora and fauna. The trade in endangered species puts not only their survival at risk; it deprives humanity of natural resources for their own survival and damages the biodiversity of planet earth.

Environmental crimes have global implications, affecting both developed and developing countries. Countries that do criminalize environmental offences consider them mostly to be regulatory offences, *malum prohibitum,* which means that coercive measures are limited and sanctions are low. Nevertheless, some countries did include them in the criminal codes as *malum in se*.[473] However, their enforcement practice is still not in line with their mandatory duty to investigate, prosecute and adjudicate them. In this respect, some environmental criminality relates to the broader concept of serious human rights violations and positive duties for states to protect life and living quality standards, including those of minorities who live in areas with a great potential for natural resources to be exploited. In other words, there is a mix of criminal offences, human rights violations and societal harm at stake. Some of the violations could be qualified already today as war crimes under the Rome Statute of the International Criminal Court. When armed conflict activities cause extensive damage, the destruction or loss of ecosystems in a given territory can mean that the peaceful enjoyment of the inhabitants of that territory has been severely diminished. However, there are difficulties in detecting, investigating, and prosecuting environmental crimes, such as the lack of adequate legislation, limited resources, and insufficient enforcement capacity. To address the problems in identifying and combating environmental crimes, the paper outlines potential strategies for improving detection and enforcement efforts. These strategies include strengthening legal frameworks, enhancing international cooperation, increasing capacity building and training, promoting public-private partnerships, and raising public awareness about the issue. Over the past 15 years, there has been significant growth in awareness that environmental crime constitutes serious organized crime. There has also been a development of laws and policies to accompany

[472] UNEP,The rise of environmental crime, 2016
[473] *John A.E. Vervaele and Daan P. van Uhm, Criminal Justice and Environmental Crime : How to tackle organized crime and ecocide, 2017*

that. However, despite the urgency and importance of the issue, responses still fall far short of what is needed.[474]

2. The nature of environmental crimes

Environmental crime is the perpetration of harms against the environment that violate current law. The term environmental harm is often interchanged with environmental crime and, for some, any activity that has a deleterious effect on the environment is considered an environmental crime. At the other end of the spectrum, the harm may be conceived of as a crime per se only if it is subject to criminal prosecution and criminal sanction. The activities that are generally recognized as environmental crimes include:

• pollution or other contamination of air, land and water;

• illegal discharge and dumping of, or trade in, hazardous and other regulated waste;

• illegal trade in ozone-depleting substances;

• illegal, unregulated and unreported (IUU) fishing;

• illegal trade in (protected) flora and fauna and harms to biodiversity;

• illegal logging and timber trade;

• illegal native vegetation clearance; and

• water theft etc

Compared with other crimes, environmental crime has taken longer to be accepted as a genuine category of crime. Changing perceptions about the vulnerability of the environment, particularly with respect to long-term outcomes of environmentally harmful practices, has altered this view to the extent that most behavior with a potential environmental consequence is now tightly regulated. However, gauging the true extent of environmental crime is no easy task. The incomplete nature of published data and analyses cannot be used to accurately describe trends in the prevalence of environmental crimes and recent increased enforcement and a move towards stricter punishment of environmental offenders blurs the picture further. What the data does suggest is that there is no real abatement in the authorities of environmental offences, the cast of offenders is predictably diverse and offences run the spectrum of genuine ignorance of laws to deliberate environmental degradation.[475]

3. The impacts of environmental crime

[474] Simone Haysom and Mark Shaw, An analytic review of past responses to ENVIRONMENTAL CRIME and programming recommendations, 2022
[475] Samantha Bricknell, Environmental Crime in Australia, 2010

Environmental crime is one of the most profitable criminal enterprises, generating around USD 110 to 281 billion in criminal gains each year. It covers a wide range of unlawful activities such as illegal logging, illegal wildlife trade and waste trafficking.[476]Environmental crime can have negative impacts of various types:

I) Environmental, such as loss of species illegally hunted and collected; destruction of ecosystem or habitat from illegal activity (e.g. illegal waste dumping or clearing of forest for timber)

II) Economic, such as loss of income to legitimate businesses or loss of tax revenue

III) Social, such as health impacts, e.g. harm caused by toxic pollution Understanding the nature and extent of the impacts of environmental crime enables enforcement authorities to focus on those crimes that cause the most harm. It also helps to raise awareness about the importance of criminal activity and to guide policy-making processes and legal review. Often the focus can be on the immediate or obvious impacts, such as the poaching of elephants. However, their loss also negatively impacts local communities that depend on tourism. Yet, identifying the impacts of environmental crime can be a challenge. In principle, there are three ways in which each impact of environmental crime can be described:

a) Qualitatively, where the impact is described without putting figures on the impact. As long as some impact is known about, a qualitative description is always possible.

b) Quantitatively, where the impact is described with figures referring to the scale of the impact. This could be tonnes of illegally traded waste, numbers of animals illegally killed, etc.

c) On the basis of quantified data on impacts, estimates of the financial or monetary impact of environmental crime can be developed. Monetary figures express direct financial impacts (e.g., loss of trade for legitimate businesses)[477]. Other estimates would be based on methods to assess what value a certain function of nature or "service" has. For example, a healthy forest could provide an income to certain groups as well as reduce illness-related costs to the health system by providing cleaner air, cleaner water and a space for recreation. Health impacts can be monetized as well, relying on established methods.

However, a general problem with assessing the impacts of environmental crime, in whatever terms, is that it is difficult to establish what behaviour constitutes a crime in the first place. As pointed out in the introduction, environmental crime can be defined in different ways; not all of them require a certain act to be illegal in order to be considered a "crime". And even if one adopts a definition whereby an environmental crime necessitates illegal behaviour, it is often not easy to determine whether a certain act was actually illegal or not. Even where crime levels are known, the impacts of such crimes may be mixed with those from legal activities, so that differentiating between the impacts of legal and illegal activities respectively is difficult.

4. Environmental harm prevention

[476] *FATF President Marcus Pleyer, Message to the G7 on tackling environmental crime, 2020*
[477] Europian Union Action to Fight Enviromental Crime, Environmental Crime and the EU, 2016, Berlin

Fundamentally, discussion of pracademics and applied green criminology point in the direction of 'praxis' – the synthesis of theory, research, and intervention. Praxis is the unity of 'theory' and 'practice' in motion at the ground level of action. We learn by 'doing'; we learn by 'reflecting'.[478] How we act in preventing and responding to environmental crimes and harms depends on the sophistication of our understanding of the issues. It also depends on the skillfulness' of our interventions in communities and across diverse social contexts. For pracademics the importance of praxis is that it bridges artificial divisions between academic study and grounded practice.

We stand at a pivotal point in human history, one that is witnessing systematic destruction of the basic environmental contours of our planet. The three greatest threats to humankind and myriad other species, ecosystems and the Earth generally are climate change, rapidly diminishing biodiversity, and pollution and contamination of land, air and water. Social intervention to counter these trends, and the implementation of suitable mitigation and adaptation strategies, is urgently needed. The field of criminology and its associated disciplines such as law, sociology, psychology, political science, international relations, and economics should and must play a part in the needed institutional shake-up and system transformation. This requires concerted activity around environmental issues. It also demands creative thinking and innovative ways in which to construct professional roles.

For instance, we can start by analyzing *environmental harm* as a crime scene. Some preliminary work along these lines has already begun[479] This kind of re-imagining also suggests a new type of investigator: the harm prevention criminalist. This position could have wide and diverse applications including contributions to effective disaster relief, policing, emergency service provision, and more. There is urgent need to develop an integrated approach to environmental harms. Creating this new occupational category, informed by criminological theory and practice, is a means by which to do this. The vision is of improved assessments of environmental harm, and collaborative methods of response. Courts, police, and environmental protection agencies are crucial actors here, as are the emerging environmental enforcement networks[480] – along with scientific experts, non-government organizations, and citizen scientists.

5. Environmental crimes in EU

Environmental crimes are one of the biggest threats not only to ecosystems and protected species, but also to our economy and our society. They disrupt the integrity of territories and of communities, damage companies and individuals working and living in a sustainable way, and threaten the very existence of fragile and carefully protected habitats across Europe.

Most member states have equally failed so far to deliver a national definition of environmental crime: among the member states most active on the issue, the French criminal code does not provide any specific characterization for envicrime[481], if we exclude the very limited notion of "Ecologic Terrorism" under articles 421 and 422 of the code. Similarly, the

[478] Rob White, Environmental Crime and the harm prevention criminalist, 2022
[479] Lam A., Tegelberg M. (2021). *Criminal anthropocenes: Media and crime in the vanishing Arctic* (London: Palgrave Macmillan).
[480] Pink G., Lehane J. (2012). "Environmental enforcement networks: Their role in climate change enforcement," in *Climate change from a criminological perspective*. Ed. White R. (New York: Springer).
[481] Floriana Bianco, Annalisa Lucifora and Grazia Maria Vagliasindi, Fighting Environmental Crime in France: A Country Report, Study in the framework of the EFFACE research project, February 2015,

comprehensive Italian "Codice dell'Ambiente" (Environmental Code), both in its original 2006 text[482] and in the latest, 2019 update, does not include any definition of this sort. Law 68 of 2015 introduced into the Italian criminal code the notion of "delitti contro l'ambiente" (crimes against the environment), improving the overall framework, listing a series of critical offences and also addressing the involvement of organised crime, yet failing to provide a comprehensive definition including, for instance, wildlife trafficking.[483]

In an EU where sustainability, environmental protection and coexistence with nature are now key values leading both political and economic action, environmental crimes are an existential threat to the very future of Europe. This is a global problem: waste trafficking, illegal timber trade, emissions fraud and other old and new offenses are on the rise worldwide – some situations gaining more attention (illegal logging in the Amazon, rhino poaching), others less (bird poaching in sub Saharan Africa, illegal logging in Siberia). The EU is however one of the focal points of these worrying trends; as the foremost economic and trading bloc in the world, the European Union is one of the leading destinations or transit hubs for illegal trade linked with environmental crimes, as well as the origin for others. The unique natural resources of member states such as Romania or Poland, and the significant demand for cheap waste disposal in countries such as Italy or Germany, make Europe an appealing theatre for traffickers. Despite this, the general picture of environmental crimes in Europe is that of a complex, growing and already serious threat which, regardless of increasing attention by policymakers and enforcement agencies, is still largely missing an effective, coherent and integrated action[484]. As regulations and budget on environmental matters are expected to further grow in the next years, adequate enforcement and generally speaking a full framing to counteract environmental crimes will be fundamental for the success of the EU and its Green Deal. If successful, this European system could become a model for many other regions in the world; a leadership by example that the EU has already developed in other sectors, climate action in particular, and which could be replicated also for the growing threat of environmental crime.

Despite recent improvements, the EU as a whole and most member states are still far from effective action against environmental crimes. One of the key obstacles is the lack of a shared definition There is not a comprehensive delimitation of what environmental crimes are, either in the EU (the old envicrime Directive and the proposed new one are both missing this) or in the majority of member states. While some countries have partial or full definitions in their criminal code (as in the case of Spain or Italy), this is however not matched by similar statements on the administrative or political side, thus limiting effectiveness. This translates into a number of issues: some offenses have a strong recognition within national frameworks (illegal logging in Romania, for instance) but others do not (waste), despite their equally strong impact in the country. The same crime can expect significantly different penalties across countries, facing minor administrative penalties on one side of the border and heavy criminal sanctions on the other – this also leads to the creation of envicrime havens" across the EU. A missing common definition prevents authorities, particularly policymakers and the judiciary,

[482] Italy, Decreto legislativo 3 aprile 2006, n. 152: Norme in materia ambientale, 2006,
[483] Annamaria Villafrate, "I reati ambientali", in Studio Cataldi, 4 April 2018
[484] Lorenco Colentano, Giulia Sarno, Margherita Bianchi, Fighting Environmental Crimes in Europe, 2022

from understanding that environmental crimes are not isolated offenses, but part of an interconnected phenomenon in which each case can and likely does influence the others.

6. Conclusions

Unlike traditional crimes, environmental crimes (and environmental harms) frequently have long-lasting and irreversible effects. This raises questions about the effectiveness of justice systems in dealing with environmental offenders and the damage they cause.

As a result, new legislative, economic, policy and political tools can take on control environmental crimes even in the short to medium term. Centralised units, dedicated solely to environmental crimes, have proved particularly effective across the EU – this is the case for OCLAESP in France, SEPRONA in Spain and CUFA in Italy, for instance – because of their inherent specialisation, their ability to promote information sharing and coordination among agencies and, above all, because of their cross-sectorial, comprehensive approach on environmental crimes as a whole. Centralised units also make contacts across countries easier and more effective, as well as facilitating dedicated international operational activities.

Some member states have specialised enforcement bodies that are more aware of types of criminal misconduct. The Netherlands is a good example of how to ramp up the detection of environmental crimes. It coordinates and shares information between local authorities, port authorities, customs and the police. This creates quite an effective network because local police often aren't aware of the issue or don't have adequate resources to investigate organised environmental crime.

Despite their far-reaching implications, these offenses often go undetected and unpunished due to various challenges in their identification and enforcement. To effectively combat environmental crimes, it is crucial to develop a comprehensive understanding of the issue, addressing the underlying causes and strengthening the mechanisms for detection, investigation, and prosecution. By adopting a multifaceted approach, it is possible to mitigate the impacts of environmental crimes and contribute to a more sustainable future.

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11. Italy, Decreto legislativo 3 aprile 2006, n. 152: Norme in materia ambientale, 2006, Annamaria Villafrate, "I reati ambientali", in Studio Cataldi, 4 April 2018

12. Lorenco Colentano, Giulia Sarno, Margherita Bianchi, *Fighting Environmental Crimes in Europe*, 2022

Criminal offense against life theoretical and practical aspects

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1. Introduction

Criminal offenses against life represent the archetype of criminal offenses which have historically been characterized by the most highest punishment measures. The existence of legal norms which aim to protect life, in another view, oppose the "homo homini lupus" postulate. The reason why legislators, including the Albanians one, give special legal protection to life, focus in the fact that all other rights are its derivatives, in the absence of which they lose to act. However, despite the principle that "it is forbidden to kill" except in cases where there are justifying reasons (necessary protection, extreme need, exercing of a legal duty), the Albanian legislator, through the incriminating norms, has provided specific figures of criminal offenses which the group object of have the same, but due to the special relationship they aim to protect, they are categorized into special forms or special figures of criminal offenses.

The identification and treatment of these types of criminal offenses is important not only in theory but in particular in practical terms, aiming to make the correct legal qualification of a criminal fact through the interpretative methodologies of the criminal law. Judicial practice, mainly of the Penal college of the Supreme Court, has tried to identify the characteristics of each criminal offense in function of respecting the principle of legality and more specifically in function of the correct legal qualification of criminal facts. In this point of direction, legal problems have been encountered in distinguishing, for example, the criminal offense of intentional murder from premeditated murder. The difference between attempted murder and heavy injure, or aggravated manslaughter versus heavy injure resulting in death. It has also been problematic to give the correct meaning of murder committed under conditions of strong

mental shock and its difference with intentional murder or with the mitigating circumstance "act committed under conditions of mental shock". It is evident that in judicial practice "facts committed under conditions of influence or shock" are more excessive than those qualified as such in court. Such shortcomings are the result of the lack of a precise methodology in the "testability of the specific circumstance "psychic shock". It is still unclear whether this criterion is medical, legal or combined with other sciences, and for these reasons, detailed reflections will attempt to clarify the issue raised in the discussion. These problems and issues raised, as well as others in the future, will be the subject of an analysis with the aim of defining the issues towards a final argument.

Murder represents the archetype of criminal offenses which have historically been characterized by the most severe punishment measures. The existence of legal norms which aim to protect life in another view are opposed to the "homo homini lupus" postulate. The reason why the legislator, including the Albanian one, gives special legal protection to life lies in the fact that all other rights are derivatives of the right to life, in the absence of which they cease to act. However, despite the principle that "it is forbidden to kill" except in cases where there are justifying reasons (necessary protection, extreme need, exercise of a legal duty), our legislator through the incriminating norms has provided specific figures of criminal offenses which have the group object the same, but because of the special relationship that they aim to protect, they are categorized into special forms or special figures of criminal offenses.

The identification of these types of criminal offenses is important not only in the theoretical level but especially in the practical level, aiming to make the correct legal qualification of a criminal fact through the interpretive methodologies of the criminal law. The judicial practice, mainly of the criminal panel of the Supreme Court, has tried to identify the characteristics of each criminal offense in function of respecting the principle of legality and more specifically in function of the correct legal qualification of criminal facts. In this line, legal problems have been encountered in distinguishing, for example, the criminal offense of intentional murder from premeditated murder. The difference between attempted murder and heavy injure, or aggravated manslaughter versus heavy injure resulting in death. It has also been problematic to give the correct meaning of murder committed under conditions of strong mental shock and its difference with intentional murder or with the mitigating circumstance "act committed under conditions of mental shock". These problems and others will continue to be the subject of structural analyzes of criminal offenses of murder, accompanied by the practice of the Penal college of the Supreme Court.

2.The meaning of life and its relationship with the 'right to die with dignity

The Penal code of the Republic of Albania has summarized in its Chapter II the criminal offenses against the person, the crimes against life, which have as their object the legal relationship specially protected by the criminal law that has to do with life as a natural and fundamental right from from which all the rights of the individual derive. In the first section, crimes against life committed with intent are included, where the group definition of different figures of criminal offenses is determined based on the element of the subjective side and,

specifically, intent. The definition of intent as a necessary element of the criminal offense is provided in the general part and specifically in Article 15 of the Penal code[485]. While the criminal acts intentionally committed against health are included in the third section and have as their object the legal relationship specially protected by the criminal law that are related to biological health and its infringement by illegal actions or omissions.

In article 76 of the Penal Code, titled "murder" it is provided as follows... "Deliberate murder is punishable by imprisonment from ten to twenty years. In Albanian criminal law, the object of this type of criminal offense is legal relations sanctioned with the aim of protecting life[486]. The foreign doctrine makes a broader conception of the object of this criminal offense, including the state interest, which interest consists in the preservation and continuity of the demographics of the population. The right to life does not mean the right to choose to die, a position confirmed by the Jurisprudence of the ECtHR. On this issue, the ECtHR had to deal with the relationship of the individual with the state in the context of euthanasia, where according to the Court, in the context of euthanasia (for which states have the discretion to choose its application or not) the individual does not enjoy the right to die. In the event that we are faced with assisted murder (euthanasia), the subject who assists in the death of the passive subject cannot claim exemption from criminal responsibility, except for the application to him of mitigating circumstances that must be taken into consideration within the individualization of punishment.

In the Sanles Sanles case, the plaintiff sought on behalf of her brother-in-law, a tetraplegic who wished to end his life with the assistance of others and who had died before the filing of the claim, to protect the right to a dignified death, referred to Articles 2, 3, 5, 6, 8, 9 and 14 of the Convention. The Court rejected the request as incompatible ratione personae with the provisions of the Convention.

In the Pretty case the applicant suffered from an incurable terminal neurodegenerative disease and complained, with reference to Articles 2, 3, 8, 9 and 14 of the Convention, that her husband could not assist her in killing himself without being prosecuted criminal by the British authorities. The court came to the conclusion that there was no violation of these articles. The Haas and Koch cases cited above concerned assisted suicide and the applicants referred to Article 8 of the Convention. In Haas, where the plaintiff, a long-time sufferer of severe bipolar affective disorder, wished to end his life and complained that he could not obtain the lethal substance needed for that purpose over the counter, the Court held came to the conclusion that there was no violation of Article 8 cited above. In the Koch case, the plaintiff claimed that not allowing his wife (paralyzed and on artificial respiration) to receive a lethal dose of drugs that would have given her the opportunity to end her life had violated her right to lastly, as well as his right to respect their private and family life. He also complained about the non-acceptance of national jurisdictions to consider his complaints on the merits and the Court concluded that there was a violation of Article 8 only on this point. The object of the criminal offense is the legal relations that protect "living life" excluding the fetus. A similar case is under judicial review in the Lezhë Court of First Instance, where the defendant medical personnel has been charged with the criminal offense of "negligence in medical treatment" resulting in death,

[485] Article 15 Criminal Code - Willingness "The criminal offense is committed intentionally, when the person foresees the consequences of the criminal offense and wants their arrival or, although he foresees and does not want them, he consciously allows their arrival.
[486] See Ismet Elezi, Criminal Law, Special Part

provided for by Article 96/2 of the Penal code. In this case, the "child" has "died" in the mother's womb and was not born alive, but despite this fact, the charge was raised according to the second paragraph, "negligence resulting in the death of the child". In the Trial, the Prosecutor who represented the charge in the trial changed the qualification on the grounds that "the defendant does not enjoy judicial legal protection as he does not have the status of being born alive".

3. Attempted murder vs wounding. Qualifying criteria.

In relation to Article 76 of the Penal code, judicial practice has often been led to wrong verdicts, and that required intervention of the Penal college of the Supreme Court[487]. In this regard, we bring to your attention the jurisprudence of the Penal college of the Supreme Court. With its verdict, the panel stated that the legal qualification of the criminal offense has to do first of all with the application of the criminal law by the court to give a fair verdict based on the law. In this sense, the interpretation of an element of the conscience of the individual who commits a criminal offense is both difficult and important for the determination of guilt through legal qualification. Of course, this perception of the court should not be made on a subjective basis, but on the basis of "reading" the concrete actions and the harmonious evaluation of all the evidence and the conclusion that emerges from it. ***In the theoretical and practical aspect, since the intention is an internal volitional element, it is difficult to determine the existence of the criminal intention to kill when this has not been accepted by the subject, and in these cases it will be evidenced through the interpretation of this will through external objective elements of its appearance, such as: the type of vehicle used, distance, direction, the area of the body where the blows are concentrated and where the injuries were caused.***

In order to legally define the criminal offense as wounding or attempted murder, we must take into consideration the psychological element of the actions of the defendant (the active subject) as well as the intensity of the actions of the attack. If in the first criminal offense (of wounding) the attack ends (ends) with the production of the consequence (causing damage), in the second criminal offense there are more actions which aim and are capable (such) of causing an event more serious than just harming the person (passive subject of actions), actions which are carried out with the will of the defendant (active subject) and not for reasons beyond his will.

Keeping in mind the above objective criteria, the Criminal Board has assessed that the Court of Appeal was wrong when it came to the conclusion that the criminal intent of the judge was to harm the health and not to take the life of the injured party. in the attempt, which has led to the wrong legal qualification.

According to the panel, this wrong conclusion came as a result of the mechanical application of the law starting from the resulting consequence, without referring to and analyzing the fact

[487]Decision of the Criminal Board No. 286 dated 06.11.2013

whether the defendant intended to harm the health or take the life of the victim. The appeals court has reached to the wrong conclusion when it reasons that there is no way to have attempted murder since the meaning of the attempt means that the criminal action fails to end not because of the author's will but for things independent of him. . ***All the evidence proves that the criminal intent of the accused was not to harm health but to take life. The defendant started with the intention to kill the victim and performed all the actions for the consequence of taking life, which is proven by several circumstances such as: the tool used, the intensity of the blow and the area where the blows were concentrated and, by considered sufficient the attack for causing injuries incompatible with life has stopped creating the wrong impression that the consequence had occurred.*** This fact is also confirmed by the act of medical-legal expertise, according to which the injuries were life-threatening at the time of infliction. *The victim, as it appears from his statements, explains that "As soon as citizen A.B came in front of me, he shot me with a knife first on the right side and several more times with a knife in different parts of the body, without stopping at all. I tried to catch Arben but he ran away in the dark."*

Within the framework of the distinction between the criminal offense of attempted murder and serious injury, the Criminal Board, making a detailed analysis of the object of this criminal offense, also highlights the essential elements that should be part of the evaluation process by the Court. According to the Penal College, for the configuration of the criminal offense of "intentional murder" the offense must take place during a quarrel, in a moment of heat and which ends immediately. ***Whereas, as far as the subjective side is concerned, this criminal offense is carried out, without motive, without interest, without revenge, without jealousy; therefore, the criminal offense of intentional murder is the murder that is not accompanied by the presence of specific circumstances that transform it into qualified murder***. The Penal College appreciates that, in order to distinguish between the intention to take life and the intention to injure, ***the ability of direct actions is important, which must be examined in relation to the facts and evidence of the specific case***. Since the court ***cannot enter into the psychological element*** of the defendant, in order to analyze the type and object of intent that accompanied his psychological attitude; that is, to assess whether the intention to take life and the consequence of death was absenttured, or maybe it was foreseen or the real risk of the consequence of death was accepted by the defendant. Thus, ***the investigation of the subjective side*** of the criminal offense must be based on indicative criteria, which must be based on verifiable and controllable factual data that shed light and show about the volutive element created in the mind by the active subject of the criminal offense . The evidence of the subjective side, in the absence of an express statement by the active subject of the criminal offense, must be based on indirect, proven data, which carry a weight of evidence about the true will of the defendant and especially, based on those elements of the objective side, which, due to their ability and degree of vulnerability, show unequivocally the intention created by the active subject of the criminal offense according to the circumstances that usually occur (*iq quod plerumque accidit).*

In relation to the difference of the legal elements between attempted murder and serious injury, the Penal college of the Supreme Court notes that in order to determine intent, if it is about the acts of serious injury on purpose, or that of murder on purpose remaining in the attempt; the basic court must take into account criteria such as: the type and type of weapon used, the ability of the illegal action to realize the consequence, the area of the body where the consequence occurred, the distance of the passive subject of the criminal offense in relation to the active person of the criminal offense, the depth of the wound caused, the circumstances of the time and place that favor or not the criminal action, in order to reach the right legal conclusion regarding the criminal offense effectively committed by the active subject of the criminal offense. The College notes that in the case of the criminal offense of wounding, the degree of violation of the criminal action is exhausted with the arrival of the consequence; that is, that of wounding. While in the case of attempted murder, there is an addition of the vulnerability of the criminal action, which in itself, has a greater ability and is potentially able to realize a more serious consequence than against the relationship with the object of the whole of health, affected or placed in real danger, the next higher protected legal relationship, which has as its object the life relationship of the passive subject of the criminal offense.

In these conditions, in order to reach a correct conclusion regarding the correct legal setting, the court of first instance must be guided by more detailed analysis of the dynamics of the facts in order to assess whether or not the victim's life was effectively put at risk. concrete risk, i.e. if the criminal actions of the active subject of the criminal offense were capable of, with a high probability, infringing the life of the passive subject of the criminal offense, if at the head of the active subject of the criminal offense, the intention was created on the psychological level to take life, (*animus necandi),* which means if objectively there was the will of this subject to have aimed to kill the victim by direct means, referring to the aforementioned legal criteria and legal logic[488]. This attitude is also confirmed in the other verdict of the Penal College, which reasons in this way.....*The difference between the criminal offense provided by article 88/2 of the Penal code and the criminal offense of murder provided for in the figure of crime in article 76 of the Penal code, is the criminal goal that the author wanted to achieve. The purpose has to do with the result that seeks to achieve by committing the criminal offense, which in the case of wounding is damage to the health of the person when it is done with direct intent and in the case where the consequence is death, while the second consequence comes from carelessness. In evaluating the subjective side, i.e. the author's intention to draw the right conclusion, it should be evaluated in close connection with the objective side of the work and specifically the concrete actions performed by the author, who in this way manifests the inner thought in the outside world reasoned. In the assessment to distinguish whether the perpetrator intended to cause serious health damage, but as a result caused the other consequence of the victim's death, with that of murder, the elements of the commission of the criminal offense must be analyzed such as: the area where they are concentrated the injuries, the intensity of the blows, the tool used. The correct legal qualification of the criminal offense has to do first of all with the application of the criminal law by the court to give a fair verdict based on the law. In this sense, the interpretation of an element of the conscience of the individual who commits a*

[488] Decision of the Criminal Board no. 142 dated 21.05.2014

criminal offense is both difficult and important for the determination of guilt through legal qualification.

Of course, this perception of the court should not be made on a subjective basis, but on the basis of "reading" the concrete actions and the harmonious evaluation of all the evidence and the conclusion that emerges from it. In terms oforic and practical, since the intention is an internal volitional element, it is difficult to determine the existence of the criminal intent to kill when this has not been accepted by the subject, and in these cases it will be evidenced through the interpretation of this will through external objective elements of the appearance of such as: the type of vehicle used, distance, direction, the area of the body where the blows are concentrated and where the injuries are caused.

4. Premeditated Murder Vs Premeditated Murder

Judicial practice, in addition to the difficulties associated with determining the identity of the criminal fact, whether we are dealing with attempted murder or intentional serious injury, has encountered difficulties in distinguishing between the criminal offense of intentional murder and premeditated murder. ***With its verdict, the Court of the Shkodër*** [489]Judicial District would analyze the following: Returning to the subject matter of the trial, the Court considers that the defendant B.T has objectively consumed the figure of the criminal offense "Premeditated murder remaining in the attempt" provided by article 78 and 22 of the Penal code. ***Thus, during the trial from the testimony of citizens K.M, K.R and K.RU, the fact was proven that the defendant B.T, without having any momentary argument with the citizen K.M, after seeing the latter in the bar drinking coffee, because and of a conflict they had before, he left the bar where he was drinking coffee with a friend and returned with a pistol-type combat weapon after 10-15 minutes and shot twice in the direction of citizen K.M.*** At these moments he intervened the owner of the bar, who grabbed the defendant's gun in order to avoid other consequences. The criminal consequence did not arise due to the provision of medical assistance. So, the criminal offense has remained in the attempt phase.

Based on these circumstances, the Court of Fact has assessed that the criminal offense committed is "Murder with premeditation". According to her, the defendant B.T has not fully committed the criminal offense for which he is accused, due to the intervention of the owner of the bar and the provision of immediate assistance to the injured K.Mg by the medical staff.

Therefore, in the concrete case, the fact will be analyzed whether the offense committed by the defendant remains in the attempt phase. In the present case, the court reasoned that the conditions for the criminal offense committed by the defendant B.T to be considered as pending are cumulatively met. ***First, the*** defendant committed direct actions for the realization of the criminal intent, shooting twice in the direction of the citizen Klodjan Mgurra, once in the abdomen, which is considered a vital place for life, where the main organs are located, and once

[489] Decision No. 232 dated 11.03.2015

in the leg right **Secondly,** the defendant has committed the criminal offense with direct intent, since the latter has foreseen the consequences of the criminal offense and wants their arrival, thus trying to commit the criminal offense for which he is accused, and has taken actions directly to accomplish what he had envisioned. **Thirdly,** the criminal offense "Premeditated murder" was not committed for reasons independent of the will of the defendant B.T. Thus, during the trial, it was proven that the death of the citizen K.M did not occur due to the intervention of the owner of the bar where the incident took place and due to the provision of medical aid**. Fourthly,** the figure of the criminal offense "Premeditated murder" for which the defendant is accused is considered a crime as it is punished by 15 to 20 years of imprisonment. According to the court of fact, the verdict to kill the citizen K.M was taken by the defendant B.T calmly and coolly, since due to a dispute that the defendant had with the injured party before, without making any argument on the day of the incident, the defendant left from the bar where he was drinking coffee and returned after about 10-15 minutes with a pistol and shot twice at citizen Klodian Mgurra.

This verdict of the Court of First Instance Shkodër has been overturned by the Penal College[490]. The Penal College assesses that.... we are not before the premeditated murder provided by article 78 of the Penal Code, but before the intentional murder, provided for by article 76 of the Penal Code. In reaching this conclusion, the Board relies first on the fact that premeditation as an essential element of guilt (the subjective side) of the criminal offense of "Premeditated murder" is not presumed, but must be proven beyond any reasonable doubt. Meanwhile, the courts of fact, in violation of Article 4 of the Penal Code (which stipulates that any doubt about the charge is evaluated in favor of the defendant) were satisfied only with the theoretical mention of the characteristic elements of "premeditation", not arguing their examination in the case under consideration. The difference between the subjective side of "Murder with premeditation" and "Deliberate murder" is both in the intellectual moment and in the volitional moment.

The intellectual moment (which is the most important difference) in premeditated murder is created in cold blood, time before committing the act and the author thinks and chooseslives, the time, the place and the most suitable circumstances to carry it out, while in the second (intentional murder) the author does not coolly think about the details of the execution, but tries quickly to use those means, that place and those circumstances in it where he is, in order to execute the verdict taken to commit murder. The volitional moment (the will and verdict to commit murder) in premeditated murder arises long before its execution due to some internal motives that drive the author, while in intentional murder the motives are banal and immediate, and the murder mainly occurs as the result of the degeneration and escalation of a previous verbal conflict.

The court assesses that from the evidence obtained and cited above, it does not result that the defendant B.T cold-bloodedly made the criminal plan to kill the victim K.M. From the evidence cited above, there is no typical element that characterizes premeditated murder, on the contrary,

[490] Decision of the Criminal Board No. 230 dated 15.12.2016

all the data are characteristic of simple premeditated murder. The injured party himself stated before the court that he had a verbal conflict with the judge and after this conflict the judge shot to kill him. Based on the mechanism of the event, the victim's own statements before the court, the Penal college of the Supreme Court comes to the conclusion that in this particular case we are facing the criminal offense of intentional murder and not premeditated murder, and this will also be reflected in the punishment that will be imposed. to be assigned to the defendant for this criminal offense. With another verdict, the Penal college of the Supreme Court explains in detail the difference between the two figures of the criminal offense[491], that of intentional murder from premeditated murder.... ". The Criminal Panel of the Supreme Court wishes to reiterate its position that what separates intentional murder from premeditated murder is mainly the analysis of the subjective elements of the criminal offense, related to the objective elements of the commission of the crime. **The subjective element in premeditated murder is characterized by cold-bloodedness and determination to commit the crime, this element is in unity with the objective element, i.e. in unity with taking measures to commit the crime, preparing the circumstances for committing the criminal offense, finding suitable place, tools, etc.**

According to her, in premeditated murder, a momentary quarrel is excluded, and what is important for the subjective side of the crime of premeditated murder, is the existence of a clear motive. This means that the person who commits the crime has processed the thought for a relatively long time between the provoking cause (motive) and the moment of committing the criminal offense, and it is even required that the provoking cause has arisen between the defendant and the victim, that is to say clear motive for the murder***. On the other hand, intentional murder is characterized by illegal actions or omissions, carried out in special circumstances of hot-bloodedness, occupation, beating or quarrel between the perpetrator of the murder and the victim, these have a serious character and are mutual. In this criminal offense, there is a lack of premeditation and determination to commit the crime, the thought is momentary, prompted by the concrete situation, the author uses the means at his disposal that may be circumstantial or that are held by him even before committing the crime.*** In the case at trial, it has been fully proven that between the defendant Albano and the victim Mikel there was a momentary quarrel, started by the unintentional actions of the victim, but perceived as intentional and with the intention of insulting the judge, this quarrel has aggravated until the physical conflict between them, after the victim shot the defendant in the face, meanwhile, in the crime of premeditated murder provided by N.78/1 of the Penal Code, the legislator has provided that the person kills with direct intent , premeditated and cold-blooded, which means the passage of a relatively long time interval between the provocative cause and the moment of undertaking direct actions, in which the objective element, the time interval, finding the means are required to be in unity. The temporal separation of the judged and his return to the bar cannot be considered premeditation.

In the above verdict, the object of legal analysis was also the difference between intentional murder (Article 76) and murder committed under conditions of strong mental shock and chastity (Article 82), since the defendant claimed that the crime was committed under the

[491] Decision No. 17 dated 08.02.2017

conditions of a physiological affect, a constituent element of Article 82 of the Penal Code. ***On this claim, the Criminal Board reasons that "Regarding the claims presented in the defendant's appeal, "Murder with intent", provided by article 76 of the Penal code, and "Murder committed in a state of severe mental shock", provided by article 82 of the Penal Code, have in common the fact that both are committed intentionally. Article 48/b of the Penal Code provides that it is a mitigating circumstance when the criminal offense was committed under the influence of mental shockescape caused by provocation or wrongful actions of the victim or any other person.***

In order to be before the criminal offense provided by Article 82 of the Penal Code, we must have a state of strong mental shock, which results in the total loss of control and for this reason the commission of the criminal offense in this state, which is not has been proven in this case. In both of the above cases, as a rule, the victim unjustly causes, by means of serious insult or violence, (as claimed by the defendant, that his dignity and the honor of the family were insulted by the victim), the situation of the psychic shock of the defendant, who, at that moment, commits his criminal act. The difference between the above figures of crime lies in the level of physiological affect and, consequently, the level of consciousness and the ability to understand, think and to control the action.

In the case of intentional murder, in the sense of Article 76 of the Penal code, the unjust provocation of the victim creates a mental shock to the defendant, which in any case does not reach the physiological affect, or the strong mental shock of the moment, of the perpetrator of the criminal offense "Murder of committed in a state of strong mental shock", provided by Article 82 of the Penal code. Intention does not exclude the existence of a provoking cause, nor shock at the moment of facing this cause, but what differentiates this criminal offense from "murder committed under conditions of psychic shock" is precisely the person's ability to control the shock and take a verdict unaffected by the latter. The time it takes to stabilize the psychological state and make a premeditated verdict varies depending on the person's temperament and is judged by their behavior. Psychic shock, as a qualifying circumstance of Murder, according to N.82 of the Penal Code, has a number of features: psychic shock - a very strong physiological affect that arises in an immediate, lightning-like manner, as a result of the provoking cause, lasts a few moments and then passes, during which the individual is not in full control of his actions as his consciousness is clouded by the prevailing affect. It must be: i) strong - which obscures the person's awareness and ability to control his actions to such a degree that it dictates his behavior, that is, the actions are carried out as a result of this affect. ii) instantaneous: right away, it arises there and the person commits the act at the moment. iii) provocative cause: Violence or serious insult by the victim. Not every kind of violence or insult, but case by case as well as considering what is considered a serious insult by an average person. From the evidence administered in the trial, the courts of fact have rightly concluded that premeditation is not proven, much less the mental shock of the defendant.

Conclusions

i. The provisions of the Penal code, its special part, guarantee special criminal legal protection for life and health. The legislator does not offer interpretation spaces to include in the concept

of the right to live the right to decide freely about life (the right to a dignified death). With the current legal regime, assisted death can affect the individualization of the punishment for the subject of the criminal offense who, in carrying out the action, was guided by the 'goal to help reduce pain for the patient who expresses the will to leave life' '.

ii. Between the criminal offense of attempted murder and wounding, the courts must be oriented towards identifying the correct interpretive elements. The consequence is not enough to discover the true intention of the author, but the causes, motives of committing the crime must be verified as an element of the subjective side as well as the means, the place, the time, the intensity of the blows, the place of concentration of the blows, the presence of hindering factors such as the intervention of law enforcement, certain persons who are at the scene, etc.

iii. Between the criminal offense of intentional murder and premeditated murder there are essential differences that consist of objective and subjective elements. In the case of intentional murder, the crime occurs on the spot due to a physical or verbal dispute between the cast, where the perpetrator under the influence of the circumstances acts by violating the physical integrity of the victim of the criminal offense. In the case of 'premeditation', the author acts with composure, determining the time, for example: (darkness) the place (no witnesses) the tool that guarantees the success of the criminal intent (firearm). The time interval between the conflict and the return to the scene to complete the criminal act will not be considered a 'commitment in cold blood' but an act committed under the influence and therefore premeditation is excluded. The time interval is not determinable but will be determined case by case based on the dynamics of the development of the event. For example, returning the next day to the bar where they had a conflict will not be considered 'hot blood' but as an act with an element of premeditation iv. The offense committed under conditions of strong mental and emotional shock is excluded in the application when the offense was committed with premeditation. It will apply when the crime is committed on the spot. Vecor is the role of the victim in the commission of the criminal offense. Here the victim acts actively by violating or insulting the honor and dignity of the perpetrator. The Court and the Prosecutor must carefully assess the circumstances in order not to go to the mechanical application of the substantive criminal law. It is necessary to assess the intensity of the violence used (for example, slapping does not have the appropriate intensity to create a state of affect, but sexual violence is capable of creating a state of psychological affect, or violence exercised in the presence of the wife and child accompanied by insulting vocabulary for the honor and dignity of the family is able to create psychological affect). Medical expertise is not necessarily needed to determine the condition of the affect. The test that should be used is that of the average person who should answer the question "how would you act in those circumstances".

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